

Demographic Impact Statement

House File 615-1UE

Fentanyl Weight Threshold and Penalty

Statement Date: April 5, 2023

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

[House File 615](#), version 1UE, defines “fentanyl” under Minn. Stat. § 152.01 to include carfentanil, etc.; and creates new fentanyl thresholds for controlled substance crimes under Minn. Stat. §§ 152.021 to 152.023 similar to those that now exist for heroin. The bill also adds a new “dosage unit” threshold that applies to fentanyl and, in several instances, to heroin also.

Estimated Impact

In its fiscal note,¹ MSGC staff estimated an eventual need for 10 prison beds. It was assumed that future sales and possessions of fentanyl would be similar to those controlled substance crimes sentenced in 2021 known to have involved fentanyl. According to 2021 MSGC Monitoring data, there were 3,912 controlled substance cases sentenced in Minnesota. According to Minnesota Offense Codes (MOCs) in that data, 119 cases were labeled as “synthetic narcotics.” MSGC staff reviewed the criminal complaints for those synthetic narcotics cases to determine which ones were labeled as fentanyl cases. MSGC staff found 19 felony-level fentanyl cases, six of which would be sentenced at a higher severity level under the provisions of this bill.

It was assumed that the cases moving to higher severity levels would be given the average imprisonment rate and length of sentence at the higher severity levels that corresponds to their criminal history scores; however, it was also assumed that cases receiving mitigated dispositional departures (the Guidelines recommend prison but the defendant in the case gets probation) would continue at the same rate in the future.

¹ MSGC’s detailed assumptions can be found in the fiscal note created for HF615-1UE.

Current State Demographics

It is generally assumed that due to the COVID-19 health pandemic, the cases sentenced in 2020 and 2021 are not a fair approximation of cases sentenced in the future. For this reason, 2019 case data are generally used to estimate impact. However, due to the reported increase in fentanyl-related drug overdose deaths in Minnesota in 2021, MSGC staff used 2021 monitoring data for this fiscal note to better estimate its impact.

Table 1 displays 2021 demographic information pertaining to three populations within the state: the adult population (on July 1, 2021, as estimated by the U.S. Census Bureau); the annual felony population (that is, the population of people sentenced for felony offenses in 2021); and the adult prison population (as of July 1, 2021). 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 2021 General Adult Population, Annual Felony Population, and Prison Population, by Gender, Race and Ethnicity, and Judicial District

	General Adult Population			Annual Felony Population			Prison Population	
	U.S. Census Category	2021 Estimated Adult Population		MSGC Category	People Sentenced in 2021		2021 Adult Inmate Population	
		Number	Percent		Number	Percent	Number	Percent
	Male	2,186,757	49.8	Male	11,715	81.2	6,948	94.3
	Female	2,203,066	50.2	Female	2,712	18.8	421	5.7
Race & Ethnicity	White*	3,641,299	82.9	White	8217	56.9	3,443	46.7
	Black or African American*	300,962	6.9	Black	3684	25.5	2,686	36.4
	American Indian*	68,156	1.6	American Indian	1348	9.3	629	8.5
	Hispanic**	211,201	4.8	Hispanic**	788	5.5	404	5.5
	Asian/Pacific Islander*	242,980	5.5	Asian	389	2.7	195	2.6
	--	--	--	Other/Unknown***	1	0.0	12	0.2
Judicial District	First	628,428	14.3	First	2,061	14.3	641	8.7
	Second	416,939	9.5	Second	1,352	9.4	814	11.0
	Third	377,090	8.6	Third	955	6.6	562	7.6
	Fourth	991,412	22.6	Fourth	2,541	17.6	1,906	25.9
	Fifth	223,999	5.1	Fifth	964	6.7	394	5.3
	Sixth	203,550	4.6	Sixth	702	4.9	401	5.4
	Seventh	382,192	8.7	Seventh	1,693	11.7	835	11.3
	Eighth	124,011	2.8	Eighth	532	3.7	242	3.3
	Ninth	264,605	6.0	Ninth	1,490	10.3	762	10.3
	Tenth	777,597	17.7	Tenth	2,139	14.8	733	9.9
	Total	4,389,823	100.0	Total	14,429	100.0	7,369	100.0

Source of July 1, 2021, population estimate: U.S. Census Bureau (Nov. 2022).

**Not Hispanic, alone or in combination with one or more other races. The sum of percentages of residents in each racial or ethnic category exceeds 100 percent (101.7%) because residents of more than one race are counted in more than one category.*

***This table lists all Hispanic people as Hispanic, regardless of race.*

See <https://mncourts.gov/Find-Courts.aspx> for a map of Minnesota's ten judicial districts.

Demographic Impact

Demographic Characteristics – Increased Prison Population

MSGC staff found 19 felony-level fentanyl cases, six of which would be sentenced at a higher severity level under the provisions of this bill: 1 fifth-degree case and 1 second-degree case would move to first-degree; 1 fourth-degree case and 3 third-degree cases would move to second-degree. It was assumed that the cases moving to higher severity levels will be given the average imprisonment rate and length of sentence at the higher severity levels that corresponds to their criminal history scores; however, it was also assumed that cases receiving mitigated dispositional departures (the Guidelines recommend prison but the defendant in the case gets probation) would continue at the same rate in the future. This resulted in the future need for ten prison beds.

One might assume that, in the future, the demographic characteristics of the people who would occupy the ten prison beds needed as a result of this bill will be similar to the demographic characteristics of the people who committed controlled substance crimes sentenced in 2021 known to have involved fentanyl who would have occupied the ten prison beds needed if the bill had been in effect, based on the assumptions above. If that assumption is accurate, it is estimated that the demographic characteristics of occupants of the prison beds reduced by this bill would be as follows.

- **Gender:** Male (98.5%); Female (1.5%).
- **Race & Ethnicity:** White (37.3%); Black (40.3%); American Indian (17.9%); Hispanic (3.0%); Asian (1.5%).
- **Judicial District:** First (4.5%); Second (7.5%); Third (6.0%); Fourth (31.3%); Fifth (1.5%); Sixth (11.9%); Seventh (11.9%); Eighth (4.5%); Ninth (10.4%); and Tenth (10.4%).

Table 3, on page 4, shows the demographic change in the prison bed 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, and Estimated Resulting Prison Population, by Gender, Race and Ethnicity, and Judicial District

		Prison Population			Estimated Change in Prison Beds Needed*		Estimated Resulting Prison Population*				
		2021 Adult Inmate Population							% -point change relative to other categories**	Estimated resulting rate per 100,000*†	% change from existing felony pop.
MSGC Category	No.	%	Rate per 100,000†	Beds	%	No.	%				
Male	6,948	94.29%	318	+5.8	57.9%	6,954	94.24%		318	+0.1%	
Female	421	5.71%	19	+4.2	42.1%	425	5.76%		19	+1.0%	
Race & Ethnicity	White	3,443	46.7%	95	+3.2	31.6%	3,446	46.7%	(No category changes by 0.1 percentage point or more relative to its fellow categories)	95	+0.1%
	Black	2,686	36.45%	892	+3.7	36.8%	2,690	36.45%		894	+0.1%
	American Indian	629	8.54%	923	+2.6	26.3%	632	8.56%		927	+0.4%
	Hispanic	404	5.5%	191			404	5.5%		191	
	Asian	195	2.6%	80	+0.5	5.3%	196	2.6%		80	+0.3%
	First	641	8.7%	102	+1.6	15.8%	643	8.7%		102	+0.2%
Second	814	11.0%	195			814	11.0%	195			
Third	562	7.6%	149	+0.5	5.3%	563	7.6%	149		+0.1%	
Fourth	1,906	25.9%	192	+3.2	31.6%	1,909	25.9%	193		+0.2%	
Fifth	394	5.3%	176			394	5.3%	176			
Sixth	401	5.44%	197	+2.6	26.3%	404	5.47%	198	+0.7%		
Seventh	835	11.3%	218	+1.1	10.5%	836	11.3%	219	+0.1%		
Eighth	242	3.3%	195			242	3.3%	195			
Ninth	762	10.3%	288	+0.5	5.3%	763	10.3%	288	+0.1%		
Tenth	733	9.9%	94	+0.5	5.3%	734	9.9%	94	+0.1%		
Total	7,369	100.0	168	+10.0	100.0	7,379	100.0		168	+0.1%	

* This table’s projections assume that the demographic characteristics of people sentenced in the future will be similar to the characteristics of people sentenced in the past, as stated on page 3. The accuracy of these projections will therefore vary according to the accuracy of these assumptions.

† Rate per 100,000 adult residents, as shown on Table 1, “General Population” (2021 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 from 2002 through 2021. Rates (shown in figures 4 through 9) are per 100,000 Minnesota adult residents.

Estimated Adult Population

Figure 1. Minnesota Adult Residents, Estimated 2002–21, by Gender and Total

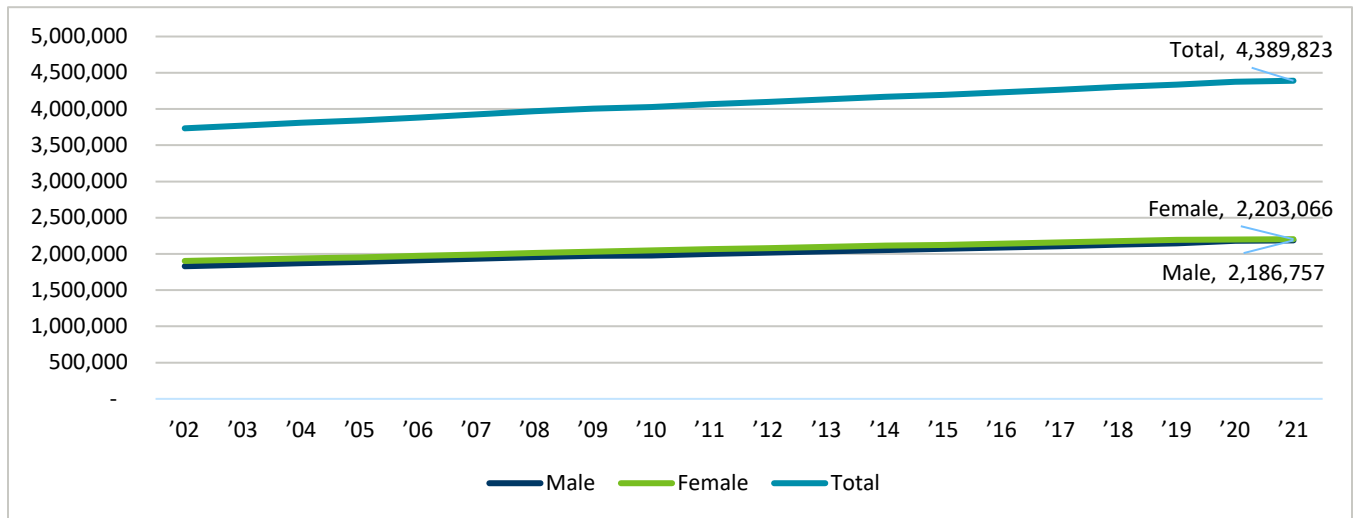


Figure 2. Minnesota Adult Residents, Estimated 2002–21, by Race and Ethnicity

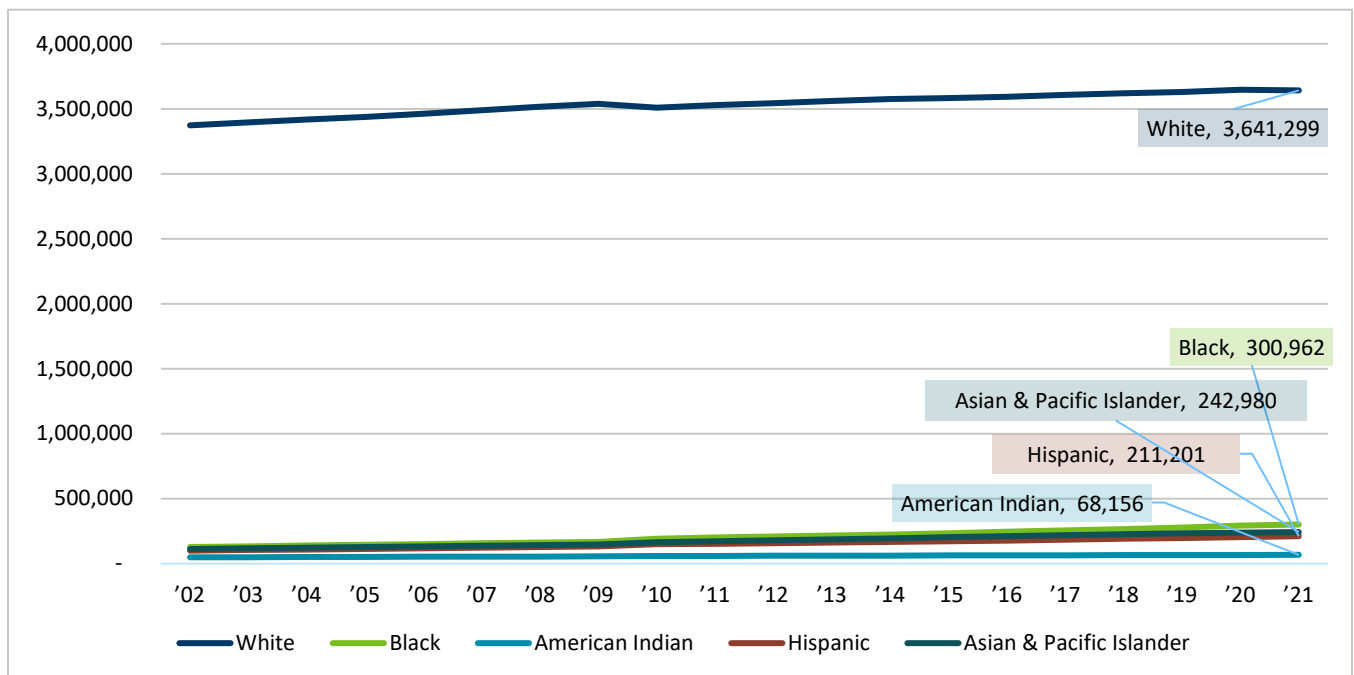
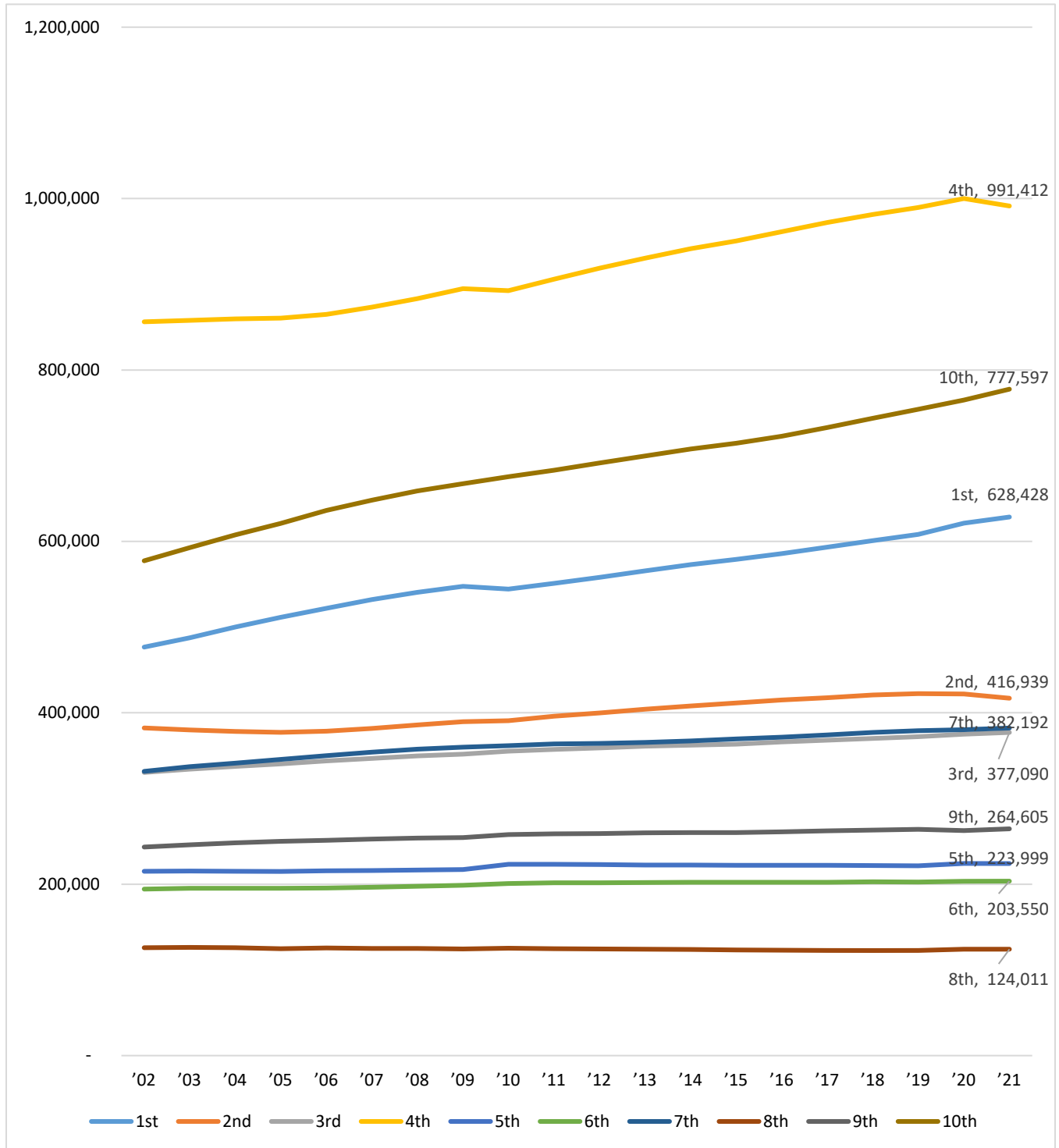


Figure 3. Minnesota Adult Residents, Estimated 2002–21, by Judicial District



Notes for Figure 1 through Figure 3: Minnesota residents age 18 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 Adult Residents, 2002–21, by Gender and Total

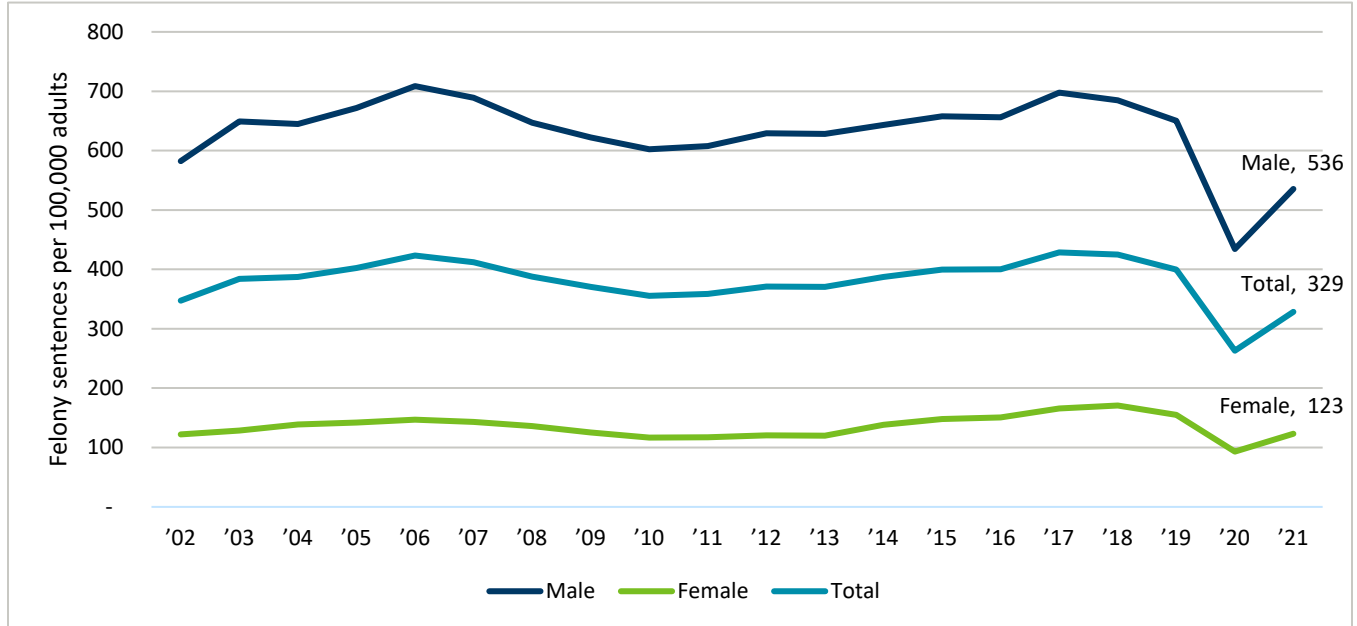


Figure 5. Felony Sentencing Rates per 100,000 Minnesota Adult Residents, 2002–21, by Race and Ethnicity

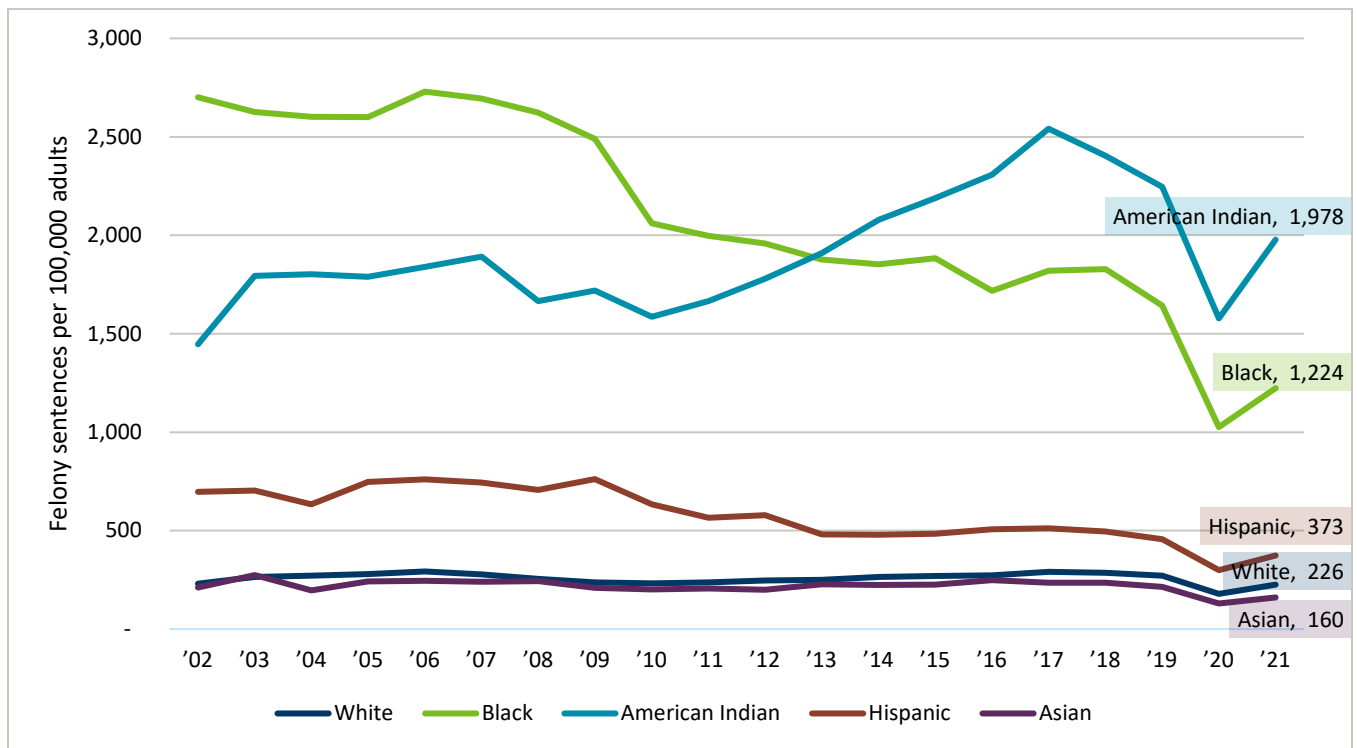
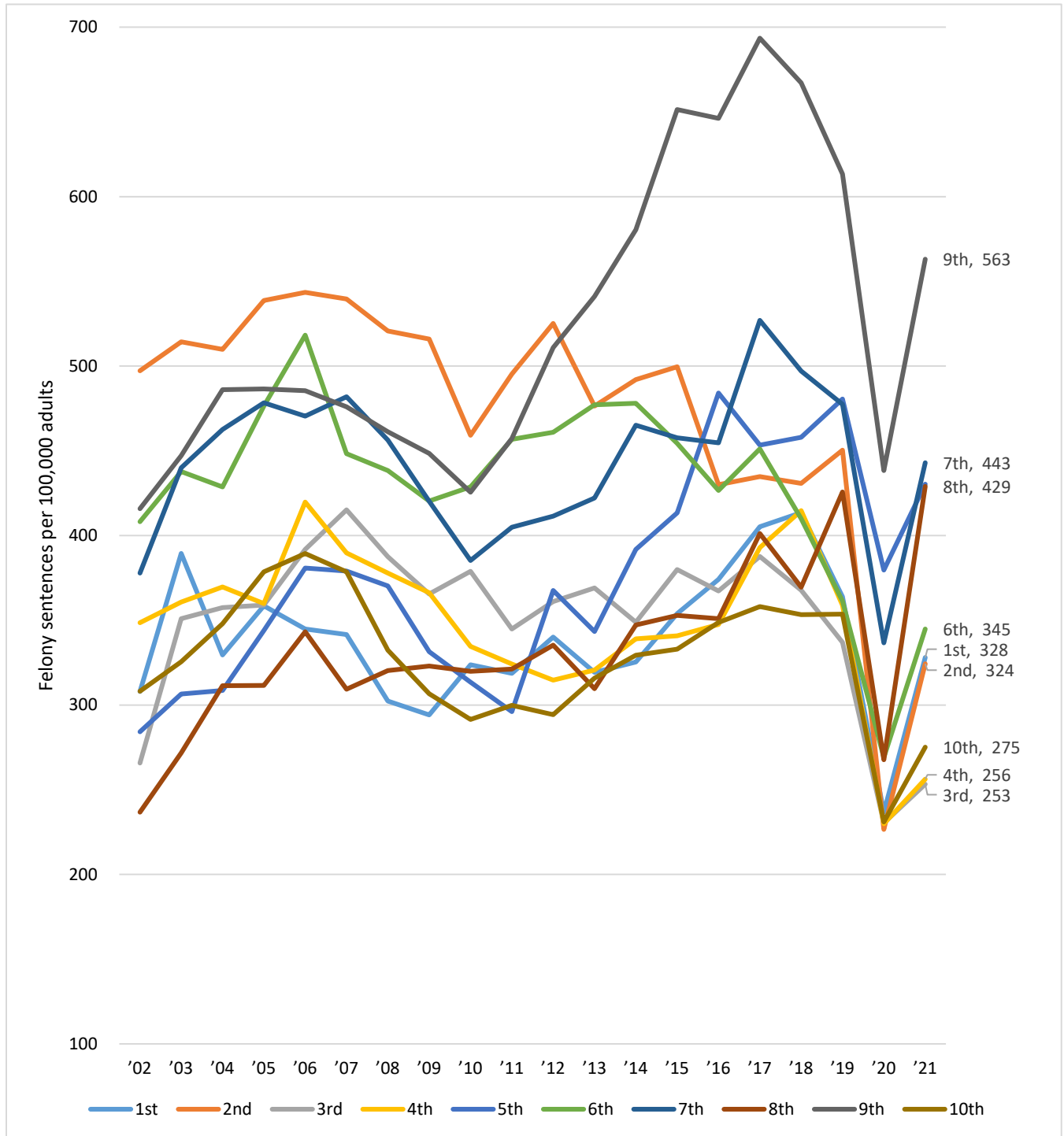


Figure 6. Felony Sentencing Rates per 100,000 Minnesota Adult Residents, 2002–21, by Judicial District



Notes for Figure 4 through Figure 6: Rates are people sentenced for felonies annually per 100,000 Minnesota residents age 18 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.

Imprisonment Rates

Figure 7. Imprisonment Rates per 100,000 Minnesota Adult Residents, 2002–21, by Gender and Total

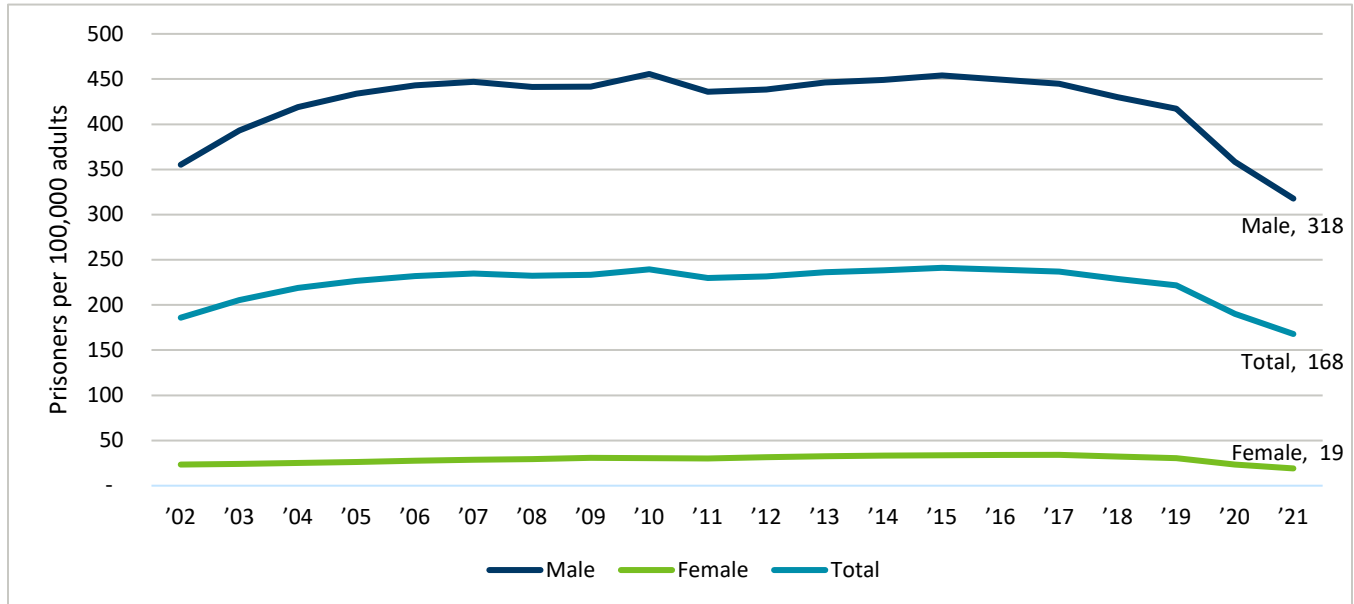


Figure 8. Imprisonment Rates per 100,000 Minnesota Adult Residents, 2002–21, by Race and Ethnicity

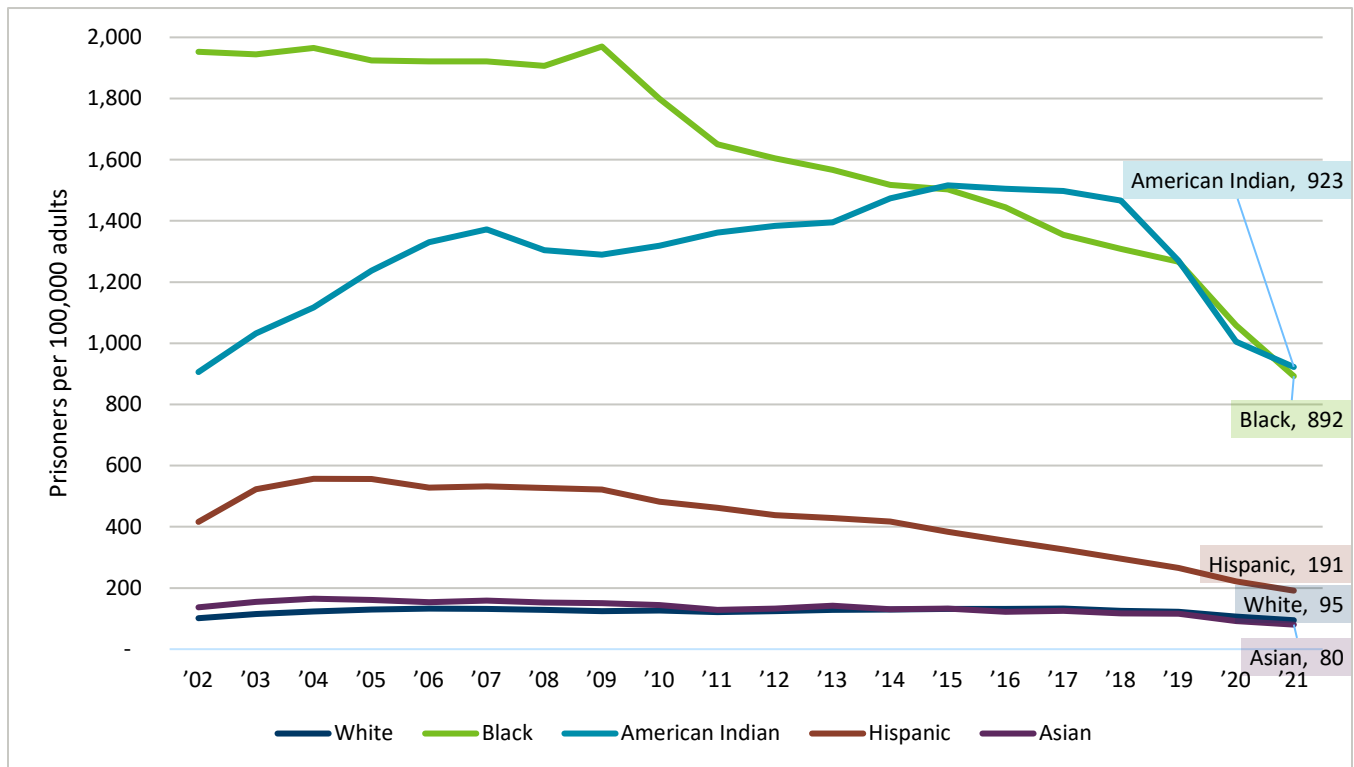
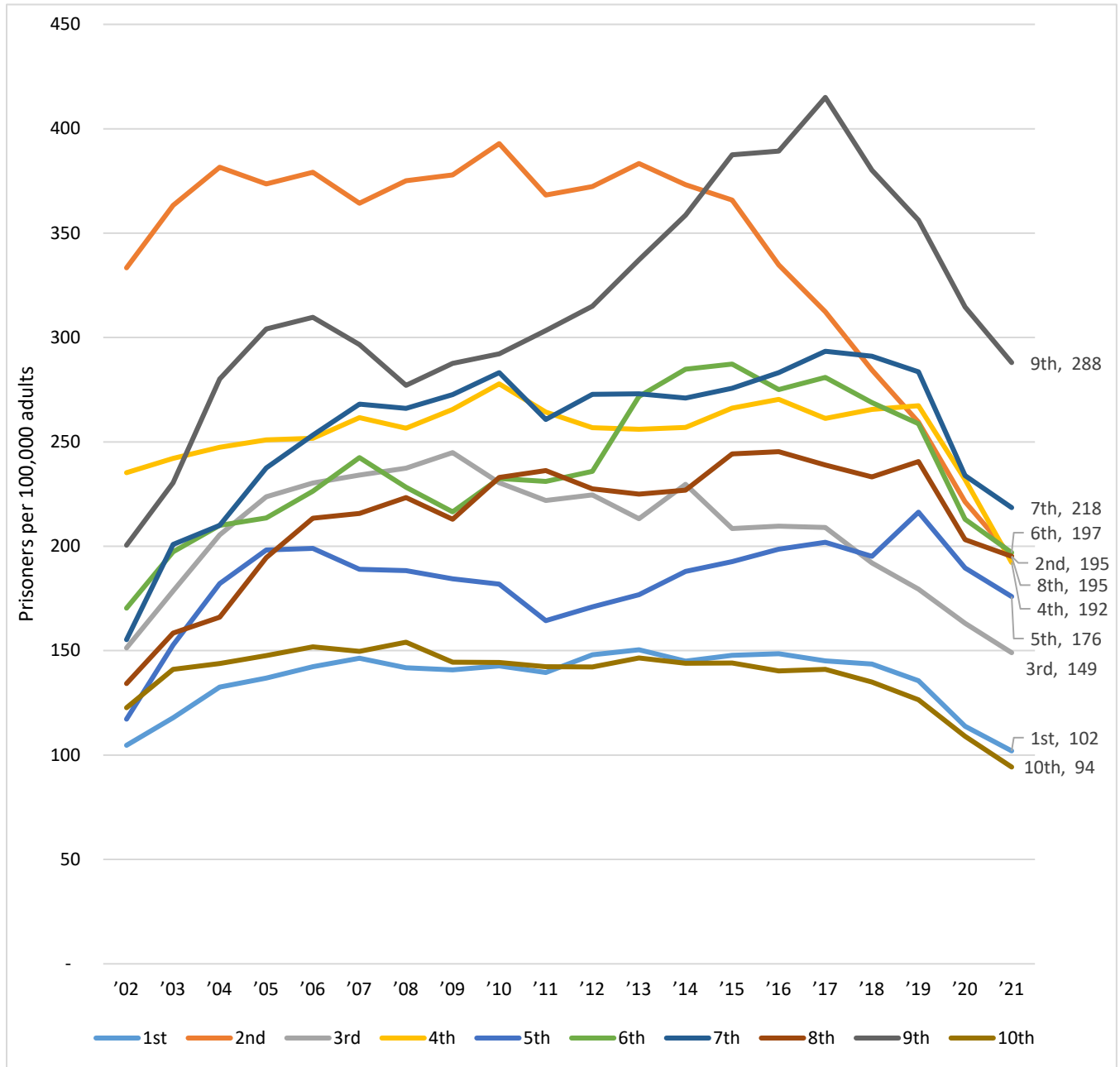


Figure 9. Imprisonment Rates per 100,000 Minnesota Adult Residents, 2002–21, by Judicial District



Notes for Figure 7 through Figure 9: Rates are prisoners on July 1 of the respective year per 100,000 Minnesota residents age 18 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.