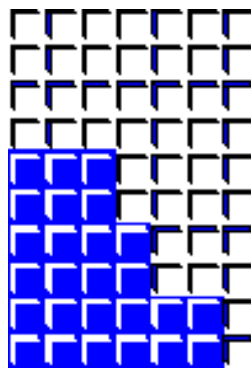


MINNESOTA SENTENCING GUIDELINES COMMISSION

Sentencing Practices

Impact of Select Statutory Enhancements

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Data Summary¹

Each year, the Minnesota Sentencing Guidelines Commission (MSGC) updates a list of select felony sentencing enhancements from 1987 through the current year.² Although it is not meant to be exhaustive, it highlights the most notable enhancements to felony offenses over the last 23 years. The following report examines some of those enhancements which have had the most impact on correctional resources. Specifically, it focuses on fourth-degree assault, felon in possession of a firearm, failure to register as a predatory offender, and driving while impaired (DWI). The paragraphs below briefly highlight the impact of these statutory enhancements.

Statutory enhancements were made to fourth-degree assault in 2004 and 2005. These enhancements relate to both the acts involved in the assault, and the victims protected by this statute. Since 2004, the number of offenders sentenced for this offense has increased by more than 200 percent. This resulted in a need for 139 new prison beds and 100 new jail beds over time.

Mandatory minimum sentences were added to felon in possession in 1996 and 1999. In 1996, a mandatory prison sentence of 18 months was created for first offenses, 60 months for subsequent offenses. The mandatory minimum for first offenses was increased to 60 months in 1999. Between 1999 and 2009, the number of offenders sentenced for this offense increased by roughly 65 percent. During this same timeframe, there was a 29 percent increase in the average sentence duration for offenders sentenced to prison. This resulted in a need for 4,415 new prison beds and 310 new jail beds.

Failure to register was enhanced to a felony for subsequent offenses in 1995. In 2000, all failures to register became felony offenses, with mandatory minimum sentences (12 months and one day for first-time offenders; 24 months for subsequent offenders). Though no enhancements have occurred since 2000, the number of offenders sentenced for this offense has increased by 67 percent in the last five years. This resulted in a need for 1,021 new prison beds and 212 new jail beds.

In 2002, a felony provision was added to the DWI statute. For offenses committed on or after August 1, 2002, a fourth DWI within 10 years is elevated to a felony offense. Since the felony was enacted, approximately 5,600 offenders have been sentenced; 696 of those for subsequent felony DWI offenses. These offenders have required the need for an estimated 3,309 additional prison beds and 1,696 jail beds.

In addition to the offenses discussed in this report, there have also been significant increases in the number of offenders sentenced for felony domestic-violence-related offenses. Due to the size of the impact realized by these offenses, MSGC staff created a separate report to discuss them, which is available on the agency's website.³

¹ It should be noted that the Minnesota Sentencing Guidelines Commission (MSGC) monitoring data are offender-based, meaning cases represent offenders rather than individual charges. Offenders sentenced within the same county in a one-month period are generally counted only once, based on their most serious offense.

² The report on statutory enhancements is available online at: http://www.msgc.state.mn.us/msgc5/reports.htm#special_guidelines_reports

³ The report on assault offenses is available online at: http://www.msgc.state.mn.us/msgc5/sentencing_practices.htm

Fourth-Degree Assault

Fourth-degree assaults are assaults against criminal justice personnel and emergency responders (M.S. §609.2231). They are assaults that result in demonstrable bodily harm that would ordinarily be misdemeanor assaults, but, because of the need to protect these types of victims, are elevated to felonies. Since 2004, several enhancements have been enacted which have broadened both the offense elements (transfer of bodily fluids added) and the number of possible victims (probation officers and secure treatment facility personnel added).

Statutory Enhancements

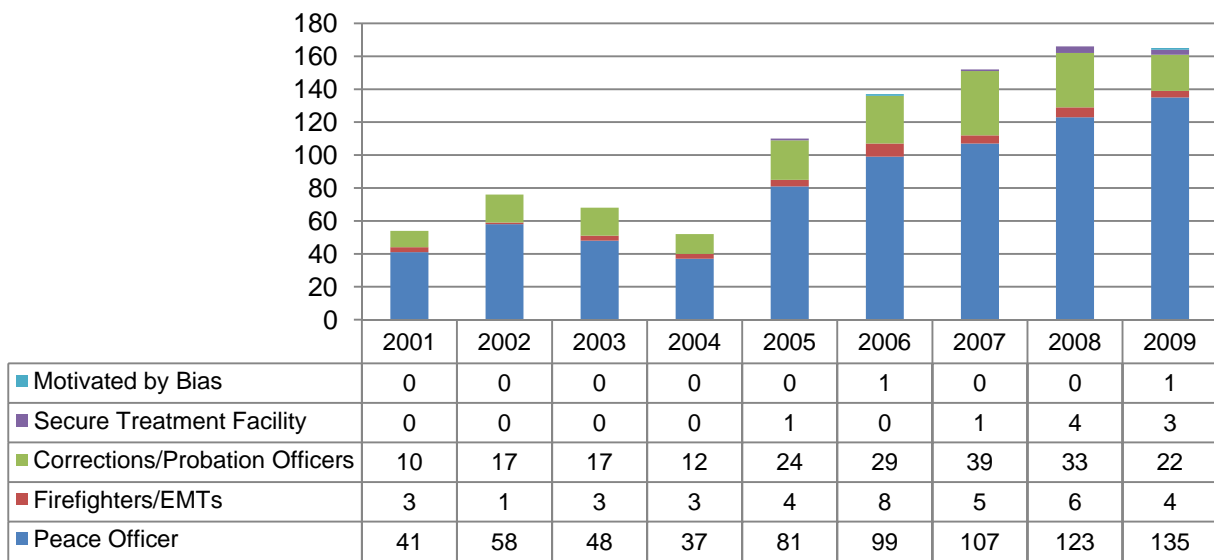
The following are statutory enhancements to fourth-degree assault that have been enacted over the last several years:

1. New felony crime for assaults against probation officers (2004).
2. Felony assaults against peace officers, and corrections and probation officers, expanded to include assaults resulting in transference of bodily fluids (2004).
3. New felony crime for assaults against secure treatment facility personnel (2005).

Number of Offenders

There has been an increase in the number of offenders sentenced for fourth-degree assault since the crime was broadened to include transference of bodily fluids and assaults against peace officers and corrections/probation officers. The first changes took effect for crimes committed on or after August 1, 2004. Between 2004 and 2009, the number of offenders sentenced for this offense increased by more than 200 percent. The number grew from 52 in 2004 to 166 in 2008 and 165 in 2009.

Figure 1. Number of Offenders Sentenced for Fourth-Degree Assault: 2001-2009



Incarceration Rates ⁴

Incarceration rates have not changed much since the enhancements were enacted. Prison rates have remained close to the 17-percent average during this time period, with the exception of 2005. The average pronounced duration has also remained stable, with little variation from the 15-month average. Jail rates have also fluctuated within a narrow range around 72 percent and, with the exception of 2002, the average pronounced jail time for this time period has been approximately 80 days. In 2009, the average pronounced jail time fell below 60 days for the first time. However, with the increase in the number of offenders being sentenced for this offense, the number of prison and jail beds needed has risen.

Table 1. Incarceration Rates and Average Pronounced Durations: 2001-2009

Year	# Cases	State Prison Sentence			Local Jail as a Condition of Probation		
		# Cases/ Prison Rate	Average Duration (in months)	# Cases/ Prison Beds	Jail Rate	Average Duration (in days)	Jail Beds
2001	54	9 17%	16	8	39 72%	77	6
2002	76	15 20%	17	14	50 66%	123	11
2003	68	10 15%	15	9	52 77%	76	7
2004	52	7 14%	15	6	38 73%	92	6
2005	110	28 26%	14	22	74 67%	79	11
2006	137	18 13%	13	13	107 78%	88	17
2007	152	24 16%	14	19	115 76%	69	14
2008	166	31 19%	14	25	115 69%	71	15
2009	165	28 17%	15	23	120 73%	58	13
Total	980	170 17%	15	139	710 72%	81	100

⁴ Throughout this report, prison and jail beds are calculated based on the assumption that offenders serve two-thirds of the pronounced duration. Actual beds used may vary because of credit for time served before sentencing, possible early releases either because of participation in treatment programs or furloughs from jail to treatment, or additional time could be imposed for disciplinary violations.

Felon in Possession of a Firearm

Offenders who have been convicted of a crime of violence are prohibited from possessing firearms (M.S. §609.165, subdivision 1b; M.S. §624.713, subdivision 2(b)). “Crime of violence” is defined in M.S. §624.712, subdivision 5. Before 1996, there was no mandatory minimum for this offense and it was ranked by the sentencing guidelines at a severity level where only offenders with a criminal history score of four or more were recommended prison sentences. Persons convicted of a crime of violence were prohibited from possessing firearms until ten years after their sentence had expired; in 2003, this was extended to a lifetime ban. The mandatory minimums described below were enacted as amendments to M.S. §609.11, which sets mandatory minimum penalties for offenses involving dangerous weapons. However, the statute also provides that the court may sentence without regard to the mandatory minimum through a motion by either the prosecutor or the court.

Statutory Enhancements

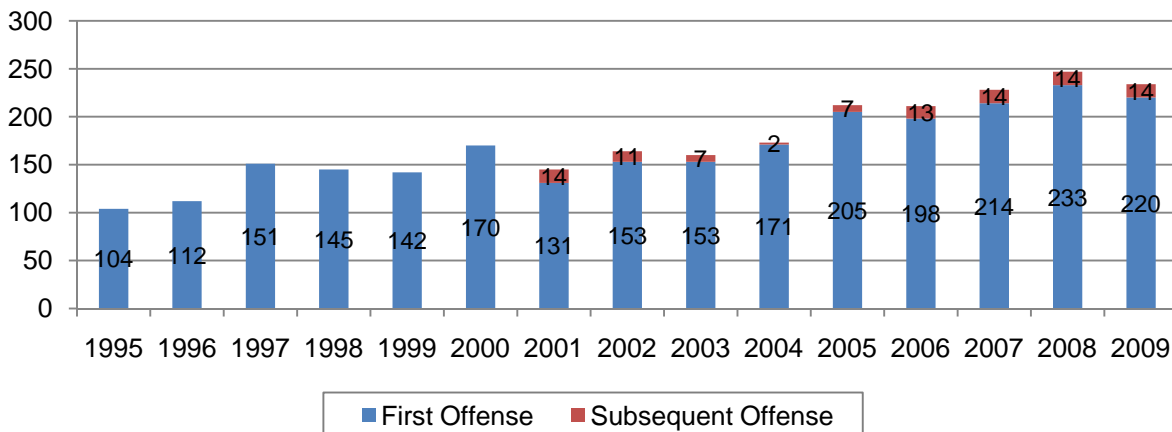
The following are statutory enhancements to the felon in possession statute that have been enacted over the last 13 years:

1. Mandatory minimum: 18 months for first offense; 60 months for subsequent (1996).
2. Mandatory minimum: 60 months for first offense; 60 months for subsequent (1999).
3. Lifetime ban from possessing a firearm instituted (2003).

Number of Offenders

Figure 2 displays the number of offenders who have been sentenced for felon in possession since 1995.⁵

Figure 2. Number of Offenders Sentenced for Felon in Possession: 1995-2009



⁵ For the years 1995-2000, MSGC data does not distinguish between first and subsequent offenses.

Incarceration Rates

The imprisonment rate increased greatly after the mandatory minimum sentences went into effect in 1996. Average pronounced prison durations also increased following the change in the mandatory minimum for first offenses in 1999. Since 1995, the number of offenders sentenced for this offense has grown steadily; when combined with increased imprisonment rates and longer sentence durations, this has led to an increased need for state correctional resources: (Table 2). As Table 3 illustrates, there is growth in the number of offenders receiving jail time also.

Table 2. Imprisonment Rates and Average Pronounced Durations: 1995-2009

Year	First Offenses				Subsequent Offenses				Total Prison Beds
	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	
1995	104	26 25%	17	25	Unable to distinguish first from subsequent offenses				25
1996	112	40 36%	20	44					44
1997	151	109 72%	21	128					128
1998	145	101 70%	22	125					125
1999	142	108 76%	41	250					250
2000	170	116 68%	50	323					323
2001	131	91 70%	53	267	14	12 86%	57	38	305
2002	153	100 65%	51	285	11	9 82%	60	30	315
2003	153	108 71%	52	311	7	7 100%	53	21	332
2004	171	115 67%	53	338	2	2 100%	60	7	345
2005	205	124 61%	53	363	7	6 86%	42	14	377
2006	198	134 68%	51	382	13	11 85%	66	40	422
2007	214	137 64%	53	408	14	12 86%	59	40	448
2008	233	155 67%	52	449	14	12 86%	53	35	484
2009	220	154 70%	53	456	14	11 79%	58	36	492

Sentencing Practices

Year	First Offenses				Subsequent Offenses				Total Prison Beds
	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	
Total	2,502	1,618 65%	46	4,154	96	82 85%	56	261	4,415

Table 3. Jail Rates and Average Pronounced Conditional Confinement: 1995-2009

Year	First Offenses				Subsequent Offenses				Total Jail Beds
	# Cases	# Cases/ Jail Rate	Average Duration (days)	Jail Beds	# Cases	# Cases/ Jail Rate	Average Duration (days)	Jail Beds	
1995	104	70 67%	110	14	Unable to distinguish first from subsequent offenses				14
1996	112	58 52%	141	15					15
1997	151	37 25%	174	12					12
1998	145	42 29%	169	13					13
1999	142	33 23%	174	11					11
2000	170	49 29%	236	21					21
2001	131	35 27%	282	18	14	2 14%	365	1	19
2002	153	47 31%	275	24	11	2 18%	276	1	25
2003	153	40 26%	264	19	7	0	0	0	19
2004	171	54 32%	223	22	2	0	0	0	22
2005	205	72 35%	229	30	7	1 14%	365	1	31
2006	198	55 28%	220	22	13	2 15%	187	1	23
2007	214	71 33%	221	29	14	2 14%	212	1	30
2008	233	70 30%	207	27	14	1 7%	180	0	27
2009	220	59 27%	252	27	14	2 14%	206	1	28
Total	2,502	792 32%	212	304	82	12 12%	253	6	310

Failure to Register

Offenders who commit criminal sexual conduct offenses and certain other specified offenses are required to register with local law enforcement (M.S. §243.166). The registration period was ten years from the time an offender initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever is longer. If an offender fails to register following a change in residence, an additional five years may be added to the registration period. Until 1995, this offense was a gross misdemeanor.

Statutory Enhancements

The following are statutory enhancements to the failure to register statute that have been enacted over the last 15 years:

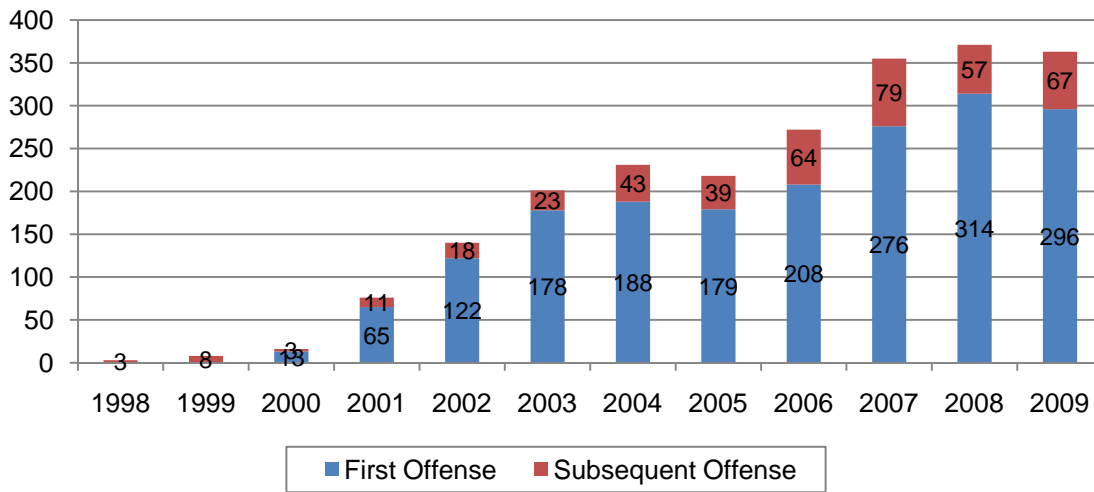
1. New felony crime for subsequent failures to register (1995).
2. Felony crime for first offense with mandatory minimum of a year and a day (2000).
3. Two-year mandatory minimum for subsequent offenses (2000).
4. Ten-year registration period for offenders subsequently incarcerated following a revocation of probation, supervised release, or conditional release for failing to register, or a conviction for any new offense (2000).
5. Life registration period for specified offenses (2000).
6. Registration requirement expanded to include offenders who aid, abet, or conspire to commit an offense currently requiring registration. Also clarifies that when an offender is convicted of another offense arising out of the same set of circumstances as a listed registration-eligible offense, registration is triggered regardless of the penalty level of the offense (2005).
7. Commissioner of Public Safety has the ability to extend the offender's registration period for an additional five years for failure expanded to include failure to meet any of the registration requirements, not just failure to report address (2005).

Number of Offenders

Figure 3 displays the number of offenders who have been sentenced for felony failure to register since 1998.⁶ Though no enhancements to sentences have occurred since 2000, the number of offenders sentenced for this offense has increased by 57 percent in the last five years. This increase may be the result of changes to registration requirements (described in #6 and #7 under *Statutory Enhancements*), increased awareness of offenders via the Department of Public Safety's website, and/or increased enforcement. Unfortunately, it is impossible to discern from MSGC's data if a particular statutory enhancement has been more of a contributor to the increased number of cases sentenced.

⁶ In 1998-1999, only subsequent failure- to-register offenses were at the felony level.

Figure 3. Number of Offenders Sentenced for Failure to Register: 1998-2009



Incarceration Rates

Incarceration rates have increased slightly over what they were when the mandatory minimums were first implemented in August of 2000. Average pronounced prison durations have fluctuated somewhat, especially for subsequent offenders. However, the number of offenders sentenced for this offense has grown dramatically, resulting in increased need for prison and jail beds for these offenders. As Table 4 illustrates, offenders sentenced to prison for this offense has led to the need for approximately 1,021 prison beds since 1998. Due to a fairly high departure rate for first-time offenders, the increased number of offenders has also meant an increased need for jail beds: since 1998, roughly 212 jail beds have been needed (Table 5).

Table 4. Imprisonment Rates and Average Pronounced Durations: 1998-2009

Year	First Offenses				Subsequent Offenses				Total Prison Beds
	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	
1998	0	0	0	0	3	1 33%	12	1	1
1999	0	0	0	0	8	1 13%	13	1	1
2000	13	4 31%	14	3	3	2 67%	14	2	5
2001	65	23 35%	14	18	11	6 55%	22	7	25
2002	122	39 32%	15	32	18	13 72%	19	13	45

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Year	First Offenses				Subsequent Offenses				Total Prison Beds
	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	
2003	178	61 34%	15	52	23	12 52%	25	17	69
2004	188	69 37%	14	55	43	31 72%	21	36	91
2005	179	71 40%	13	53	39	30 77%	31	51	104
2006	208	93 45%	14	71	64	49 77%	21	58	129
2007	276	120 44%	15	103	79	57 72%	22	69	172
2008	314	149 48%	17	140	57	42 74%	22	51	191
2009	296	136 46%	18	136	67	44 66%	21	52	188
Total	1,826	761 41%	15	637	401	284 72%	22	358	1,021

Table 5. Jail Rates and Average Pronounced Conditional Confinement: 1998-2009

Year	First Offenses				Subsequent Offenses				Total Jail Beds
	# Cases	# Cases/ Jail Rate	Average Duration (days)	Jail Beds	# Cases	Jail Rate	Average Duration (days)	Jail Beds	
1998	0	0	0	0	3	2 67%	113	<1	<1
1999	0	0	0	0	8	7 86%	99	1	1
2000	13	7 54%	83	1	3	1 33%	120	<1	1
2001	65	39 60%	97	7	11	4 36%	133	1	8
2002	122	72 59%	94	12	18	4 22%	120	1	13
2003	178	96 54%	88	15	23	10 44%	104	2	17
2004	188	110 59%	101	20	43	11 26%	140	3	23
2005	179	91 51%	100	17	39	8 21%	185	3	20
2006	208	103 50%	95	18	64	13 20%	150	4	22

Sentencing Practices

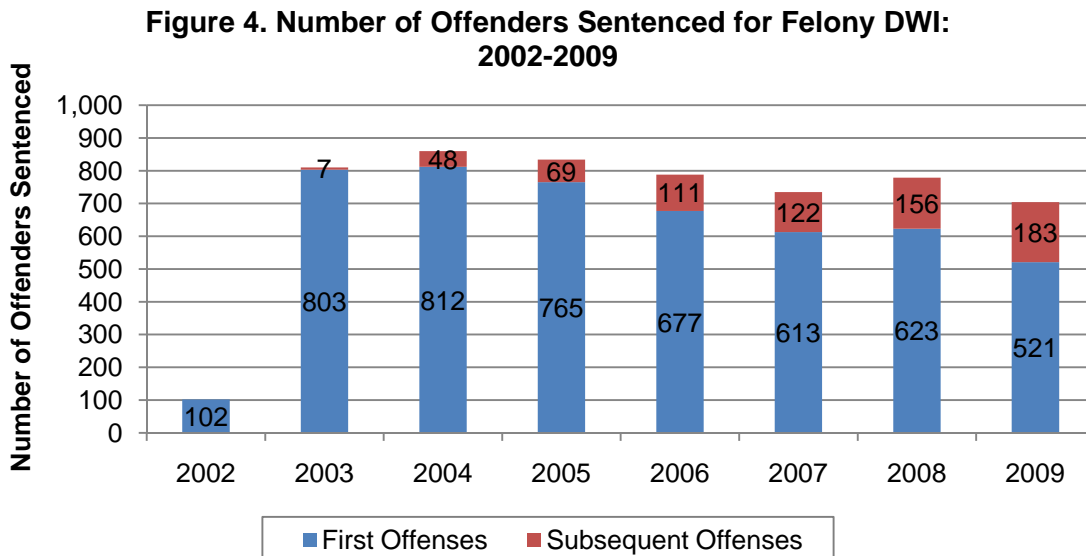
Year	First Offenses				Subsequent Offenses				Total Jail Beds
	# Cases	# Cases/ Jail Rate	Average Duration (days)	Jail Beds	# Cases	Jail Rate	Average Duration (days)	Jail Beds	
2007	276	133 48%	126	31	79	19 24%	164	6	37
2008	314	141 45%	111	29	57	12 21%	176	4	33
2009	296	135 46%	120	30	67	19 28%	199	7	37
Total	1,826	920 51%	104	180	401	100 24%	162	32	212

Felony DWI

A felony DWI offense was implemented as of August 1, 2002 (M.S. §169A.24). Until then, the highest punishment level for DWI was a gross misdemeanor sentence. The statute mandates that a 36-month minimum sentence be imposed for the felony offense, but it allows for that sentence to be stayed. The sentencing guidelines specify that the presumptive disposition for a subsequent felony DWI is a commit to prison.

Number of Offenders

Figure 4 displays the number of offenders who have been sentenced for felony DWIs since the enactment. While the number of total felony DWIs and first offenses peaked in 2004, the number of subsequent offenders continues to increase as the pool of offenders eligible for a second felony has grown.



Incarceration Rates

The imprisonment rates for first-time felony DWI offenders have consistently been at or near the 12 percent average for all years (Table 6). Average pronounced prison duration rates for first-time offenders have also remained stable with the average for these years at 52 months. With the exception of 2003 when there were only seven subsequent felony DWI offenders sentenced, the average imprisonment rate for subsequent offenders has range from 72 percent to 81 percent in 2008. The average pronounced duration for subsequent offenders had almost always been 50 or 51 months, but increased to 59 months in 2009.

Jail rates for first-time felony DWI offenders have also fluctuated within a narrow range around the 84 percent average (Table 7). However, the average pronounced jail time for first time offenders has shown slightly more variation with the trend being a decrease in the average

Sentencing Practices

pronounced days from 237 days in 2002 to 182 days in 2009. With the exception of 2004 and 2008, average pronounced jail durations have been longer for subsequent offenders than for first time offenders.

Table 6. Imprisonment Rates and Average Pronounced Durations: 2002-2009

Year	First Offenses				Subsequent Offenses				Total Prison Beds
	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	# Cases	# Cases/ Prison Rate	Average Duration (months)	Prison Beds	
2002	102	7 7%	53	21	0	0	0	0	21
2003	803	109 14%	50	302	7	7 100%	51	20	322
2004	812	96 12%	53	285	48	35 73%	50	98	383
2005	765	97 13%	54	290	69	53 77%	50	148	438
2006	677	74 11%	53	220	111	81 73%	49	219	439
2007	613	85 14%	51	243	122	98 80%	50	272	515
2008	623	75 12%	51	214	156	127 81%	51	360	574
2009	521	65 13%	51	185	183	131 72%	59	432	617
Total	4,916	608 12%	52	1,760	696	532 76%	50	1,549	3,309

Table 7. Jail Rates and Average Pronounced Conditional Confinement: 2002-2009

Year	First Offenses				Subsequent Offenses				Total Jail Beds
	# Cases	# Cases/ Jail Rate	Average Duration (days)	Jail Beds	# Cases	Jail Rate	Average Duration (days)	Jail Beds	
2002	102	91 89%	237	40	0	0	0	0	40
2003	803	672 84%	233	288	7	0	0	0	288
2004	812	698 86%	230	295	48	9 19%	151	2	297
2005	765	654 86%	214	256	69	15 22%	285	8	264
2006	677	582 86%	209	223	111	26 23%	274	13	236

Sentencing Practices

Year	First Offenses				Subsequent Offenses				Total Jail Beds
	# Cases	# Cases/ Jail Rate	Average Duration (days)	Jail Beds	# Cases	Jail Rate	Average Duration (days)	Jail Beds	
2007	613	504 82%	208	192	122	21 17%	302	12	204
2008	623	514 83%	202	191	156	24 15%	202	9	200
2009	521	435 84%	182	145	183	42 23%	286	22	167
Total	4,916	4,150 84%	214	1,630	696	137 20%	263	66	1,696

How the Guidelines Work

Minnesota's guidelines are based on a grid structure. The vertical axis of the grid represents the **severity** of the offense for which the offender was convicted. The horizontal axis represents a measure of the offender's **criminal history**. The Commission has ranked felony level offenses into eleven severity levels. Offenses included in each severity level are listed in the **Severity Reference Table** in the *Minnesota Sentencing Guidelines and Commentary*.

The criminal history index measures the offender's prior record and consists of four measures of prior criminal behavior: (1) a weighted measure of prior felony sentences; (2) a limited measure of prior misdemeanor/gross misdemeanor sentences; (3) a limited measure of the prior serious juvenile record; and (4) a "custody status" measure which indicates if the offender was on probation or parole when the current offense was committed.

The recommended (presumptive) guideline sentence is found in the cell of the sentencing grid in which the offender's criminal history score and severity level intersect. The guidelines recommend imprisonment in a state prison in the non-shaded cells of the grid.

The guidelines generally recommend a stayed sentence for cells in the shaded area of the grid. When a sentence is stayed, the court typically places the offender on probation and may require up to a year of conditional confinement in a local facility (jail or workhouse). Other conditions such as fines, restitution, community work service, treatment, house arrest, etc. may also be applied to an offender's sentence. There are, however, a number of offenses that carry a presumptive prison sentence regardless of where the offender is on the guidelines grid (e.g., offenses involving dangerous weapons which carry mandatory minimum prison terms, and drug and burglary offenses).

The number in the cell is the recommended length of the prison sentence in months. As explained above, sentences in shaded boxes are generally stayed probationary sentences. For cases in the non-shaded cells of the grid, the guidelines also provide a narrow range of months around the presumptive duration that a judge may pronounce and still be within the guidelines.

It is not possible to fully explain all of the policies in this brief summary. Additional information on the sentencing guidelines is available by contacting the Commission's office. The *Minnesota Sentencing Guidelines and Commentary* is available online at <http://www.msgc.state.mn.us>.

SENTENCING GUIDELINES GRID

Presumptive Sentence Lengths in Months

Italicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure. Offenders with non-imprisonment felony sentences are subject to jail time according to law.

SEVERITY LEVEL OF CONVICTION OFFENSE (Common offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by-shootings)	XI	306 <i>261-367</i>	326 <i>278-391</i>	346 <i>295-415</i>	366 <i>312-439</i>	386 <i>329-463</i>	406 <i>346-480³</i>	426 <i>363-480³</i>
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> (unintentional murder)	X	150 <i>128-180</i>	165 <i>141-198</i>	180 <i>153-216</i>	195 <i>166-234</i>	210 <i>179-252</i>	225 <i>192-270</i>	240 <i>204-288</i>
<i>Assault, 1st Degree</i> <i>Controlled Substance Crime,</i> <i>1st Degree</i>	IX	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>
<i>Aggravated Robbery 1st Degree</i> <i>Controlled Substance Crime,</i> <i>2nd Degree</i>	VIII	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</i>	VII	36	42	48	54 <i>46-64</i>	60 <i>51-72</i>	66 <i>57-79</i>	72 <i>62-86</i>
<i>Assault, 2nd Degree</i> <i>Felon in Possession of a Firearm</i>	VI	21	27	33	39 <i>34-46</i>	45 <i>39-54</i>	51 <i>44-61</i>	57 <i>49-68</i>
<i>Residential Burglary</i> <i>Simple Robbery</i>	V	18	23	28	33 <i>29-39</i>	38 <i>33-45</i>	43 <i>37-51</i>	48 <i>41-57</i>
<i>Nonresidential Burglary</i>	IV	12 ¹	15	18	21	24 <i>21-28</i>	27 <i>23-32</i>	30 <i>26-36</i>
<i>Theft Crimes (Over \$2,500)</i>	III	12 ¹	13	15	17	19 <i>17-22</i>	21 <i>18-25</i>	23 <i>20-27</i>
<i>Theft Crimes (\$2,500 or less)</i> <i>Check Forgery (\$200-\$2,500)</i>	II	12 ¹	12 ¹	13	15	17	19	21 <i>18-25</i>
<i>Sale of Simulated</i> <i>Controlled Substance</i>	I	12 ¹	12 ¹	12 ¹	13	15	17	19 <i>17-22</i>



Presumptive commitment to state imprisonment. First Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence. See section [II.E. Mandatory Sentences](#) for policy regarding those sentences controlled by law.



Presumptive stayed sentence; at the discretion of the judge, up to a year in jail and/or other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in this section of the grid always carry a presumptive commitment to state prison. See sections [II.C. Presumptive Sentence](#) and [II.E. Mandatory Sentences](#).

¹ One year and one day

² M.S. § 244.09 requires the Sentencing Guidelines to provide a range of 15% downward and 20% upward from the presumptive sentence. However, because the statutory maximum sentence for these offenses is no more than 40 years, the range is capped at that number.