

Demographic Impact Statement

House File 1355-1UE

Marijuana Amounts and Penalties; Modifications

Statement Date: April 6, 2022

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 1355, version 1UE](#), amends the “small amount” definition, which is used to establish which marijuana possession (or unremunerated sale) cases are petty misdemeanors, rather than felonies. Under current law, marijuana resin is excluded from the “small amount” definition, but the bill expands the definition to include 8 grams of marijuana resin or less. The bill also establishes a gross misdemeanor threshold—applicable only to those without previous drug convictions—for possession of more than 42½ grams, but less than 85 grams, of marijuana, or possession of more than 8 grams, but less than 16 grams, of marijuana resin.

Estimated Impact

In its fiscal note,¹ MSGC staff estimated that the bill’s policy changes will eventually result in the reduction of 81 felony cases annually and eliminate the need for eight prison beds. These estimates were based on staff’s collection of detailed information from criminal complaints on marijuana types and amounts for cases sentenced in 2018 (collected as part of a previous research project). MSGC staff used these data to estimate how many felony fifth-degree controlled substance crime cases involve a quantity of marijuana resin that would qualify the case, if committed after enactment of the bill, for petty misdemeanor treatment or, absent a prior drug conviction, for gross misdemeanor treatment.

Among the resin cases, 66 percent involved 8 grams or less. Applying this percentage to 2019 case volumes resulted in an estimated 35 cases shifting from felony to petty misdemeanor under the bill.

Among the non-resin marijuana possession cases, 37 percent involved less than 85 grams. Among the resin possession cases, 7 percent involved more than 8 grams but less than 16 grams. Applying these percentages to 2019 case volumes, and reducing the result by 39 percent to account for the rate of disqualifying prior drug

¹ MSGC’s detailed assumptions can be found in the fiscal note created for HF1355-1UE.

convictions observed among 2019 felony fifth-degree marijuana possession cases, resulted in an estimated 46 cases shifting from felony to gross misdemeanor under the bill.

Current State Demographics

Due to the ongoing COVID-19 health pandemic, case volume data in 2020 is unreliable (fell by more than 30%) and therefore the 2020 data is not being used for demographic impact statements. Therefore, it is assumed that future cases of 5th degree drug possession will be similar in numbers, offense, to cases sentenced in 2018 and 2019. Similarly, 2019 data is being used for baseline demographic populations. Table 1 displays 2019 demographic information pertaining to three populations within the state: the adult population (on July 1, 2019, as estimated by the U.S. Census Bureau); the felony population (that is, the population of people sentenced for felony offenses in 2019); and the adult prison population (as of July 1, 2019). 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 2019 General Population, Felony Population, and Prison Population, by Gender, Race and Ethnicity, and Judicial District

		General Population		Felony Population		Prison Population		
		2019 Estimated Adult Population		MSGC Category	People Sentenced in 2019		2019 Adult Inmate Population	
U.S. Census Category		Number	Percent		Number	Percent	Number	Percent
Male		2,143,984	49.4%	Male	13,937	80.4%	8,941	93.1%
Female		2,192,857	50.6%	Female	3,398	19.6%	666	6.9%
Race & Ethnicity	White*	3,630,866	83.7%	White	9,853	56.8%	4,427	46.1%
	Black or African American*	279,724	6.4%	Black	4,580	26.4%	3,534	36.8%
	American Indian*	66,098	1.5%	American Indian	1,492	8.6%	843	8.8%
	Hispanic**	196,951	4.5%	Hispanic**	903	5.2%	525	5.5%
	Asian*	227,146	5.2%	Asian	499	2.9%	270	2.8%
	Native Hawaiian/ Other Pacific Islander*	4,949	0.1%	Other/ Unknown***	8	0.0%	8	0.1%
Judicial District	First	608,685	14.0%	First	2,213	12.8%	825	8.6%
	Second	421,917	9.7%	Second	1,902	11.0%	1,096	11.4%
	Third	372,157	8.6%	Third	1,254	7.2%	668	7.0%
	Fourth	989,145	22.8%	Fourth	3,551	20.5%	2,646	27.5%
	Fifth	221,578	5.1%	Fifth	1,064	6.1%	479	5.0%
	Sixth	202,759	4.7%	Sixth	732	4.2%	524	5.5%
	Seventh	379,084	8.7%	Seventh	1,810	10.4%	1,075	11.2%
	Eighth	122,571	2.8%	Eighth	522	3.0%	295	3.1%
	Ninth	264,228	6.1%	Ninth	1,620	9.3%	941	9.8%
	Tenth	754,717	17.4%	Tenth	2,667	15.4%	954	9.9%

General Population			Felony Population			Prison Population	
U.S. Census Category	2019 Estimated Adult Population		MSGC Category	People Sentenced in 2019		2019 Adult Inmate Population	
	Number	Percent		Number	Percent	Number	Percent
Total	4,336,841	100.0%	Total	17,335	100.0%	9,607	100.0%

Source of July 1, 2019, population estimate: U.S. Census Bureau (Sept. 2021).

*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 (101.6%) 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.

***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, 2019, Adult Inmate Population: Minn. Department of Corrections. Judicial district populations exclude 104 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 that the bill would result in the reduction of eight prison beds. Since the anticipated change to the number of prison beds is less than the ten necessary to trigger a DIS, no demographic impact statement is prepared.

Demographic Characteristics – New Felony Population

In its fiscal note, MSGC staff estimated that 81 cases per year will shift from the felony level to a lesser level: that 46 felony cases will shift to gross misdemeanors, and that 35 felony cases will shift to petty misdemeanors.

One might assume that, in the future, the demographic characteristics of the people who would have been sentenced for those 81 felony cases will be the same as the known demographic characteristics of the people sentenced in 2018 for 5th degree possession of marijuana with marijuana quantities below the bill's felony thresholds.

If that assumption is accurate, it is estimated that the demographic characteristics of the felony population reduced by this bill would be as follows.

- **Gender:** Male (92.4%); Female (7.6%).
- **Race & Ethnicity:** White (52.3%); Black (34.1%); American Indian (5.3%); Hispanic (3.8%); Asian (3.8%).
- **Judicial District:** First (15.2%); Second (5.3%); Third (6.8%); Fourth (41.7%); Fifth (9.8%); Sixth (1.5%); Seventh (8.3%); Eighth (1.5%); Ninth (2.3%); and Tenth (7.6%).

Table 2, on page 4, shows the demographic change in the felony population that would result from the enactment of this bill, if the assumptions stated above are accurate.

Table 2. Minnesota’s Existing Annual Felony Population, Estimated Change in Felony Cases, and Estimated Resulting Annual Felony Population, by Gender, Race and Ethnicity, and Judicial District

		Felony Population			Estimated Change in Felony Cases*		Estimated Resulting Felony Population*				
		2019 Felony 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†	No.	%	No.	%				
Male		13,937	80.4%	650	-74.8	92.4%	13,862	80.3%	-0.1%	647	-0.5%
Female		3,398	19.6%	155	-6.2	7.6%	3,392	19.7%	+0.1%	155	-0.2%
Race & Ethnicity	White	9,853	56.84%	271	-42.4	52.3%	9,811	56.86%		270	-0.4%
	Black	4,580	26.4%	1,637	-27.6	34.1%	4,552	26.4%		1,627	-0.6%
	American Indian	1,492	8.6%	2,257	-4.3	5.3%	1,488	8.6%		2,251	-0.3%
	Hispanic	903	5.2%	458	-3.1	3.8%	900	5.2%		457	-0.3%
	Asian	499	2.9%	220	-3.1	3.8%	496	2.9%		218	-0.6%
Judicial District	First	2,213	12.8%	364	-12.3	15.2%	2,201	12.8%		362	-0.6%
	Second	1,902	11.0%	451	-4.3	5.3%	1,898	11.0%		450	-0.2%
	Third	1,254	7.2%	337	-5.5	6.8%	1,248	7.2%		335	-0.4%
	Fourth	3,551	20.5%	359	-33.8	41.7%	3,517	20.4%	-0.1%	356	-1.0%
	Fifth	1,064	6.1%	480	-7.9	9.8%	1,056	6.1%		477	-0.7%
	Sixth	732	4.2%	361	-1.2	1.5%	731	4.2%		360	-0.2%
	Seventh	1,810	10.44%	477	-6.7	8.3%	1,803	10.45%		476	-0.4%
	Eighth	522	3.0%	426	-1.2	1.5%	521	3.0%		425	-0.2%
	Ninth	1,620	9.35%	613	-1.9	2.3%	1,618	9.38%		612	-0.1%
	Tenth	2,667	15.4%	353	-6.2	7.6%	2,661	15.4%		353	-0.2%
Total		17,335	100%	400	-81.0	100%	17,254	100%		398	-0.5%

* 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” (2019 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 through 2020. Rates are per 100,000 Minnesota adult residents.

Estimated Adult Population

Figure 1. Minnesota Adult Residents, Estimated 2002–20, by Gender and Total

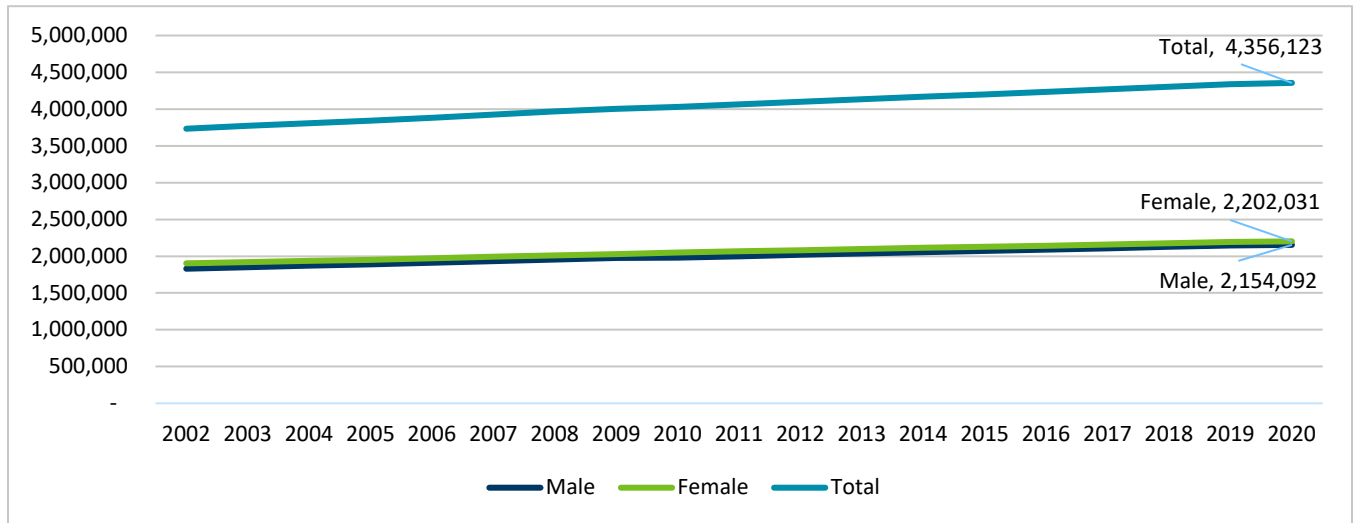


Figure 2. Minnesota Adult Residents, Estimated 2002–20, by Race and Ethnicity

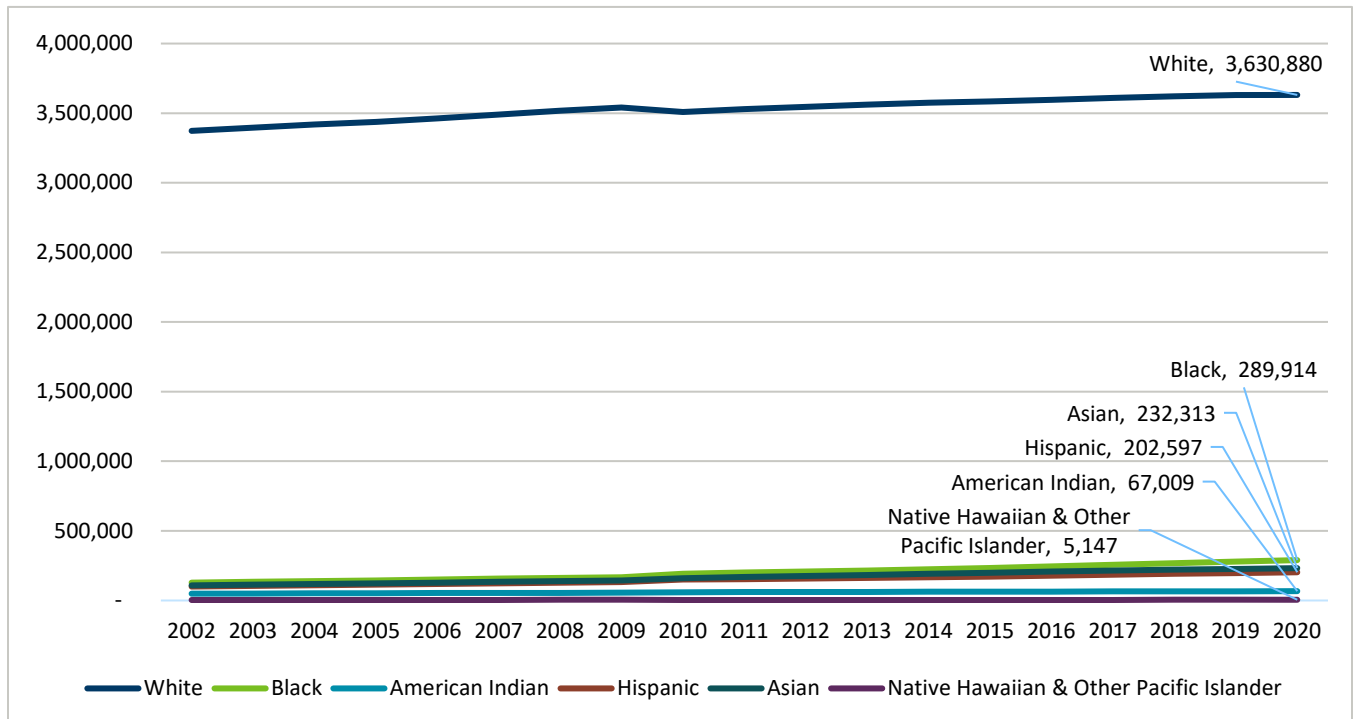
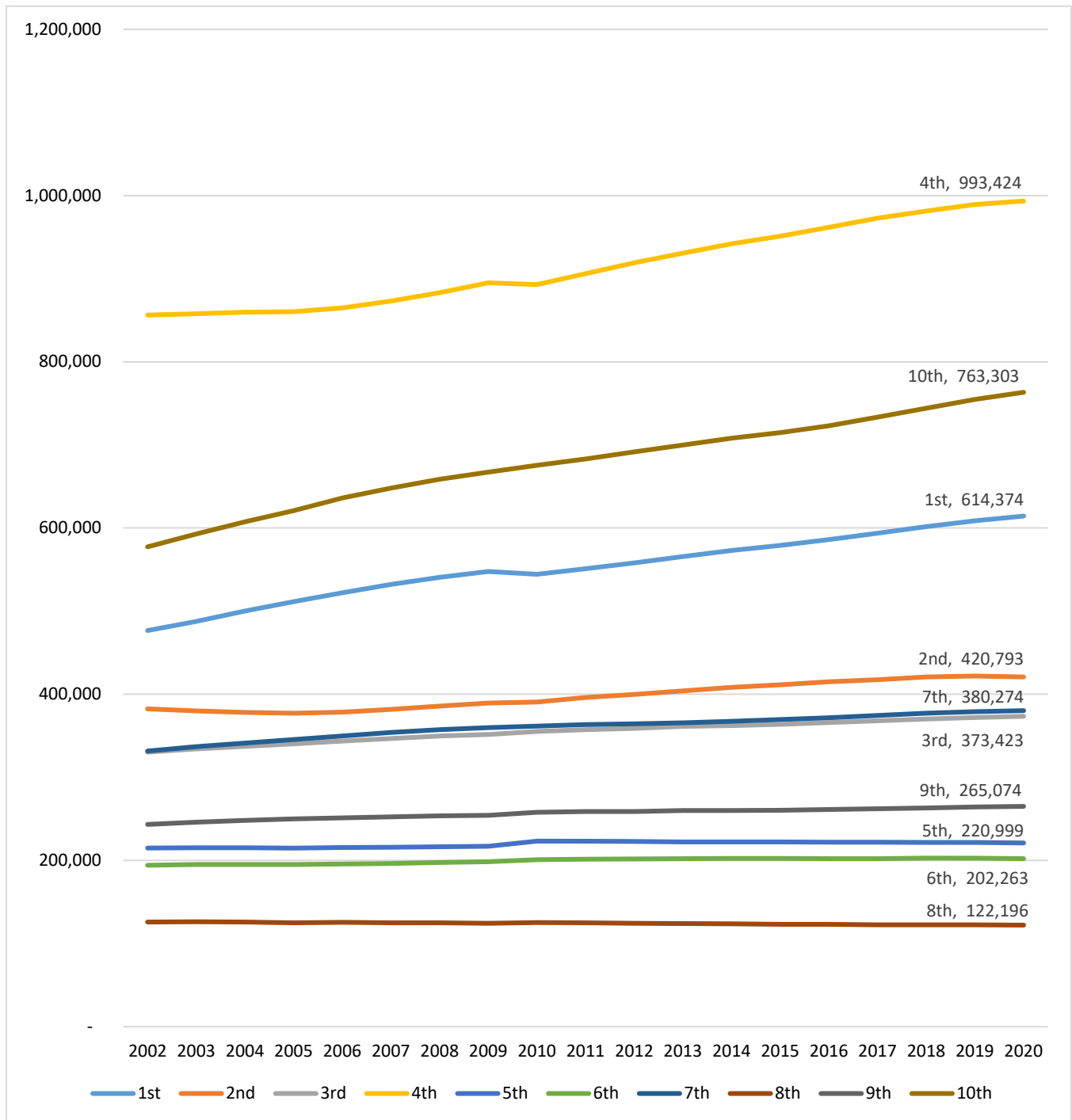


Figure 3. Minnesota Adult Residents, Estimated 2002–20, by Judicial District



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, 2002–20, by Gender and Total

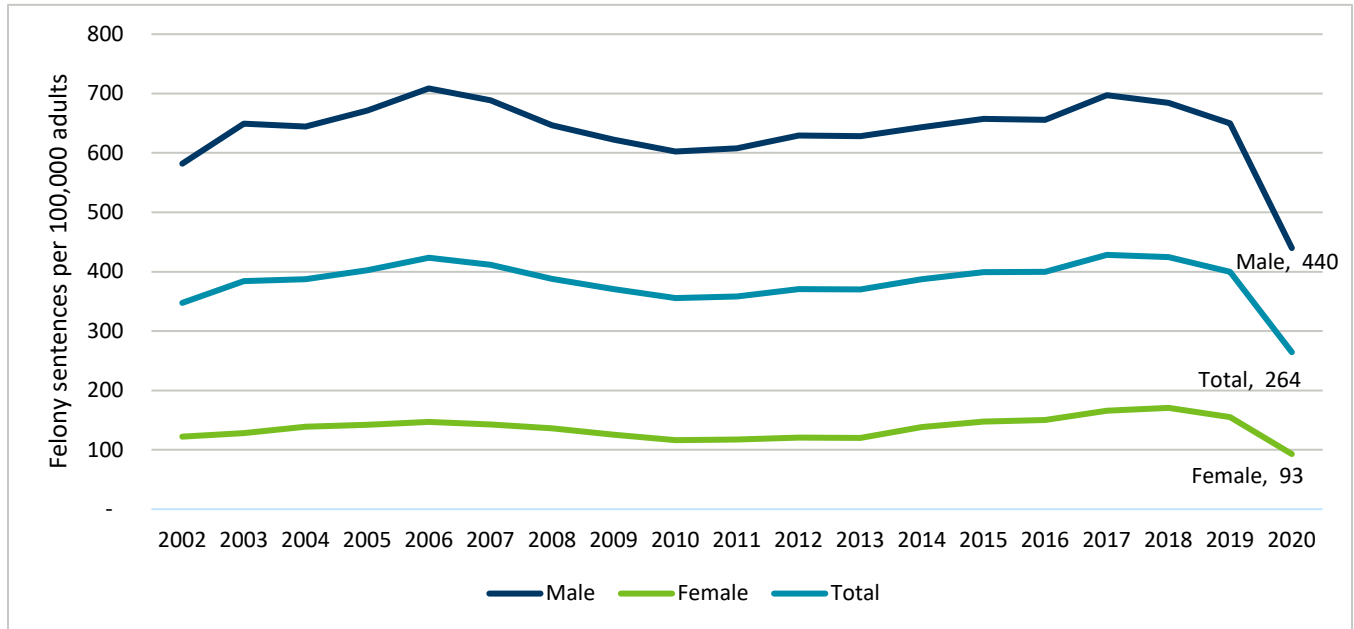


Figure 5. Felony Sentencing Rates per 100,000 Minnesota Adult Residents, 2002–20, by Race and Ethnicity

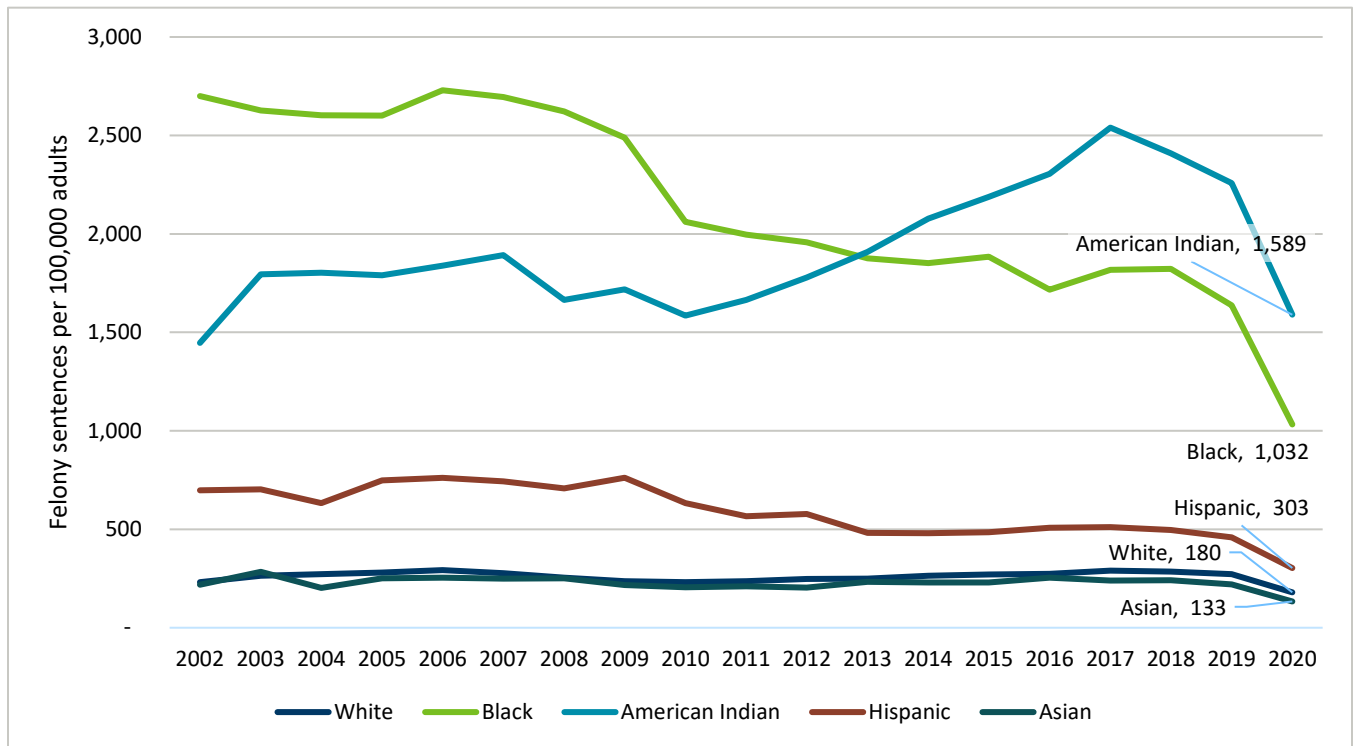
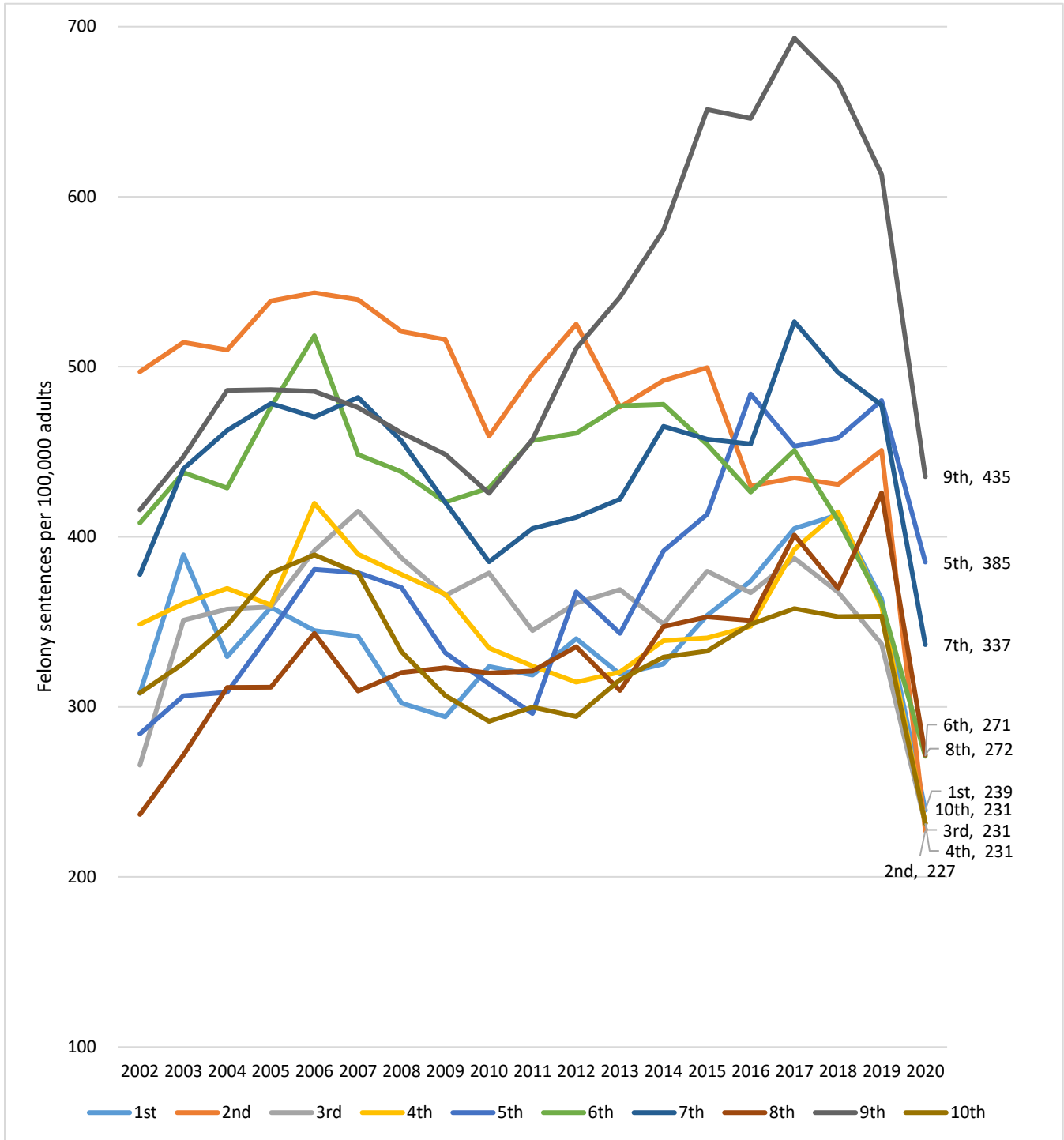


Figure 6. Felony Sentencing Rates per 100,000 Minnesota Adult Residents, 2002–20, by Judicial District



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. Other/unknown and Hawaiian/Pacific Islander are excluded.

Imprisonment Rates

Figure 7. Imprisonment Rates per 100,000 Minnesota Adult Residents, 2002–20, by Gender and Total

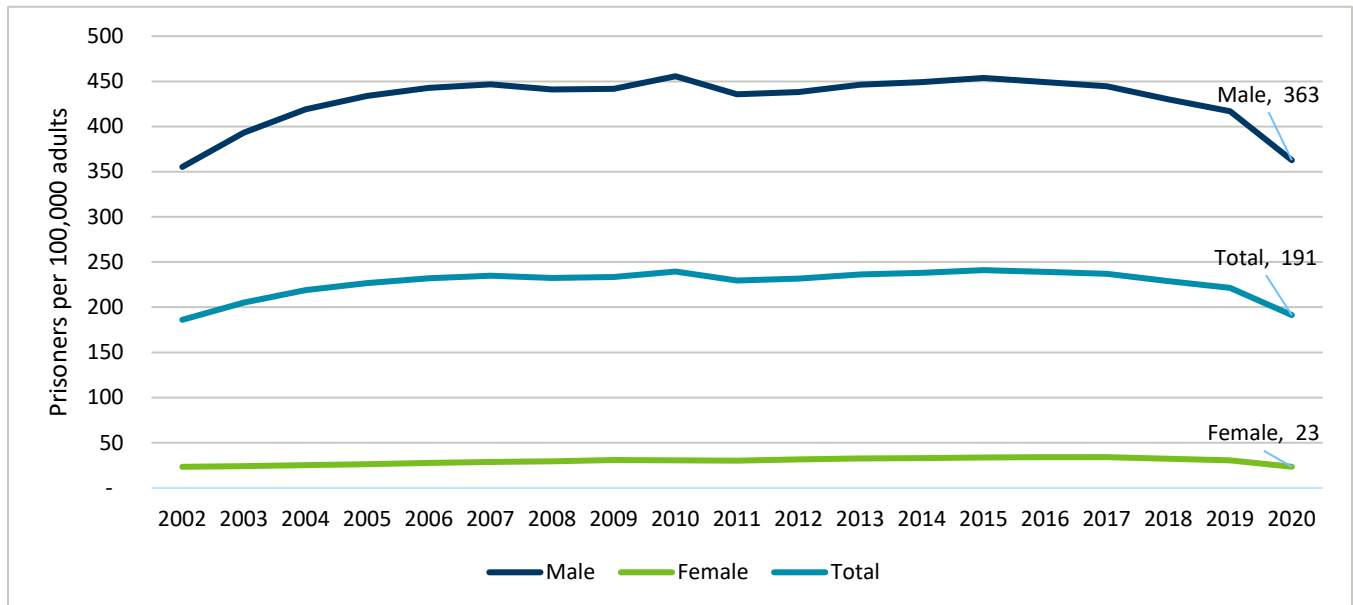


Figure 8. Imprisonment Rates per 100,000 Minnesota Adult Residents, 2002–20, by Race and Ethnicity

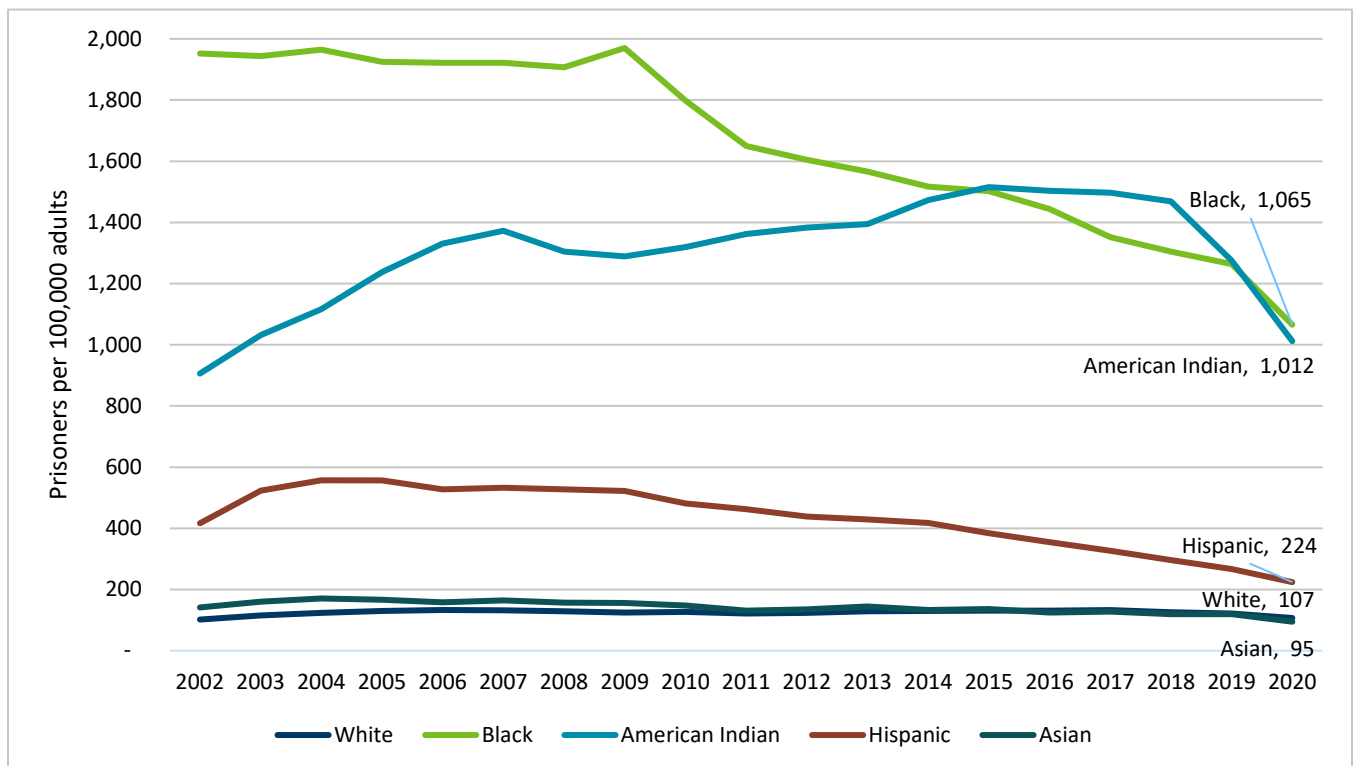
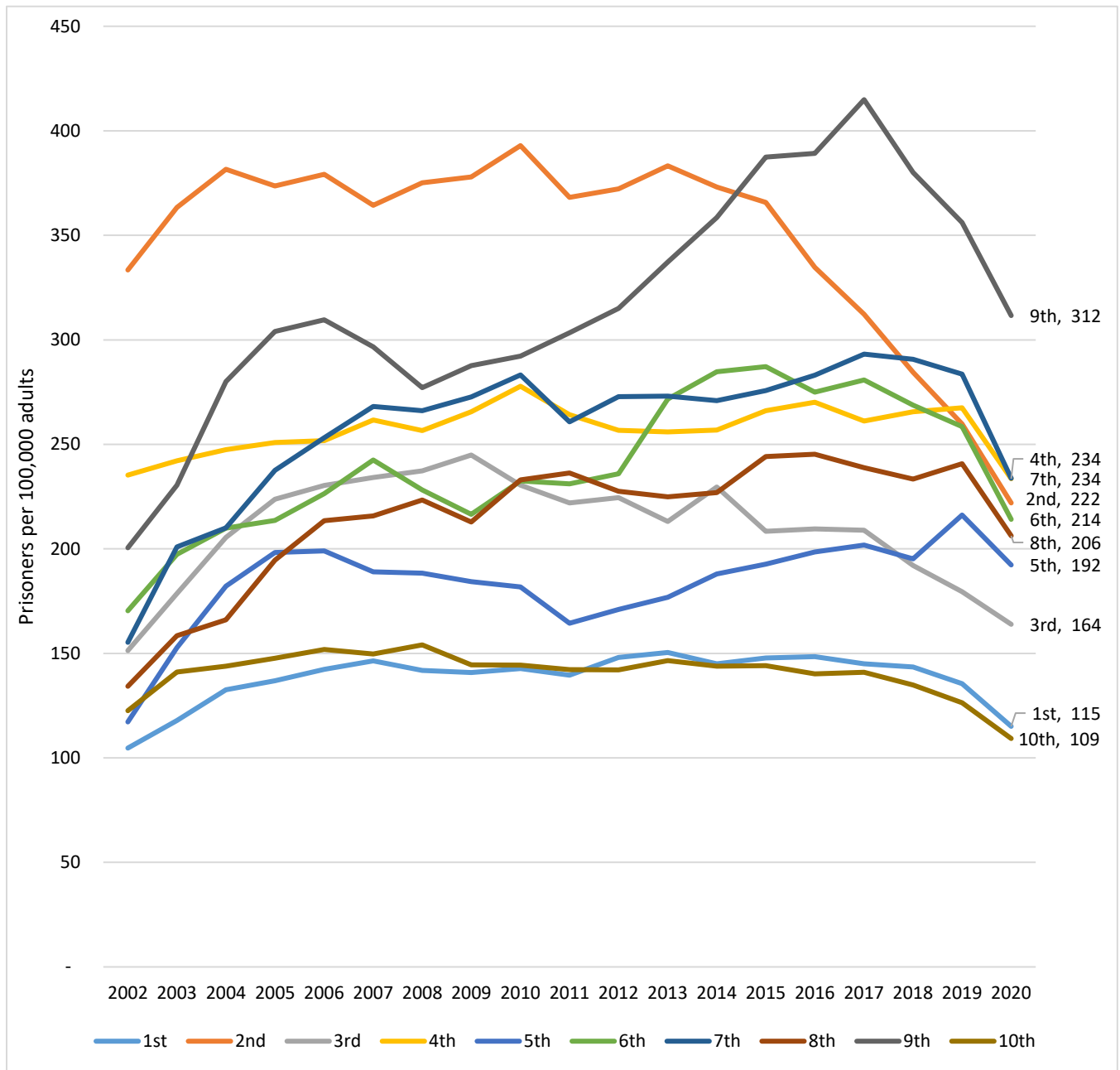


Figure 9. Imprisonment Rates per 100,000 Minnesota Adult Residents, 2002–20, by Judicial District



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.