

July 2023 Public Hearing Issues

Carjacking and Robbery – Additional Information

July 21, 2023

On May 19, 2023, the 2023 omnibus judiciary and public safety bill, [Senate File 2909](#), was enacted as 2023 Minnesota Laws chapter 52. Among Chapter 52’s provisions is [article 4, section 6](#), establishing carjacking—a more specific form of robbery—as a crime. To conform to this change, an entire article of Chapter 52 ([article 20](#)) lists carjacking alongside robbery throughout Minnesota Statutes.

On June 7, 2023, the Commission considered what severity levels to assign to the three newly established degrees of carjacking. Because the elements and statutory maximums for carjacking are the same as for robbery, MSGC staff recommended ranking each carjacking offense at the same severity level as its robbery counterpart, ranking first-, second-, and third-degree carjacking at severity level (SL) 8, SL 6, and SL 5, respectively. The Commission adopted a proposal to follow staff’s recommended carjacking rankings.

At its public hearing on the proposed rankings, the Commission received a large number of written and in-person comments on the topic of carjacking. This staff paper provides additional, related information that the Commission may find useful as it considers what final action to take on July 27, 2023.

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Recap of New Carjacking Offenses

Description: Carjacking will be codified at Minn. Stat. § 609.247. Carjacking is defined as—

- Taking a motor vehicle from the person or in the presence of another,
- While having knowledge of not being entitled to the motor vehicle,
- And using or threatening the imminent use of force against any person to overcome the person’s resistance or powers of resistance to, or to compel acquiescence in, the taking of the motor vehicle.

This document was prepared by the staff of the Minnesota Sentencing Guidelines Commission for the Commission’s review. This document has not been adopted by the Commission and does not necessarily represent its views.

This definition is identical to that of robbery, except for two differences:

- While robbery applies to any type of personal property, carjacking applies only to a motor vehicle.
- While robbery applies to force used in the “taking or carrying away” of the property, carjacking applies only to “taking.”

Statutory maximums depend on whether the carjacker harms anyone, is armed, or implies being armed:

- First-Degree (subd. 2) – max. 20 years and \$35,000 – While carjacking, being armed with a dangerous weapon; being armed with any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon; or inflicting bodily harm upon another. These elements and maximum penalties are identical to those of first-degree aggravated robbery (Minn. Stat. § 609.245, subd. 1), which is ranked at SL 8, where the Guidelines presume executed prison sentences of four years (for zero criminal history) to nine years (for maximum criminal history), with permissible deviations within a range provided by law.
- Second-Degree (subd. 3) – max. 15 years and \$30,000 – Implying, by word or act, possession of a dangerous weapon while carjacking. These elements and maximum penalties are identical to those of second-degree aggravated robbery (Minn. Stat. § 609.245, subd. 2), which is ranked at SL 6.
- Third-Degree (subd. 4) – max. 10 years and \$20,000 – Carjacking. The elements and maximum penalties of this offense are identical to those of simple robbery (Minn. Stat. § 609.24), which is ranked at SL 5.

References: Minn. Stat. §§ [609.24](#); [609.245](#) (2022).

Commission Proposal: The Commission proposes to rank carjacking in the first, second, and third degrees at SL 8, SL 6, and SL 5, respectively. An excerpt of the Standard Grid is shown, with presumptive sentences in months and permissive ranges in italics. The shaded area of the grid represents a presumptive stayed sentence.

SEVERITY LEVEL (Example offenses listed in italics)		CRIMINAL HISTORY SCORE							
		0	1	2	3	4	5	6 or more	
	<i>Murder, 3rd Degree (Drugs) Assault, 1st Degree (Great Bodily Harm)</i>	9	86 <i>74-103</i>	98 <i>84-117</i>	110 <i>94-132</i>	122 <i>104-146</i>	134 <i>114-160</i>	146 <i>125-175</i>	158 <i>135-189</i>
Carjacking, 1st Degree	<i>Agg. Robbery, 1st Degree Burglary, 1st Degree (w/ Weapon or Assault)</i>	8	48 <i>41-57</i>	58 <i>50-69</i>	68 <i>58-81</i>	78 <i>67-93</i>	88 <i>75-105</i>	98 <i>84-117</i>	108 <i>92-129</i>
	<i>Felony DWI Financial Exploitation of a Vulnerable Adult</i>	7	36	42	48	54 <i>46-64</i>	60 <i>51-72</i>	66 <i>57-79</i>	72 <i>62-84</i>
Carjacking, 2nd Degree	<i>Assault, 2nd Degree Burglary, 1st Degree (Occupied Dwelling)</i>	6	21	27	33	39 <i>34-46</i>	45 <i>39-54</i>	51 <i>44-61</i>	57 <i>49-68</i>

Carjacking, 3rd Degree	<i>Residential Burglary Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
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Departure Rates & Average Pronounced Sentences for Robbery Offenses Sentenced 2017–2021

Due to the identical elements, MSGC staff assumes that all future carjacking crimes will come from the pool of crimes now prosecuted as robbery. Because MSGC largely lacks data on which of these robbery cases involved taking a motor vehicle (see footnote 10), this section analyzes all first- and second-degree aggravated robbery cases, and all simple robbery cases, sentenced in the most recent five-year period of data (2017–2021).

A “departure” is a pronounced sentence other than that recommended in the appropriate cell of the applicable sentencing grid. There are two types of departures—dispositional and durational—as further explained below. Since the presumptive sentence is based on “the typical case,” the appropriate use of departures by the courts when substantial and compelling circumstances exist can enhance proportionality by varying the sanction in an atypical case. While the court ultimately makes the sentencing decision, other criminal justice professionals and victims participate in the decision-making process. Probation officers make recommendations to the courts regarding whether a departure from the presumptive sentence is appropriate, and prosecutors and defense attorneys may agree on acceptable sentences. Victims are provided an opportunity to comment regarding the appropriate sentence as well. Therefore, these departure statistics should be reviewed with an understanding that, when the court pronounces a particular sentence, there is commonly agreement or acceptance among the other actors that the sentence is appropriate. When there is departure from the presumptive sentence, the court is required to submit reasons for the departure to the Commission. Along with reasons for departure, the court may supply information about the position of the prosecutor regarding the departure.

First-Degree Aggravated Robbery

From 2017–2021, 849 people were sentenced for first-degree aggravated robbery. Of the 849 people sentenced, 379 (45%) received a mitigated dispositional departure. Of the 470 people who received prison, eight (2%) received an aggravated durational departure and 177 (38%) received a mitigated durational departure. Two cases received a mitigated departure to a misdemeanor/gross misdemeanor sentence.

Table 1. Departure Rates and Average Pronounced Sentence for First-Degree Aggravated Robbery, Sentenced 2017–2021

	Total	Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ¹		Average Pronounced Jail Term ²	
		None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
First Degree Aggravated Robbery	849	470	379	285	8	177	409	62.66	314	235.1
	100.0%	55.4%	44.6%	60.6%	1.7%	37.7%				

The most common reasons cited for mitigated dispositional departures were particularly amenable to probation, amenable to treatment, and shows remorse/accepts responsibility. The prosecutor agreed to/recommended/did not object to the departure in 55 percent of cases, objected to the departure in 16 percent of cases, and in 29 percent of cases the position of the prosecutor was unknown. Plea negotiation was cited on 60 percent of dispositional departure cases.

The most common reasons cited for mitigated durational departures were offender played minor/lesser/passive role, offense less onerous than typical offense, and shows remorse/accepts responsibility. The prosecutor agreed to/recommended/did not object to the departure in 76 percent of cases, objected to the departure in 7 percent of cases, and in 17 percent of cases the position of the prosecutor was unknown. Plea negotiation was cited in 87 percent of mitigated durational departure cases.

The most common reasons cited for aggravated durational departures were “crime committed in victim’s home or zone of privacy” and “committed crime as part of group of three or more”. In five (56%) cases the defendant waived jury determination of aggravating factors. Plea negotiation was cited in 56 percent of cases.

The average pronounced prison term for first-degree aggravated robbery was 62.7 months. This average is based off 409 prison cases that excludes attempts, conspiracies, and consecutive sentences. Because attempts under Minn. Stat. 609.17 and conspiracies under Minn. Stat. § 609.175 halve the presumptive duration, and because of consecutive sentencing lengthening the duration, they have been excluded from calculating the average pronounced prison term.

The average pronounced jail term, where jail was a condition of probation, for first-degree aggravated robbery was 235 days. This average is based off 314 cases that excludes attempts, conspiracies, and consecutive sentences.

¹ The average pronounced prison term excludes attempts (138 cases), conspiracies (14 cases), and consecutive sentences (8 cases), as these can skew the data.

² Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts (27 cases), conspiracies (2 cases), and consecutive sentences (4 cases), as these can skew the data.

Second-Degree Aggravated Robbery

From 2017–2021, 200 people were sentenced for second-degree aggravated robbery. Of the 200 people sentenced, 123 (61.5%) had a presumptive stayed disposition and 77 (38.5%) had a presumptive disposition of commit to prison. 379 (45%) of the 77 presumptive commit cases received a mitigated dispositional departure. One person received an aggravated dispositional departure – this one person requested execution of their sentence. Of the 56 people who received prison, one received an aggravated durational departure and 15 (27%) received a mitigated durational departure.

Table 2. Departure Rates and Average Pronounced Sentence for Second-Degree Aggravated Robbery, Sentenced 2017–2021

	Total	Presumptive Disposition		Dispositional Departure (presumptive commits)		Durational Departure (prison only)			Average Pronounced Prison Term ³		Average Pronounced Jail Term ⁴	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
Second Degree Aggravated Robbery	200	123	77	54	23	40	1	15	51	43.6	127	127.5
	100.0%	61.5%	38.5%	70.1%	29.9%	71.4%	1.8%	26.7%				

The most common reasons cited for mitigated dispositional departures were particularly amenable to probation, amenable to treatment, and shows remorse/accepts responsibility. The prosecutor agreed to/recommended/did not object to the departure in 48 percent of cases, objected to the departure in 22 percent of cases, and in 30 percent of cases the position of the prosecutor was unknown. Plea negotiation was cited on 37.5 percent of dispositional departure cases.

The most common reasons cited for mitigated durational departures were offense less onerous than typical offense, and shows remorse/accepts responsibility. The prosecutor agreed to/recommended/did not object to the departure in 87 percent of cases, and in 13 percent of cases the position of the prosecutor was unknown. Plea negotiation was cited in 92 percent of mitigated durational departure cases.

The reasons cited for the aggravated durational departure were “crime committed in victim’s home or zone of privacy” and “committed crime as part of group of three or more”. The defendant waived jury determination of aggravating factors.

³ The average pronounced prison term excludes attempts (3 cases), and consecutive sentences (2 cases), as these can skew the data.

⁴ Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts (14 cases), and conspiracies (1 case), as these can skew the data.

The average pronounced prison term for second-degree aggravated robbery was 43.6 months. This average is based off 51 prison cases that excludes attempts, conspiracies, and consecutive sentences. Because attempts under Minn. Stat. 609.17 and conspiracies under Minn. Stat. § 609.175 halve the presumptive duration, and because of consecutive sentencing lengthening the duration, they have been excluded from calculating the average pronounced prison term.

The average pronounced jail term, where jail was a condition of probation, for second-degree aggravated robbery was 128 days. This average is based off 127 cases that excludes attempts, conspiracies, and consecutive sentences.

Simple Robbery

From 2017–2021, 758 people were sentenced for simple robbery. Of the 758 people sentenced, 526 (69%) had a presumptive stayed disposition and 232 (31%) had a presumptive disposition of commit to prison. 67 (29%) of the 232 presumptive commit cases received a mitigated dispositional departure. Four people received an aggravated dispositional departure – three of whom requested execution of their sentence. Of the 178 people who received prison, one received an aggravated durational departure and 48 (27%) received a mitigated durational departure. 27 (4%) cases received a mitigated departure to a misdemeanor/gross misdemeanor sentence.

Table 3. Departure Rates and Average Pronounced Sentence for Simple Robbery, Sentenced 2017–2021

	Total	Presumptive Disposition		Dispositional Departure (presumptive commits)		Durational Departure (prison only)			Average Pronounced Prison Term ⁵		Average Pronounced Jail Term ⁶	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
Simple Robbery	758	526	232	165	67	129	1	48	165	35.6	492	101.3
	100.0%	69.4%	30.6%	71.1%	28.9%	72.5%	0.6%	27.0%				

The most common reasons cited for mitigated dispositional departures were particularly amenable to probation, amenable to treatment, and shows remorse/accepts responsibility. The prosecutor agreed to/recommended/did not object to the departure in 64 percent of cases, objected to the departure in 10 percent of cases, and in 25 percent of cases the position of the prosecutor was unknown. Plea negotiation was cited in 66 percent of dispositional departure cases.

⁵ The average pronounced prison term excludes attempts (11 cases), and consecutive sentences (2 cases), as these can skew the data.

⁶ Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts (29 cases), conspiracies (5 cases), and consecutive sentences (4 cases) as these can skew the data.

The most common reasons cited for mitigated durational departures were offender played minor/lesser/passive role, offense less onerous than typical offense, and shows remorse/accepts responsibility. The prosecutor agreed to/recommended/did not object to the departure in 85 percent of cases, objected in 4 percent of cases, and in 10 percent of cases the position of the prosecutor was unknown. Plea negotiation was cited in 91 percent of mitigated durational departure cases. The reasons cited for the aggravated durational departure was plea negotiation.

The average pronounced prison term for simple robbery was 35.6 months. This average is based off 165 prison cases that excludes attempts, conspiracies, and consecutive sentences. Because attempts under Minn. Stat. 609.17 and conspiracies under Minn. Stat. § 609.175 halve the presumptive duration, and because of consecutive sentencing lengthening the duration, they have been excluded from calculating the average pronounced prison term.

The average pronounced jail term, where jail was a condition of probation, for simple robbery was 101 days. This average is based off 492 cases that excludes attempts, conspiracies, and consecutive sentences.

By Type of Robbery

Through the use of MOC codes⁷, the following analysis is broken down by type (highway, residence, purse, etc.). “Motor Vehicle” is not a category of robbery type. Tables 4-6 displays departure rates and average pronounced sentence by robbery type for first-degree aggravated robbery (Table 4), second-degree aggravated robbery (Table 5), and simple robbery (Table 6).

Table 4. Departure Rates and Average Pronounced Sentence for First-Degree Aggravated Robbery, by Robbery Type, Sentenced 2017–2021

MOC Type	Total	Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ⁸		Average Pronounced Jail Term ⁹	
		None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
Unknown	35	17	18	14	1	2	14	67.64	15	263.9
	100.0%	48.6%	51.4%	82.4%	5.9%	11.8%				
Highway (street, alley, etc.)	343	186	157	102	2	82	159	61.21	128	252.4
	100.0%	54.2%	45.8%	54.8%	1.1%	44.1%				
Commercial House	64	36	28	25	0	11	29	59.00	26	192.7
	100.0%	56.3%	43.8%	69.4%	0.0%	30.6%				
	52	32	20	20	0	12	29	65.28	18	286.2

⁷ MOC stands for Minnesota Offense Code, which is a coding structure used by the Court to categorize elements of an offense. MOC codes rely on the Court entering the MOC code for each count and may not be completely reliable.

⁸ The average pronounced prison term excludes attempts (138 cases), conspiracies (14 cases), and consecutive sentences (8 cases), as these can skew the data.

⁹ Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts, conspiracies, and consecutive sentences, as these can skew the data.

MOC Type	Total	Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ⁸		Average Pronounced Jail Term ⁹	
		None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
Gas or Service Station	100.0%	61.5%	38.5%	62.5%	0.0%	37.5%				
Convenience Store	32	19	13	10	0	9	17	65.47	8	253.6
	100.0%	59.4%	40.6%	52.6%	0.0%	47.4%				
Residence	111	58	53	41	1	16	51	69.78	40	231.0
	100.0%	52.3%	47.7%	70.7%	1.7%	27.6%				
Bank	6	4	2	3	0	1	4	72.25	2	259.5
	100.0%	66.7%	33.3%	75.0%	0.0%	25.0%				
Forcible Purse Snatching	22	11	11	9	0	2	9	53.33	9	199.4
	100.0%	50.0%	50.0%	81.8%	0.0%	18.2%				
Carjacking ¹⁰	1	0	1	---	---	---	---	---	1	245.0
	100.0%	0.0%	100.0%	---	---	---				
Other	183	107	76	61	4	42	97	60.85	67	202.6
	100.0%	58.5%	41.5%	57.0%	3.7%	39.3%				
Total	849	470	379	285	8	177	409	62.66	314	235.1
	100.0%	55.4%	44.6%	60.6%	1.7%	37.7%				

Table 5. Departure Rates and Average Pronounced Sentence for Second-Degree Aggravated Robbery, by Robbery Type, Sentenced 2017–2021

MOC Type	Total	Presumptive Disposition		Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ¹¹		Average Pronounced Jail Term ¹²	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
Unknown	17	13	4	3	1	2	1	0	2	44.5	12	144.7
	100.0%	76.5%	23.5%	75.0%	25.0%	66.7%	33.3%	0.0%				
Highway (street, alley)	42	25	17	13	4	6	0	7	12	41.3	23	141.5
	100.0%	59.5%	40.5%	76.5%	23.5%	46.2%	0.0%	53.8%				
Commercial House	18	8	10	7	3	4	0	3	6	37.7	9	176.0
	100.0%	44.4%	55.6%	70.0%	30.0%	57.1%	0.0%	42.9%				
Gas or Service Station	20	11	9	7	2	5	0	2	7	43.0	11	122.0
	100.0%	55.0%	45.0%	77.8%	22.2%	71.4%	0.0%	28.6%				
Convenience Store	12	4	8	8	0	7	0	1	7	46.4	4	108.0
	100.0%	33.3%	66.7%	100.0%	0.0%	87.5%	0.0%	12.5%				
Residence	18	11	7	2	5	2	0	1	3	40.7	14	107.6
	100.0%	61.1%	38.9%	28.6%	71.4%	66.7%	0.0%	33.3%				

¹⁰ Carjacking was added as an MOC type to robbery in 2021. In order for carjacking to be indicated as a robbery type, the offense must have been both committed and sentenced between September 15, 2021 and December 31, 2021.

¹¹ The average pronounced prison term excludes attempts (138 cases), conspiracies (14 cases), and consecutive sentences (8 cases), as these can skew the data.

¹² Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts, conspiracies, and consecutive sentences, as these can skew the data.

MOC Type	Total	Presumptive Disposition		Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ¹¹		Average Pronounced Jail Term ¹²	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
Bank	17	11	6	4	2	4	0	0	3	50.3	13	115.1
	100.0%	64.7%	35.3%	66.7%	33.3%	100.0%	0.0%	0.0%				
Forcible Purse Snatching	2	2	0	---	---	---	---	---	---	---	2	73.0
	100.0%	100.0%	0.0%	---	---	---	---	---				
Other	54	38	16	10	6	10	0	1	11	46.5	39	120.5
	100.0%	70.4%	29.6%	62.5%	37.5%	90.9%	0.0%	9.1%				
Total	200	123	77	54	23	40	1	15	51	43.6	127	127.5
	100.0%	61.5%	38.5%	70.1%	29.9%	71.4%	1.8%	26.8%				

Table 6. Departure Rates and Average Pronounced Sentence for Simple Robbery, by Robbery Type, Sentenced 2017–2021

MOC Type	Total	Presumptive Disposition		Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ¹³		Average Pronounced Jail Term ¹⁴	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
Unknown	45	29	16	11	5	12	0	0	11	37.7	29	118.1
	100.0%	64.4%	35.6%	68.8%	31.3%	100.0%	0.0%	0.0%				
Highway (street, alley)	210	159	51	37	14	27	0	11	33	33.8	144	100.9
	100.0%	75.7%	24.3%	72.5%	27.5%	71.1%	0.0%	28.9%				
Commercial House	73	41	32	19	13	13	0	7	20	37.6	46	122.6
	100.0%	56.2%	43.8%	59.4%	40.6%	65.0%	0.0%	35.0%				
Gas or Service Station	51	34	17	12	5	9	0	4	12	35.0	31	79.5
	100.0%	66.7%	33.3%	70.6%	29.4%	69.2%	0.0%	30.8%				
Convenience Store	28	14	14	10	4	9	1	2	11	33.8	15	96.1
	100.0%	50.0%	50.0%	71.4%	28.6%	75.0%	8.3%	16.7%				
Residence	80	57	23	18	5	12	0	8	19	36.2	53	104.5
	100.0%	71.3%	28.8%	78.3%	21.7%	60.0%	0.0%	40.0%				
Bank	15	8	7	6	1	4	0	3	5	32.6	5	65.2
	100.0%	53.3%	46.7%	85.7%	14.3%	57.1%	0.0%	42.9%				
Forcible Purse Snatching	52	38	14	9	5	6	0	4	9	32.0	34	114.7
	100.0%	73.1%	26.9%	64.3%	35.7%	60.0%	0.0%	40.0%				
Other	204	146	58	43	15	37	0	9	45	36.9	135	93.1
	100.0%	71.6%	28.4%	74.1%	25.9%	80.4%	0.0%	19.6%				
Total	758	526	232	165	67	129	1	48	165	35.6	492	101.3
	100.0%	69.4%	30.6%	71.1%	28.9%	72.5%	0.6%	27.0%				

¹³ The average pronounced prison term excludes attempts (11 cases), and consecutive sentences (2 cases), as these can skew the data.

¹⁴ Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts (29 cases), conspiracies (5 cases), and consecutive sentences (4 cases), as these can skew the data.

By Criminal History Score

Departure rates tend to be higher for people with lower criminal history scores (CHS). The following analysis is broken down by criminal history score. Tables 7-9 displays departure rates and average pronounced sentence by CHS for first-degree aggravated robbery (Table 7), second-degree aggravated robbery (Table 8), and simple robbery (Table 9).

Table 7. Departure Rates and Average Pronounced Sentence for First-Degree Aggravated Robbery, by Criminal History Score, Sentenced 2017–2021

CHS	Total	Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ¹⁵		Average Pronounced Jail Term ¹⁶	
		None	Mitigated	None	Aggravated	Mitigated	Number	Months	Number	Days
0	314	99	215	77	0	22	84	41.0	187	216.4
	100.0%	31.5%	68.5%	77.8%	0.0%	22.2%				
1	167	75	92	50	2	23	66	51.6	65	265.3
	100.0%	44.9%	55.1%	66.7%	2.7%	30.7%				
2	102	70	32	37	0	33	60	54.0	27	265.3
	100.0%	68.6%	31.4%	52.9%	0.0%	47.1%				
3	64	52	12	33	2	17	45	69.6	10	231.9
	100.0%	81.3%	18.8%	63.5%	3.8%	32.7%				
4	73	56	17	34	0	22	50	71.1	16	269.1
	100.0%	76.7%	23.3%	60.7%	0.0%	39.3%				
5	33	30	3	12	1	17	28	75.4	3	269.7
	100.0%	90.9%	9.1%	40.0%	3.3%	56.7%				
6+	96	88	8	42	3	43	76	88.6	6	252.7
	100.0%	91.7%	8.3%	47.7%	3.4%	48.9%				
Total	849	470	379	285	8	177	409	62.7	314	235.1
	100.0%	55.4%	44.6%	60.6%	1.7%	37.7%				

Table 8. Departure Rates and Average Pronounced Sentence for Second-Degree Aggravated Robbery, by Criminal History Score, Sentenced 2017–2021

CHS	Total	Presumptive Disposition		Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ¹⁷		Average Pronounced Jail Term ¹⁸	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
0	76	72	4	2	2	2	0	0	2	30.0	67	96.5
	100.0%	94.7%	5.3%	50.0%	50.0%	100.0%	0.0%	0.0%				

¹⁵ The average pronounced prison term excludes attempts (138 cases), conspiracies (14 cases), and consecutive sentences (8 cases), as these can skew the data.

¹⁶ Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts, conspiracies, and consecutive sentences, as these can skew the data.

¹⁷ The average pronounced prison term excludes attempts (138 cases), conspiracies (14 cases), and consecutive sentences (8 cases), as these can skew the data.

¹⁸ Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts, conspiracies, and consecutive sentences, as these can skew the data.

CHS	Total	Presumptive Disposition		Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ¹⁷		Average Pronounced Jail Term ¹⁸	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
1	32	31	1	0	1	1	0	0	1	27.0	27	131.8
	100.0%	96.9%	3.1%	0.0%	100.0%	100.0%	0.0%	0.0%				
2	20	20	0	---	---	1	0	0	1	33.0	17	165.6
	100.0%	100.0%	0.0%	---	---	100.0%	0.0%	0.0%				
3	18	0	18	9	9	5	1	3	9	36.1	8	181.8
	100.0%	0.0%	100.0%	50.0%	50.0%	55.6%	11.1%	33.3%				
4	22	0	22	17	5	17	0	0	15	42.9	2	205.5
	100.0%	0.0%	100.0%	77.3%	22.7%	100.0%	0.0%	0.0%				
5	6	0	6	4	2	1	0	3	4	40.5	2	221.0
	100.0%	0.0%	100.0%	66.7%	33.3%	25.0%	0.0%	75.0%				
6+	26	0	26	22	4	13	0	9	19	51.1	4	263.5
	100.0%	0.0%	100.0%	84.6%	15.4%	59.1%	0.0%	40.9%				
Total	200	123	77	54	23	40	1	15	51	43.6	127	127.5
	100.0%	61.5%	38.5%	70.1%	29.9%	71.4%	1.8%	26.8%				

Table 9. Departure Rates and Average Pronounced Sentence for Simple Robbery, by Criminal History Score, Sentenced 2017–2021

CHS	Total	Presumptive Disposition		Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ¹⁹		Average Pronounced Jail Term ²⁰	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
0	293	290	3	1	2	3	1	0	4	23.8	252	73.6
	100.0%	99.0%	1.0%	33.3%	66.7%	75.0%	25.0%	0.0%				
1	126	125	1	0	1	3	0	0	3	23.0	101	100.9
	100.0%	99.2%	0.8%	0.0%	100.0%	100.0%	0.0%	0.0%				
2	112	111	1	1	0	3	0	6	9	23.8	88	127.4
	100.0%	99.1%	0.9%	100.0%	0.0%	33.3%	0.0%	66.7%				
3	67	0	67	40	27	28	0	11	35	29.9	23	163.4
	100.0%	0.0%	100.0%	59.7%	40.3%	71.8%	0.0%	28.2%				
4	54	0	54	39	15	32	0	7	38	33.8	11	186.0
	100.0%	0.0%	100.0%	72.2%	27.8%	82.1%	0.0%	17.9%				
5	36	0	36	27	9	18	0	9	23	35.6	8	226.1
	100.0%	0.0%	100.0%	75.0%	25.0%	66.7%	0.0%	33.3%				
6+	70	0	70	57	13	42	0	15	53	44.3	9	250.9
	100.0%	0.0%	100.0%	81.4%	18.6%	73.7%	0.0%	26.3%				
Total	758	526	232	165	67	129	1	48	165	35.6	492	101.3
	100.0%	69.4%	30.6%	71.1%	28.9%	72.5%	0.6%	27.0%				

¹⁹ The average pronounced prison term excludes attempts (138 cases), conspiracies (14 cases), and consecutive sentences (8 cases), as these can skew the data.

²⁰ Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts, conspiracies, and consecutive sentences, as these can skew the data.

By Age Category

Departure rates may differ by age category. The following analysis is broken down by age category (age of offender at time the offense was committed). Tables 10-12 displays departure rates and average pronounced sentence by age category for first-degree aggravated robbery (Table 10), second-degree aggravated robbery (Table 11), and simple robbery (Table 12).

Table 10. Departure Rates and Average Pronounced Sentence for First-Degree Aggravated Robbery, by Age Category, Sentenced 2017–2021

Age Category	Total	Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ²¹		Average Pronounced Jail Term ²²	
		None	Mitigated	None	Aggravated	Mitigated	Number	Months	Number	Days
Under 18	104	52	52	39	0	13	45	50.5	36	264.9
	100.0%	50.0%	50.0%	75.0%	0.0%	25.0%				
18-21	350	156	194	94	1	61	140	57.1	170	232.6
	100.0%	44.6%	55.4%	60.3%	0.6%	39.1%				
22-25	148	92	56	52	1	39	79	60.1	47	224.6
	100.0%	62.2%	37.8%	56.5%	1.1%	42.4%				
26-30	98	63	35	43	2	18	56	73.0	27	245.9
	100.0%	64.3%	35.7%	68.3%	3.2%	28.6%				
31-40	93	68	25	33	4	31	61	71.0	20	219.5
	100.0%	73.1%	26.9%	48.5%	5.9%	45.6%				
41-50	37	28	9	18	0	10	22	79.7	7	239.0
	100.0%	75.7%	24.3%	64.3%	0.0%	35.7%				
51+	19	11	8	6	0	5	6	72.5	7	213.6
	100.0%	57.9%	42.1%	54.5%	0.0%	45.5%				
Total	849	470	379	285	8	177	409	62.7	314	235.1
	100.0%	55.4%	44.6%	60.6%	1.7%	37.7%				

²¹ The average pronounced prison term excludes attempts (138 cases), conspiracies (14 cases), and consecutive sentences (8 cases), as these can skew the data.

²² Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts, conspiracies, and consecutive sentences, as these can skew the data.

Table 11. Departure Rates and Average Pronounced Sentence for Second-Degree Aggravated Robbery, by Age Category, Sentenced 2017–2021

Age Category	Total	Presumptive Disposition		Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ²³		Average Pronounced Jail Term ²⁴	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
Under 18	1	1	0	---	---	---	---	---	---	---	1	106.0
	100.0%	100.0%	0.0%	---	---	---	---	---				
18-21	85	68	17	12	5	8	0	5	11	36.2	66	114.1
	100.0%	80.0%	20.0%	70.6%	29.4%	61.5%	0.0%	38.5%				
22-25	49	33	16	12	4	10	1	2	13	42.5	31	124.2
	100.0%	67.3%	32.7%	75.0%	25.0%	76.9%	7.7%	15.4%				
26-30	27	10	17	11	6	8	0	3	10	44.3	14	209.3
	100.0%	37.0%	63.0%	64.7%	35.3%	72.7%	0.0%	27.3%				
31-40	25	8	17	12	5	10	0	2	11	51.0	10	117.6
	100.0%	32.0%	68.0%	70.6%	29.4%	83.3%	0.0%	16.7%				
41-50	7	2	5	3	2	2	0	1	3	39.3	4	106.5
	100.0%	28.6%	71.4%	60.0%	40.0%	66.7%	0.0%	33.3%				
51+	6	1	5	4	1	2	0	2	3	49.7	1	180.0
	100.0%	16.7%	83.3%	80.0%	20.0%	50.0%	0.0%	50.0%				
Total	200	123	77	54	23	40	1	15	51	43.6	127	127.5
	100.0%	61.5%	38.5%	70.1%	29.9%	71.4%	1.8%	26.8%				

Table 12. Departure Rates and Average Pronounced Sentence for Simple Robbery, by Age Category, Sentenced 2017–2021

Age Category	Total	Presumptive Disposition		Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ²⁵		Average Pronounced Jail Term ²⁶	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
Under 18	16	16	0	---	---	3	0	1	4	20.5	9	121.4
	100.0%	100.0%	0.0%	---	---	75.0%	0.0%	25.0%				
18-21	261	232	29	18	11	18	0	4	21	30.9	208	90.7
	100.0%	88.9%	11.1%	62.1%	37.9%	81.8%	0.0%	18.2%				
22-25	158	113	45	35	10	26	1	11	36	33.8	109	110.6
	100.0%	71.5%	28.5%	77.8%	22.2%	68.4%	2.6%	28.9%				
26-30	130	68	62	51	11	40	0	13	49	37.5	62	103.4
	100.0%	52.3%	47.7%	82.3%	17.7%	75.5%	0.0%	24.5%				

²³ The average pronounced prison term excludes attempts (138 cases), conspiracies (14 cases), and consecutive sentences (8 cases), as these can skew the data.

²⁴ Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts, conspiracies, and consecutive sentences, as these can skew the data.

²⁵ The average pronounced prison term excludes attempts (138 cases), conspiracies (14 cases), and consecutive sentences (8 cases), as these can skew the data.

²⁶ Average pronounced jail term where jail is a condition of probation. The average pronounced jail term excludes attempts, conspiracies, and consecutive sentences, as these can skew the data.

Age Category	Total	Presumptive Disposition		Dispositional Departure		Durational Departure (prison only)			Average Pronounced Prison Term ²⁵		Average Pronounced Jail Term ²⁶	
		Stay	Commit	None	Mitigated	None	Aggrav.	Mitig.	Number	Months	Number	Days
31-40	116	63	53	35	18	22	0	12	32	41.0	68	120.6
	100.0%	54.3%	45.7%	66.0%	34.0%	64.7%	0.0%	35.3%				
41-50	51	24	27	18	9	17	0	2	17	36.6	25	78.4
	100.0%	47.1%	52.9%	66.7%	33.3%	89.5%	0.0%	10.5%				
51+	26	10	16	8	8	3	0	5	6	26.2	11	112.4
	100.0%	38.5%	61.5%	50.0%	50.0%	37.5%	0.0%	62.5%				
Total	758	526	232	165	67	129	1	48	165	35.6	492	101.3
	100.0%	69.4%	30.6%	71.1%	28.9%	72.5%	0.6%	27.0%				

Recent Law Enforcement Data on Robbery and Carjacking

As noted, MSGC data on carjacking is limited. Beginning in 2021, however, the Minnesota Bureau of Criminal Apprehension began reporting more detailed crime data using the new National Incident-Based Reporting System (NIBRS). This section reports data on Minnesota robbery offenses reported from 2021 through 2023, as retrieved on July 19, 2023, from the BCA’s online [Minnesota Crime Data Explorer](#). While these data also report on robbery, rather than carjacking, some of the data are specific to the type of property taken.

During that time, a total of 8,543 robbery incidents were reported, involving 10,374 victims. Of those, 7,755 were reported as completed robbery incidents, and 788 were reported as attempts.

Figure 1. Robbery Clearance Information

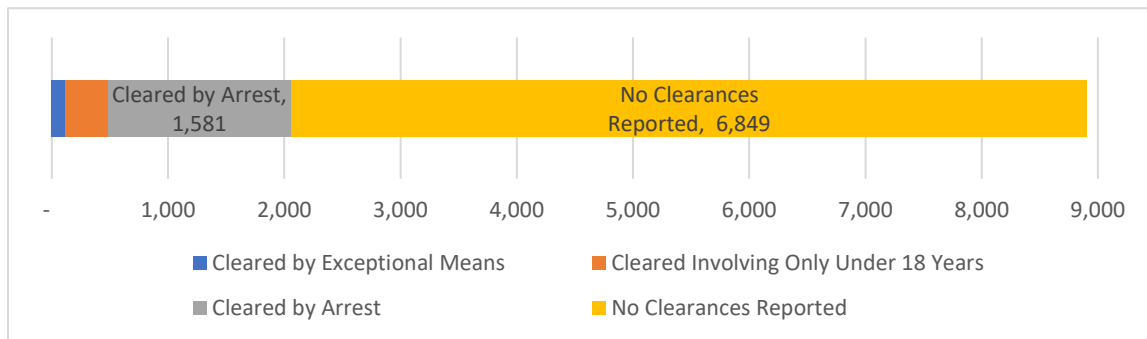


Figure 2. Twenty Most Common Robbery Location Types Reported

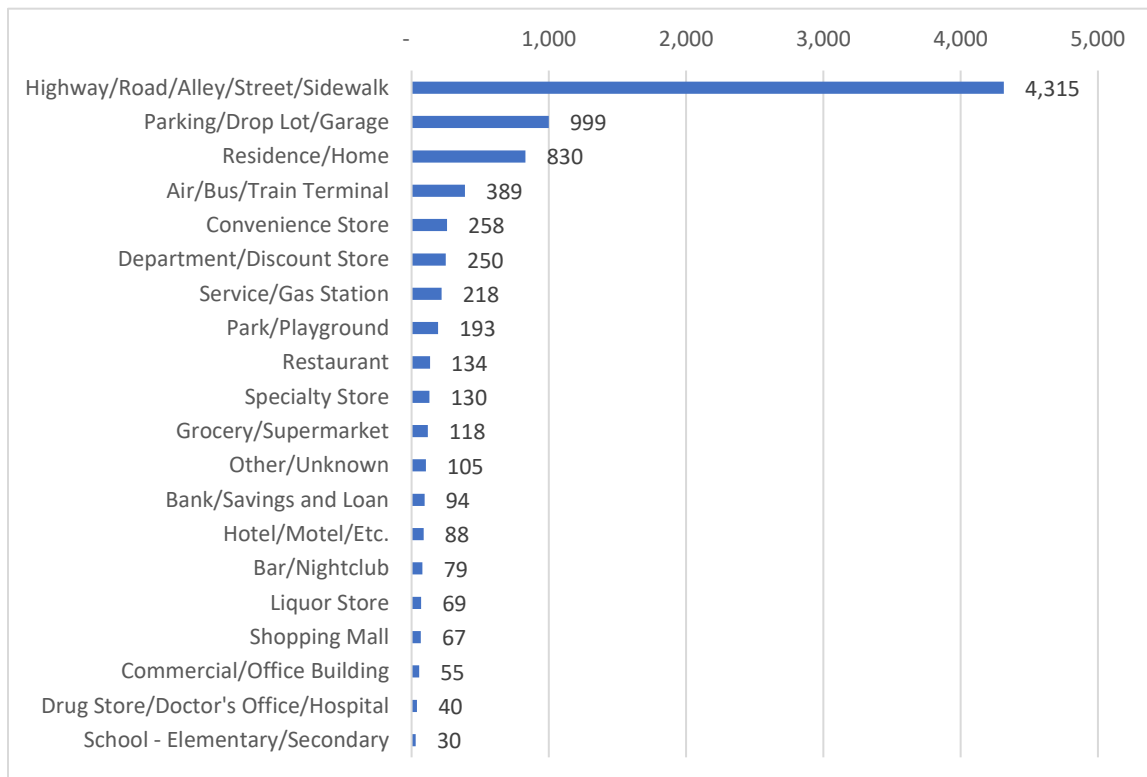


Figure 3. Reported Weapon Type or Force Involved in Robbery

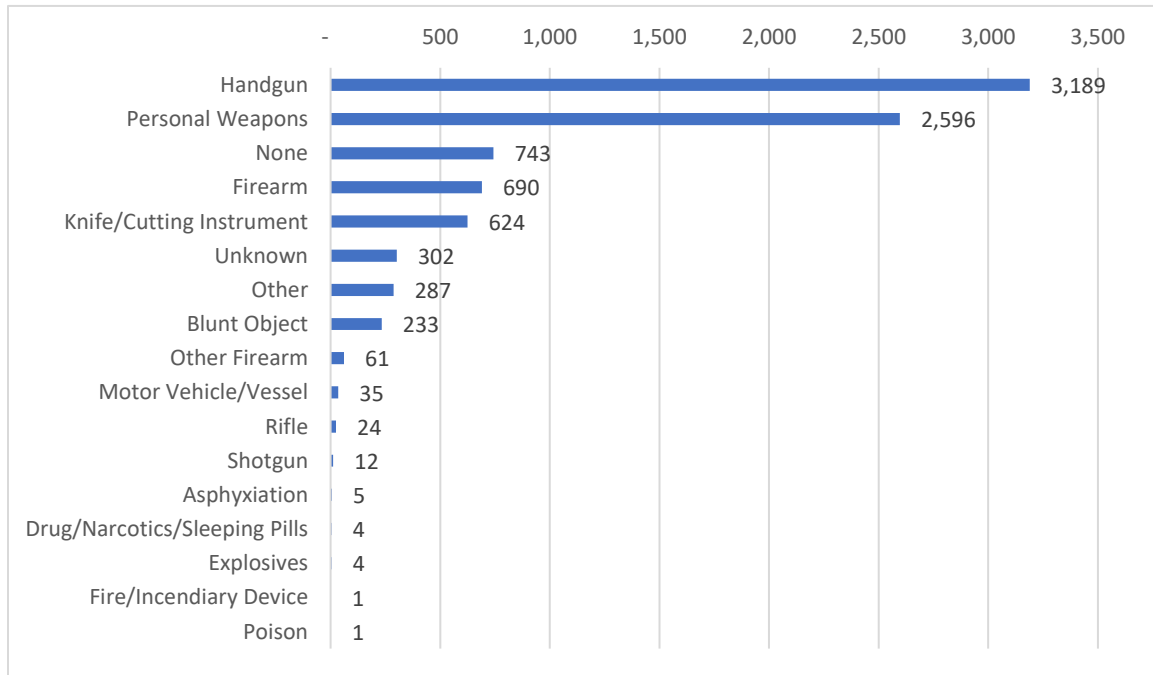


Figure 4. Twenty Most Common Robbery Property Types Reported

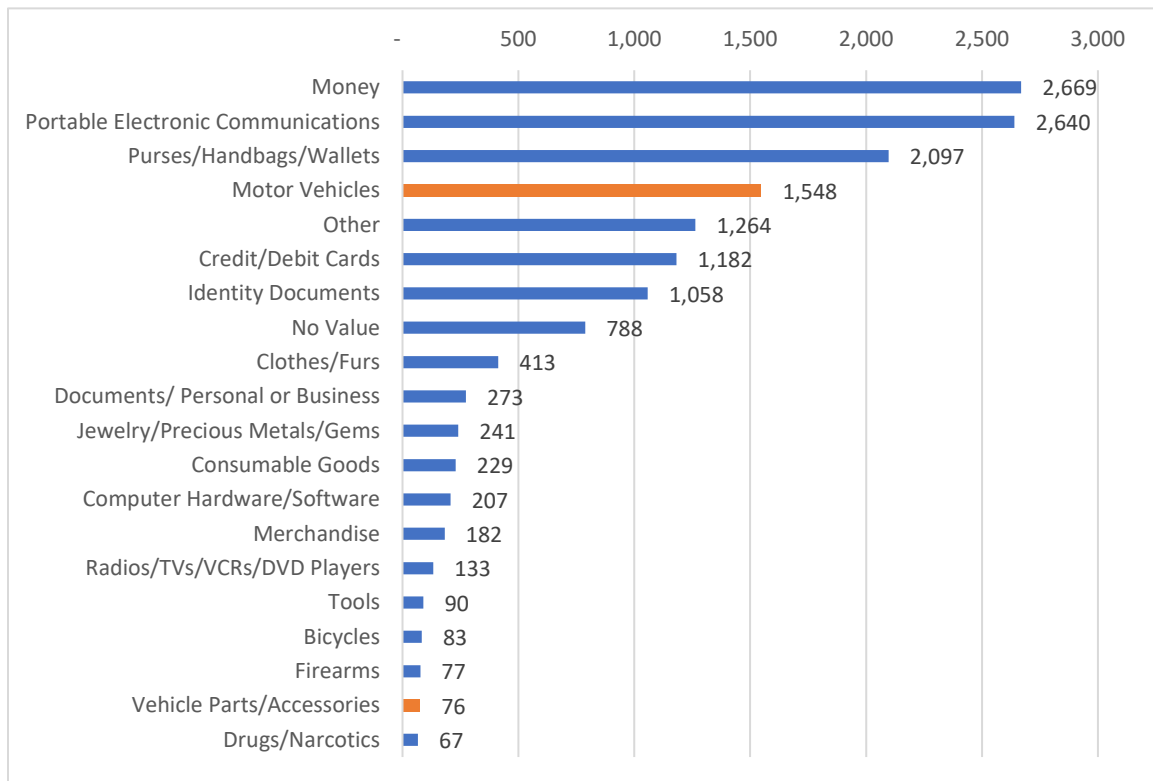


Figure 5. Robbery Offenses Reported by Month

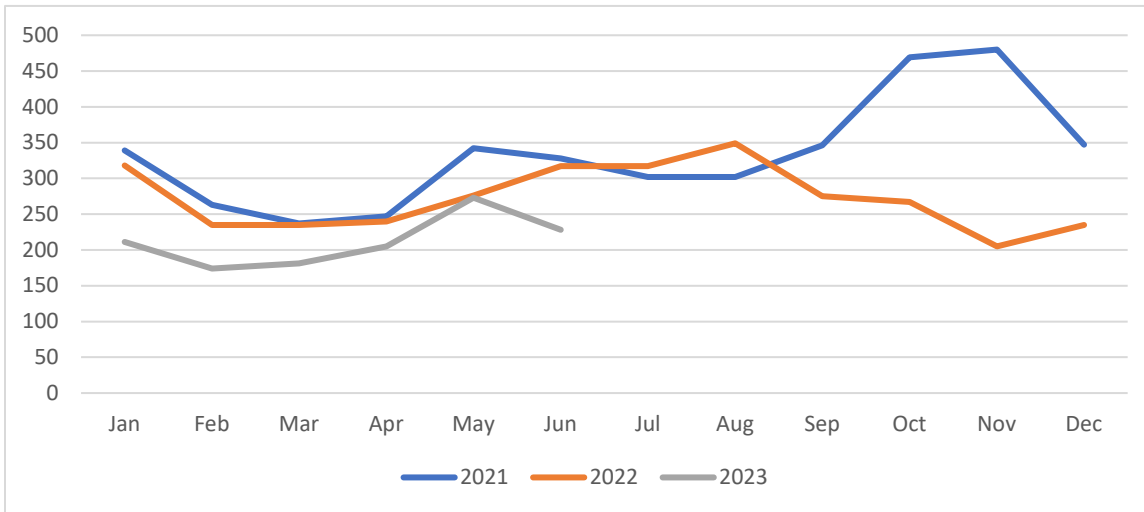


Figure 6. Robbery Offenses Reported by Day & Hour

	Sun	Mon	Tue	Wed	Thu	Fri	Sat
4 AM - 7:59 AM	107	82	79	81	78	99	98
8 AM - 11:59 AM	90	116	118	125	138	126	120
Noon - 3:59 PM	225	215	250	202	216	230	195
4 PM - 7:59 PM	293	302	303	293	309	298	248
8 PM - 11:59 PM	274	355	299	277	315	367	303
Midnight - 3:59 AM (next day)	143	138	134	125	178	305	294

Figure 7. Robbery Property Loss Type

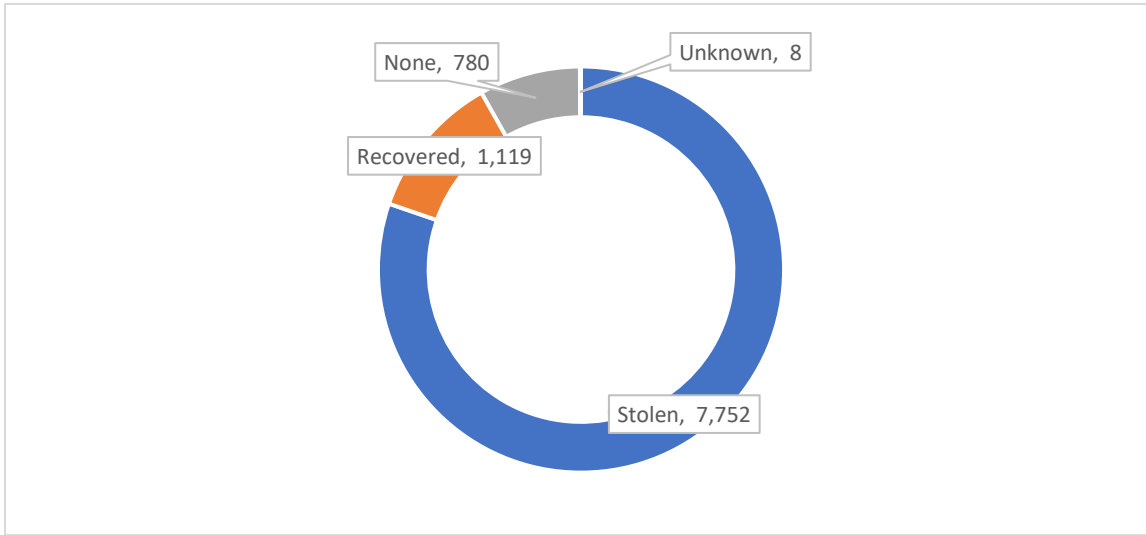


Figure 8. Stolen & Recovered Property Value Among Robbery Property Types with Ten Highest Stolen Property Values

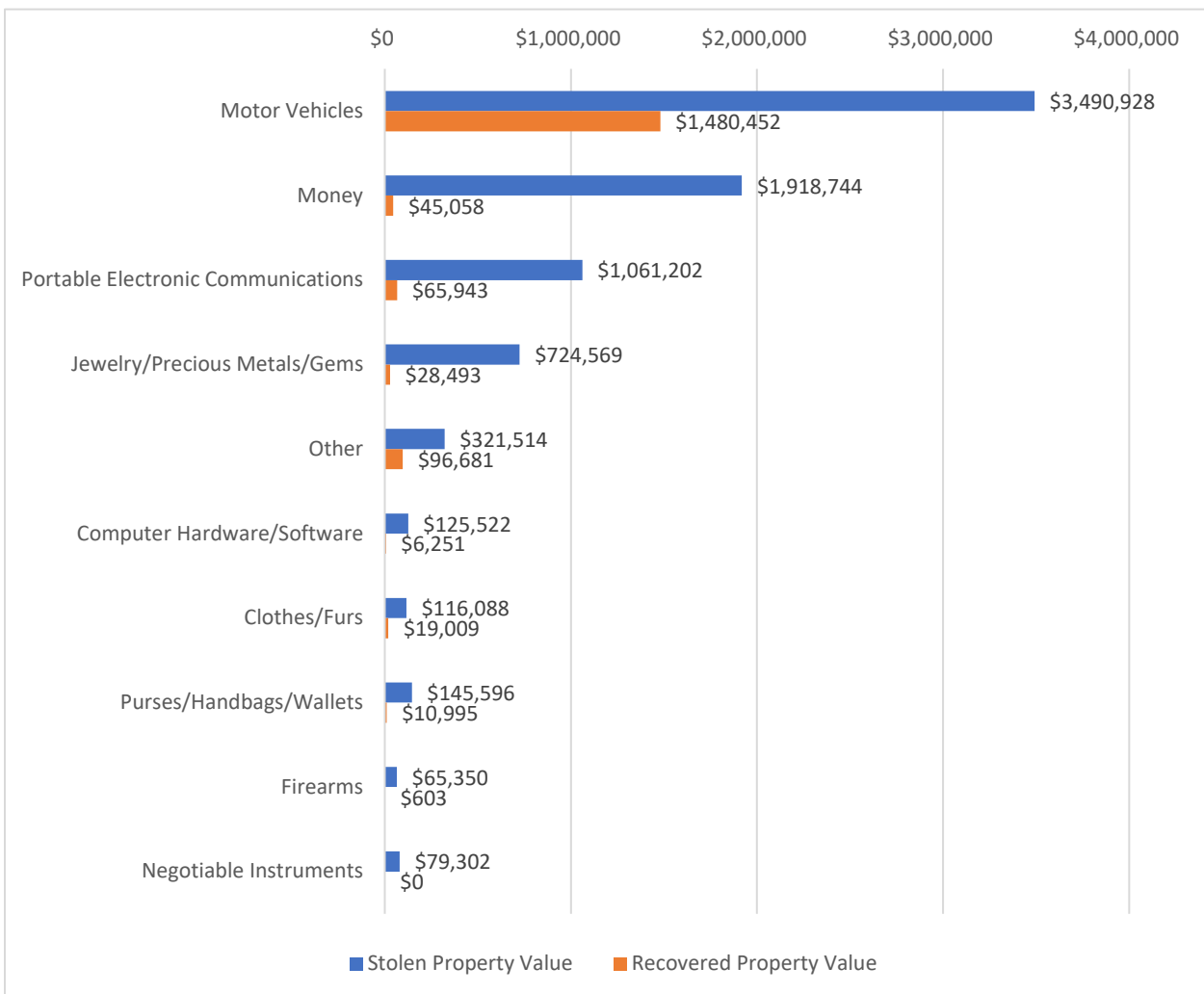


Figure 9. Reported Demographic Information of Robbery Victims

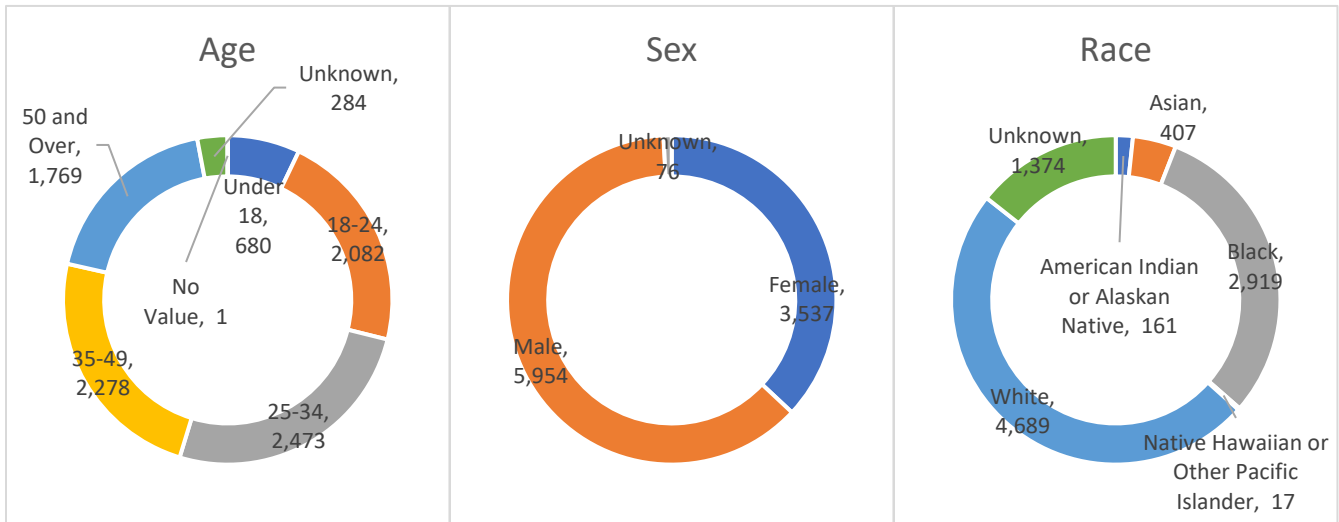
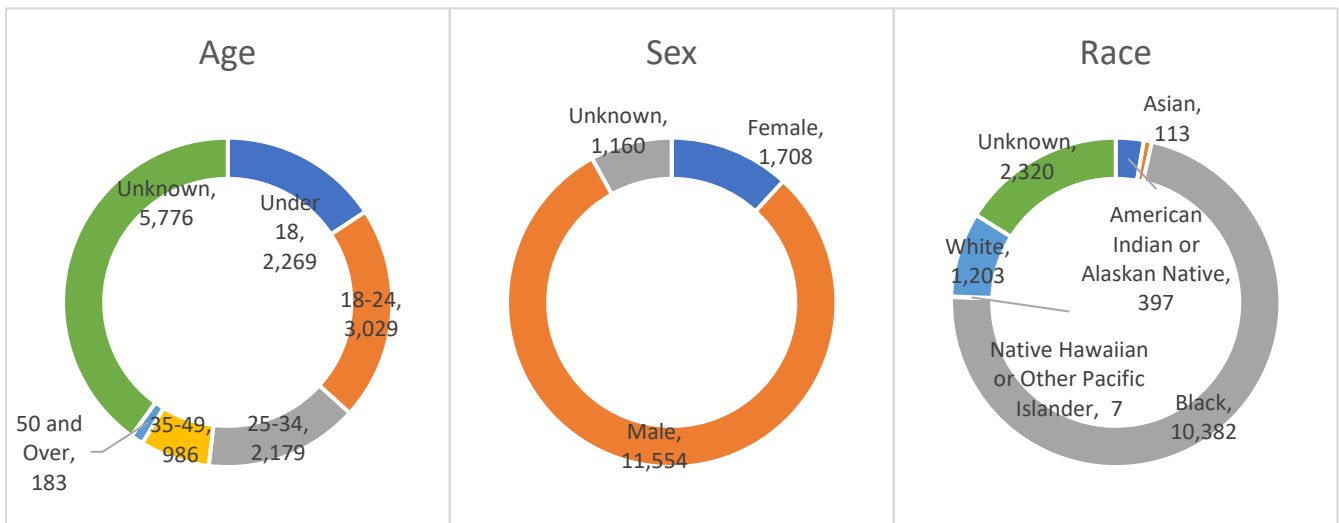


Figure 10. Reported Demographic Information of Robbery Perpetrators, Excluding 910 Unknown Persons



Carjacking Legislative History

This section provides some background regarding how the new carjacking offense made it into the 2023 omnibus public safety and judiciary bill, [Senate File 2909](#).

Bill Introductions

On January 23, 2023, Senator Julia E. Coleman introduced [SF 514](#). Article 1 established the offense of carjacking exactly as the offense was ultimately enacted ([2023 Minn. Laws. ch. 52, art. 4, § 6](#)), while Article 2 contained conforming amendments.

On April 12, 2023, Senator Judy Seeberger introduced [SF 3236](#), which was identical to SF 514.

These carjacking provisions were not included in the version of [SF 2909](#)—the omnibus judiciary and public safety bill—that passed the Senate on April 14, however. Senate Judiciary Committee Chair Latz [intended](#) that SF 2909 be a budget bill, limited to policies with fiscal impact. Policy-only provisions were to be included in [SF 1267](#), the judiciary policy bill. Senator Seeberger’s bill, SF 3236, would be among those provisions included in the [first engrossment of SF 1267](#).

Inclusion of Carjacking in Senate Policy-Only Bill

On April 24, 2023, the Senate Judiciary Committee grafted SF 3236 onto SF 1267. Before doing so, the committee heard Senator Seeberger’s presentation of the bill. An unofficial MSGC staff transcript of that presentation, which may be found at https://youtu.be/qc_YG3xv2uA?t=2385, follows:

CHAIR LATZ: Senator Seeberger, Senate File 3236. Senator Seeberger, why don’t you go ahead and describe your bill to us.

SEN. SEEBERGER: Thank you, Chair Latz. Members, I have Senate File 3236, which establishes the crime of carjacking—and before I get into it too further, I have the [A1 author’s amendment](#) here, that makes some conforming changes to the bill, that I would offer.

CHAIR LATZ: Senator Seeberger moves the A1 amendment as an author’s amendment. All those in favor say aye. [Pause for voice vote.] Motion prevails, and the amendment is adopted. Senator Seeberger.

SEN. SEEBERGER: Thank you. Well, you know, we’ve heard a lot of talk about carjacking, both on the Senate floor, when we were out on the campaign trail. We see it in the news. Folks are concerned. Carjacking is on the rise. It’s a violent crime. It’s terrifying. It comes out of nowhere and, in my view, criminals should be held accountable for this crime.

We do not have this as a crime right now on the books and my bill would fix that problem. It offers a definition of carjacking and it provides for first-degree, second-degree, and third-degree carjacking. This is very similar to [the language that was offered on the floor](#) and I think it’s worth

getting through. From my perspective, the people of Minnesota have asked for this and I would like to be able to deliver.

So first-degree carjacking would be while armed with a dangerous weapon, or any article used or fashioned to believe it's a dangerous weapon, or inflicts bodily harm upon an individual. Second degree would be carjacking while implying possession of a dangerous weapon, and third degree would be carjacking under any other circumstances.

I think this is a good bill, I think it's past time to include it in our laws, and I will stand for any questions.

CHAIR LATZ: Is there any committee questions or conversation about this? Senator Kreun.

SENATOR MICHAEL E. KREUN: Thank you, Mr. Chair. So, this does add carjacking. And, but, I would guess that robbery—it treats it the same as robbery already? And so, does this actually enhance penalties beyond, whether—if the prosecutor could charge the perpetrator with robbery, does this add anything to it?

CHAIR LATZ: Senator Seeberger.

SEN. SEEBERGER: Mr. Chair, maybe I could turn to counsel for help on that.

CHAIR LATZ: Mr. Backhus.

SENATE COUNSEL KEN BACKHUS: Mr. Chair, no, I'm sorry, I didn't hear the exchange, but my understanding of the question is, "Does article 1, section 1, change penalties?" or something? Yeah, no, it doesn't do that. It establishes a standalone crime of carjacking. The penalties would be the same as under current law because it would be either aggravated or simple robbery under current law.

CHAIR LATZ: Senator Kreun.

SEN. KREUN: Thank you, Mr. Chair. Well, I'm—certainly this is progress and I'm glad we're adding the word and treating carjacking as a separate crime. I would like to see more enhanced penalties for it, I think; you know, perhaps a mandatory minimum. That would be my comment, but I'm glad we're moving in the right direction.

CHAIR LATZ: Senator Limmer.

SENATOR WARREN LIMMER: So, Senator Seeberger, when you made a comparison between the amendment that was introduced on the floor of the Senate the previous Friday, when we had the public safety bill, we're not really comparing apples and apples on that. That one did enhance penalties, with felony convictions. And they were staged depending on the use of a weapon, or the probability or the eventuality of someone being injured or killed. So, is this nothing more than just adding a line that says we recognize carjacking?

Since I was the author of that amendment, I put the felony charges in because the public wanted a more enhanced penalty, because the public is tired of hearing these carjackings. And, there doesn't seem to be a high record of full conviction by our courts. That's what I was reacting to. So, what are you reacting to by not enhancing the penalty?

CHAIR LATZ: Senator Seeberger.

SEN. SEEBERGER: Thank you, Mr. Chair. Thank you, Senator Limmer. I did take a look at your bill, and the differences are, essentially, five years of jail time and between five and ten thousand dollars in the fine. What I'm reacting to here is the same thing you're reacting to: public outcry of this crime of carjacking. As Senator Kreun noted, this is progress. This is a start. I think this is the direction we need to move in. Will—is 25 years more appropriate than 20 years for first degree? Is 20 years more appropriate than 15 years for second degree? I think these are the conversations we have to have, not whether or not I'm reacting to something or whether carjacking is a problem. I think we all recognize that it is. So with respect to the differences and penalties between our two bills, that's the conversation I think we can have.

CHAIR LATZ: Members, I'll also note that I believe that Senator Coleman is carrying [a bill](#) that's identical to this as well, is my understanding. Senator Kreun.

SEN. KREUN: Thank you, Mr. Chair, and, yeah, I did say it's progress, but perhaps my—the bar is set a little too low right now in this session. And so, yes, it's progress, but I wouldn't confuse my saying its progress as being sufficient. It's clearly insufficient. I think we absolutely need to add the enhanced penalties to this, to put some teeth into it. So, I just wanted to make that clarification. Thanks.

CHAIR LATZ: I guess I would share Senator Seeberger's response, which is up the difference between 5-year maximum, statutory maximum, penalties is probably not enough to cause a deterrence. But, I guess that discussion will be for a different place.

Any further questions or comments on Senate File 3236 as amended? Not seeing any, members, we're going to lay this over for inclusion later in this proceeding in our omnibus bill that's going to move forward. So, thank you, Senator Seeberger. Senate File 3236 is laid the table.

SEN. SEEBERGER: Thank you.

Inclusion of Carjacking in the Omnibus Judiciary and Public Safety Bill.

On May 1, 2023, Senator Latz, while chairing the conference committee on SF 2909, announced the presentation of Senate-only provisions that did not appear in the House version of the bill. A number of these provisions were found, not in the Senate version of SF 2909, but in SF 1267, the Senate Judiciary Committee's policy-only omnibus bill. As part of those presentations, Chair Latz called upon Senator Seeberger to explain her carjacking bill to the conference committee. An unofficial MSGC staff transcript of that presentation, which may be found at https://youtu.be/R2RmJoU1B_E?t=940, follows:

CHAIR LATZ: Senator Seeberger, would you like to talk about the carjacking provisions?

SEN. SEEBERGER: Thank you, Chair Latz.

CHAIR LATZ: Members, you can find the language in the unofficial engrossment of Senate File 1267, page 27.

SEN. SEEBERGER: My bill establishes the crime of carjacking. Up until now, there are really hasn't been anything designated as carjacking, and what this does is simply takes what was charged out prior as simple and aggravated burglary crimes and specifies it as a carjacking offense. This kind of fits together with a bill offered by Senator Limmer to speak to data with regard to carjacking, and I know that even in terms of my district, it's something that I know that law enforcement has asked for.

CHAIR LATZ: So, Senator Seeberger, I'm going to interrupt for a moment. There are two carjacking provisions in the bill; the one she's describing right now is on page 49. Go ahead, Senator Seeberger.

SEN. SEEBERGER: All right. The bill establishes first degree carjacking, which encompasses the act while armed with a dangerous weapon, or any article used or fashioned in a manner to lead the victim to reasonably believe it's a dangerous weapon, and establishes penalties of up to 20 years and a fine of \$35,000. Second degree—implies possession of a dangerous weapon—with up to 15 years and a \$30,000 penalty. Third-degree carjacking—under any other circumstances—10 years and a \$20,000 penalty.

It simply knits together the criminal penalties that we already have to establish this particular offense.

CHAIR LATZ: Any questions or comments? Chair Moller.

REPRESENTATIVE KELLY MOLLER: Thank you, Mr. Chair, and I had seen different versions of this in the past. So, it is in your policy bill, so I assume that means there's no fiscal note with this because you're assuming that people who are already charged for some of those other offenses would then get moved over into these charges. Is that correct?

CHAIR LATZ: Senator Seeberger.

SEN. SEEBERGER: Mr. Chair, that's my understanding, yes

REP. MOLLER: Okay. And then I just was curious if any, again, any groups—I know when I had started looking into this issue a couple years ago, I had heard from county attorneys that they felt like they had the right tools already because they can charge some of these cases out as assaults, as robberies—simple and aggravated robbery—and I'm assuming that's mirroring this. And so, if you could just speak to that, maybe the need, in your opinion, for this, in light of the fact that we do have some of those other charges available.

CHAIR LATZ: Senator Seeberger.

SEN. SEEBERGER: Thank you, Mr. Chair. Right, well, I guess I'm going to start with the opposite. The pushback that I've heard is from some stakeholders and legislators who don't think the penalties are high enough. And I think that the way that we've crafted this is the appropriate way to structure the various degrees of the offense.

In terms of specific stakeholders—county attorneys, law enforcement—I've heard it more at the grassroots level from law enforcement agencies in my community that this is something that they would like. It doesn't necessarily alter the tools that they have at their disposal, but it certainly does give them this particular avenue to call the crime what is, essentially. So, it has support in that regard.