

Controlled Substance Offenses

Sentencing Practices for Offenses
Sentenced in 2019

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MINNESOTA

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This data report has been prepared by the research staff of the Minnesota Sentencing Guidelines Commission in fulfillment of the Commission's statutory role as a clearinghouse and information center for information on sentencing practices. This is not a policy document. Nothing in this report should be construed as a statement of existing policy or recommendation of future policy on behalf of the Commission itself, or as an authoritative interpretation of the Minnesota Sentencing Guidelines, Minnesota statutes, or case law.

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Summary of 2019 Data

In 2019, 5,175 people were sentenced for drug offenses in Minnesota (Figure 1), a decrease of 6.5 percent from 2018 (Figure 2). Because the number of cases grew each year from 2010 to 2017, the volume sentenced in 2019 was 56 percent greater than the 2010 volume. The seven-year rise from 2010 to 2017 followed a four-year decline in drug case volume, by seven or eight percent each year, from 2006 to 2010 (Figure 2).

The number of first-degree drug cases decreased by 11 percent in 2019, following a 23 percent increase in 2018. The number of second-, fourth-, and fifth-degree drug cases also decreased (by 2%, 7% and 9%, respectively) while the number of third-degree drug cases increased (by 8%) (Figure 3).

The total incarceration rate for drug cases was 90 percent, with 20 percent receiving a prison sentence and 70 percent getting up to one year of local confinement (*i.e.*, local correctional facility, county jail or workhouse) as a condition of probation (Table 1). The 20-percent imprisonment rate was a slight increase from the 19 percent rate observed in 2018 (which had been the lowest rate since 1997). For those receiving an executed prison sentence, the average pronounced duration was 42 months, a decrease from the 2018 average of 45 months. (Table 2).

Among those recommended prison under the Guidelines, the total mitigated dispositional departure rate was 42 percent. This was higher than the mitigated departure rate for non-drug offenses recommended prison under the Guidelines (39%) (Figure 26). Among those who actually received prison sentences, 20 percent received a mitigated durational departure, slightly lower than in 2018, and the lowest rate observed since at least 1996. (Figure 19). This rate varied significantly by region (Figure 21).

The 2016 Drug Sentencing Reform Act (DSRA)¹ made a number of significant changes to the sentencing of Minnesota drug offenses. The DSRA's provisions were effective for offenses committed after July 31, 2016. Among the changes was the creation of a gross misdemeanor level fifth-degree possession offense. Although the DSRA's new gross misdemeanor offense is being widely used, the 709 gross misdemeanor cases in 2019 was a decrease from the 864 in 2018. Data show post-DSRA growth in the number of cases resulting in stays of adjudication under Minn. Stat. § 152.18 (979 in 2019, compared to 631 in 2016- Figure 3). The years following enactment of the DSRA have seen an increase in sentence uniformity as reflected in a somewhat lower durational departure rate (Figure 19), but there has not been a similar impact on the dispositional departure rate (Figure 18).

¹ [2016 Minn. Laws ch. 160.](#)

Case Volume & Distribution

Data Description

Minnesota Sentencing Guidelines Commission (MSGC) monitoring data are person-based, meaning cases represent people sentenced rather than individual charges. Cases sentenced within the same county in a one-month period are generally counted only once, based on the most serious offense.

The following pages display summary data about sentencing practices and case volume and distribution for felony² controlled substance offenses (“drug offenses” or “drug cases”), as well as trends in sentencing since the implementation of the Minnesota Sentencing Guidelines and information about the impact of the 2016 Drug Sentencing Reform Act (DSRA). The act applies to drug offenses committed after July 31, 2016; over 91 percent of the drug offenses sentenced in 2019 were subject to the DSRA’s provisions.

The recommended sentence is based primarily on the severity of the offense of conviction and secondarily on criminal history. In most cases, the recommended sentence is applied. Because sentencing practices are closely related to the recommended Guidelines sentence, it is important to be aware of the effect of differences in offense severity and criminal history when evaluating sentencing practices. This is particularly important when comparing cases (e.g., by gender, race/ethnicity, or judicial district).

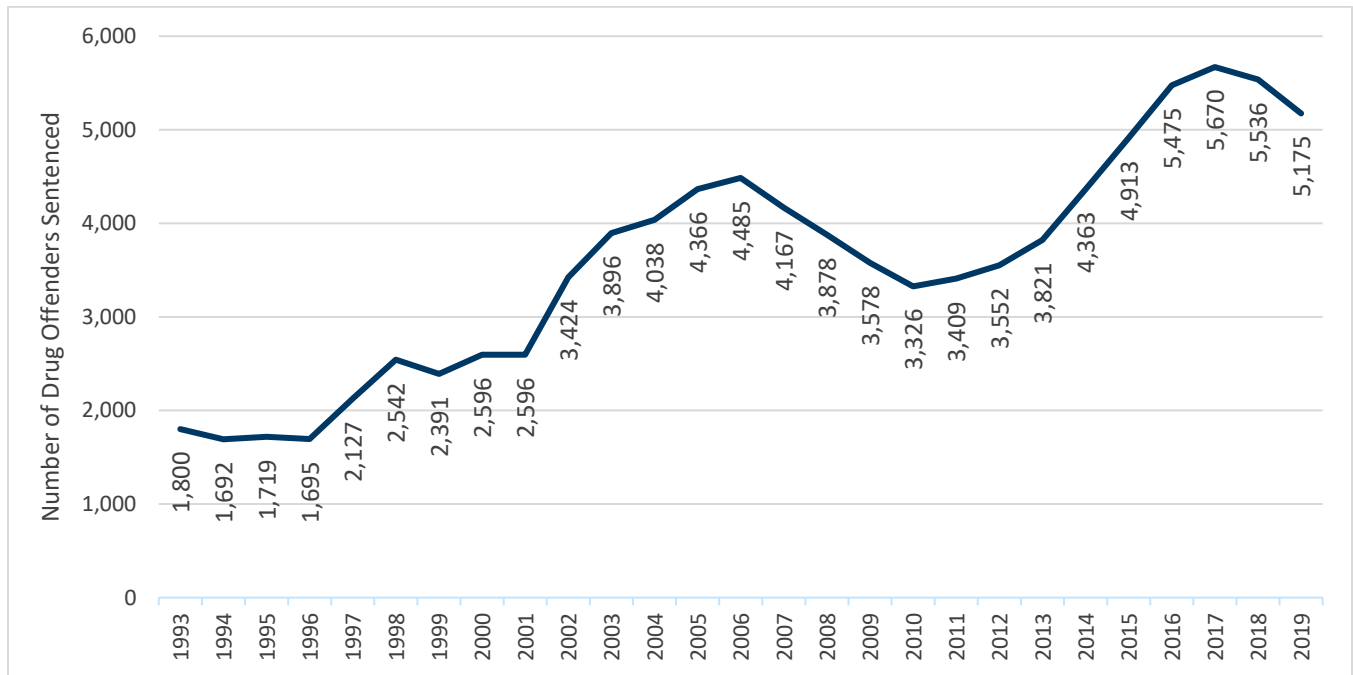
Volume of Cases

In 2019, 17,335 people were sentenced for felony offenses in Minnesota, a 5.2 percent decrease from the record-high case volumes in 2017 and 2018 (18,288 and 18,284 cases, respectively). The 2019 case volume represented the first significant annual decline since 2010, and the steepest single-year decrease since 1983. An illustration of the total number of felony cases sentenced since 1981 can be found in MSGC’s report, *2019 Sentencing Practices: Annual Summary Statistics for Felony Cases*, which is located on the “Annual Summary” tab at mn.gov/sentencing-guidelines/reports.

In 2019, 5,175 people were sentenced for drug offenses in Minnesota (Figure 1), a decrease of 6.5 percent from 2018 (Figure 2). Because the number of cases grew each year from 2010 to 2017, the volume sentenced in 2019 was 56 percent greater than the 2010 volume; 2017 was the largest number of cases ever at 5,670 (Figure 1).

² Generally, this report describes data pertaining to felony-conviction cases only. In some parts of this report, gross misdemeanor cases are described as well as stays of adjudication. When describing these case data, the report will make specific note.

Figure 1. Number of Drug Cases, 1993–2019



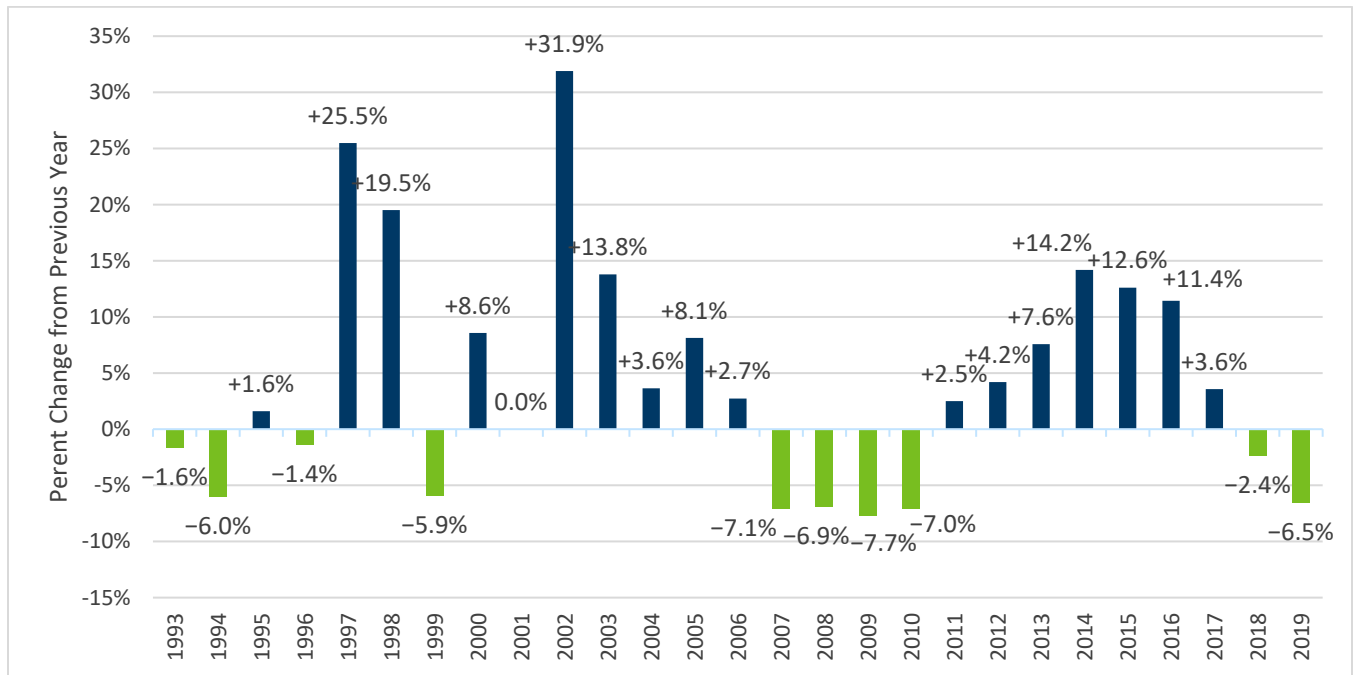
The provisions of the 2016 Drug Sentencing Reform Act (DSRA)³ applied to cases with dates of offense after July 31, 2016.⁴ Of the felony drug cases sentenced in 2019, the DSRA applied to 4,734 (91.5%).

Figure 2 illustrates the percent change in the number of drug cases sentenced over time. From 2006 through 2010, the number decreased by seven or eight percent each year. From 2010 through 2017, the number increased each year—in the three years from 2014 to 2016, by over 10 percent annually. In 2018, for the first time since 2010, the number decreased, by 2.4 percent. In 2019, the number fell again, by 6.5 percent.

³ *I.e.*, [2016 Minn. Laws ch. 160](#).

⁴ In the case of mitigations to the Drug Offender Grid established by [2016 Minn. Laws ch. 160](#) § 18, however, the Minnesota Supreme Court has held that such changes took immediate effect and therefore applied to convictions not final as of May 23, 2016. [State v. Kirby](#), 899 N.W.2d 485 (Minn. 2017).

Figure 2. Percent Change in Drug Cases, 1993–2019



Volume of Cases by Degree

The 2016 Drug Sentencing Reform Act (DSRA)⁵ created a gross misdemeanor fifth-degree offense for possessing a trace amount of a controlled substance, effective for offenses committed after July 31, 2016. Before the effective date, this offense would have been a felony. Only defendants with no prior conviction for sale or possession of a controlled substance offense are eligible for the gross misdemeanor penalty. “Trace” amounts refer to less than 0.25 grams or one dosage unit for controlled substances that are not heroin; and less than 0.05 grams for heroin.

A stay of adjudication under [Minn. Stat. § 152.18](#) (“Discharge and Dismissal”) is a type of deferred prosecution that allows certain first-time drug defendants to be placed on probation and receive conditions of probation (e.g., drug treatment or educational programming) without judgment of guilt. If the conditions are successfully met, the defendant is discharged from probation and proceedings are dismissed. Effective for offenses committed on or after August 1, 2016 (when the DSRA took effect), such a stay of adjudication became mandatory for first-time fifth-degree controlled substance possession cases with no felony record and no previous participation in diversion.⁶ Additionally, such stays of adjudication were expanded to permit their use for third-degree controlled substance possessions.

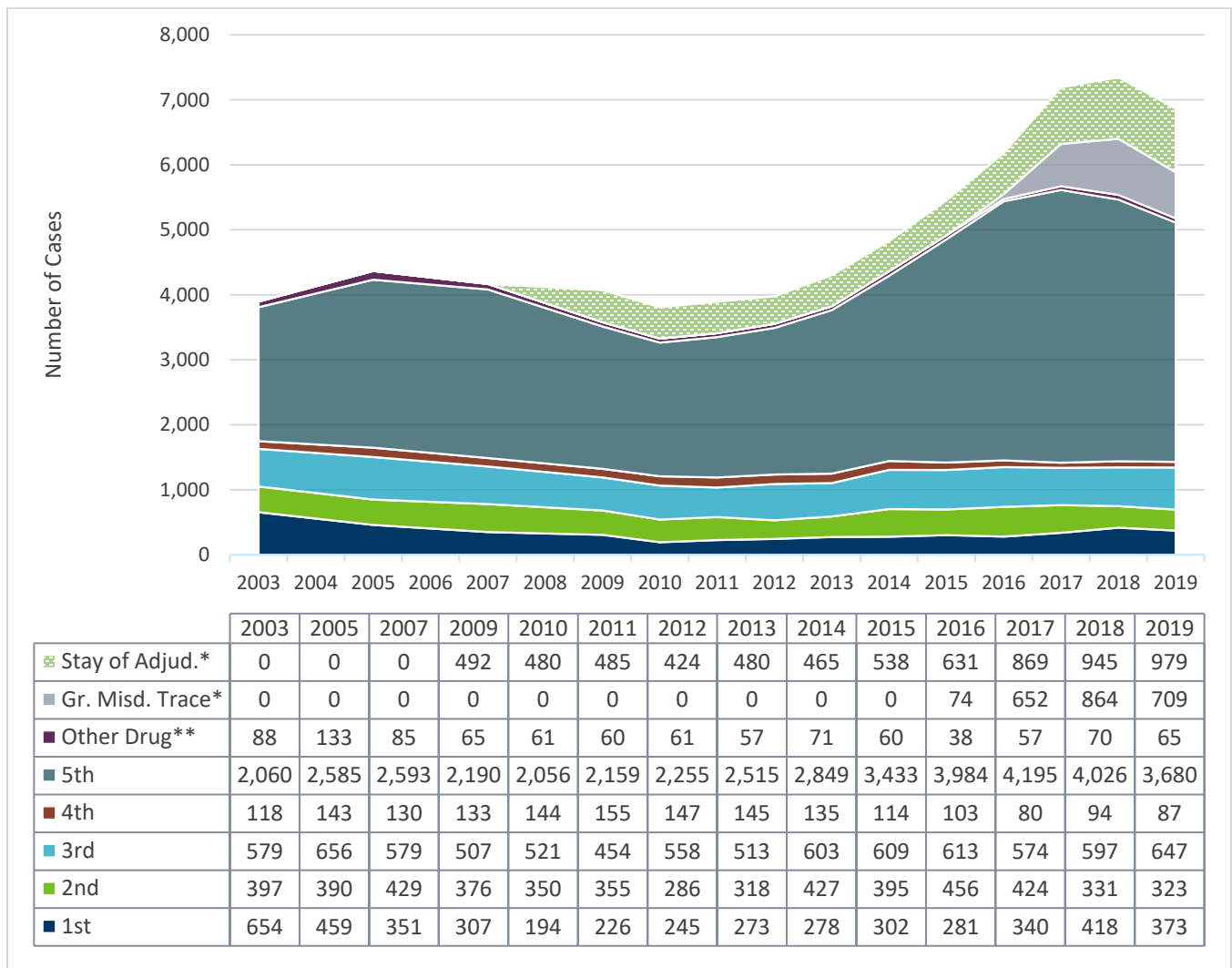
Figure 3 shows the distribution of drug cases across the five controlled substance degrees, including gross misdemeanor fifth-degree (possession of a trace amount). Stays of adjudication for felony or gross misdemeanor offenses are also shown. In 2019, the most common degree sentenced was felony fifth degree (71% of felony

⁵ [2016 Minn. Laws ch. 160](#).

⁶ See [Minn. Stat. § 152.18](#), subd. 1(b), for a complete description of the criteria.

cases). The largest decrease in the number of cases sentenced from 2018 to 2019 was for first-degree (-11%). The largest increase from 2018 to 2019 was for third-degree (+8%). The number sentenced for second-degree offenses decreased by two percent and the number sentenced for fifth-degree decreased by nine percent. In smaller categories, the number sentenced for fourth-degree and the “other” offenses both decreased by seven percent. Gross misdemeanor fifth-degree possession of a trace amount was down 18 percent from 2018 to 2019. Stays of adjudication were up four percent.

Figure 3. Number of Drug Cases by Drug Degree, 2003, 2005, 2007, 2009–2019; Gross Misdemeanor Trace, 2016–2019; and Stays of Adjudication, 2009–2019



Source of Gr. Misd. Trace & Stays of Adjud.: Minnesota Judicial Branch. (Obtained 11/10/2020.)

*Revoked stays of adjudication may be represented in another category. Gross misdemeanors may not necessarily be the most serious offenses sentenced.

** In 2019, the “Other” category included one case of possession of precursors with intent to manufacture methamphetamines, 11 cases of sale of a simulated/analog controlled substance, and 53 cases of methamphetamine crimes involving children.

The number of first-degree cases declined nearly every year between 2003 and 2010, due in part to the decline in the number of first-degree manufacture of methamphetamine cases (310 cases in 2003 compared to 10 cases in 2010).⁷ The number of manufacture of methamphetamine cases has remained relatively low in the years following, with no such cases in 2019.

Despite low numbers of manufacture of methamphetamine cases, the number of first-degree cases increased in most years after 2010, from 194 cases in 2010 to 418 cases in 2018; the 2018 first-degree case volume was a 23-percent increase over the year before. In 2019, first-degree cases decreased by 11 percent (Figure 3, above).

Drug Type, Region, Race & Prior Drug Convictions

Distribution of Cases over Time (Drug Types)

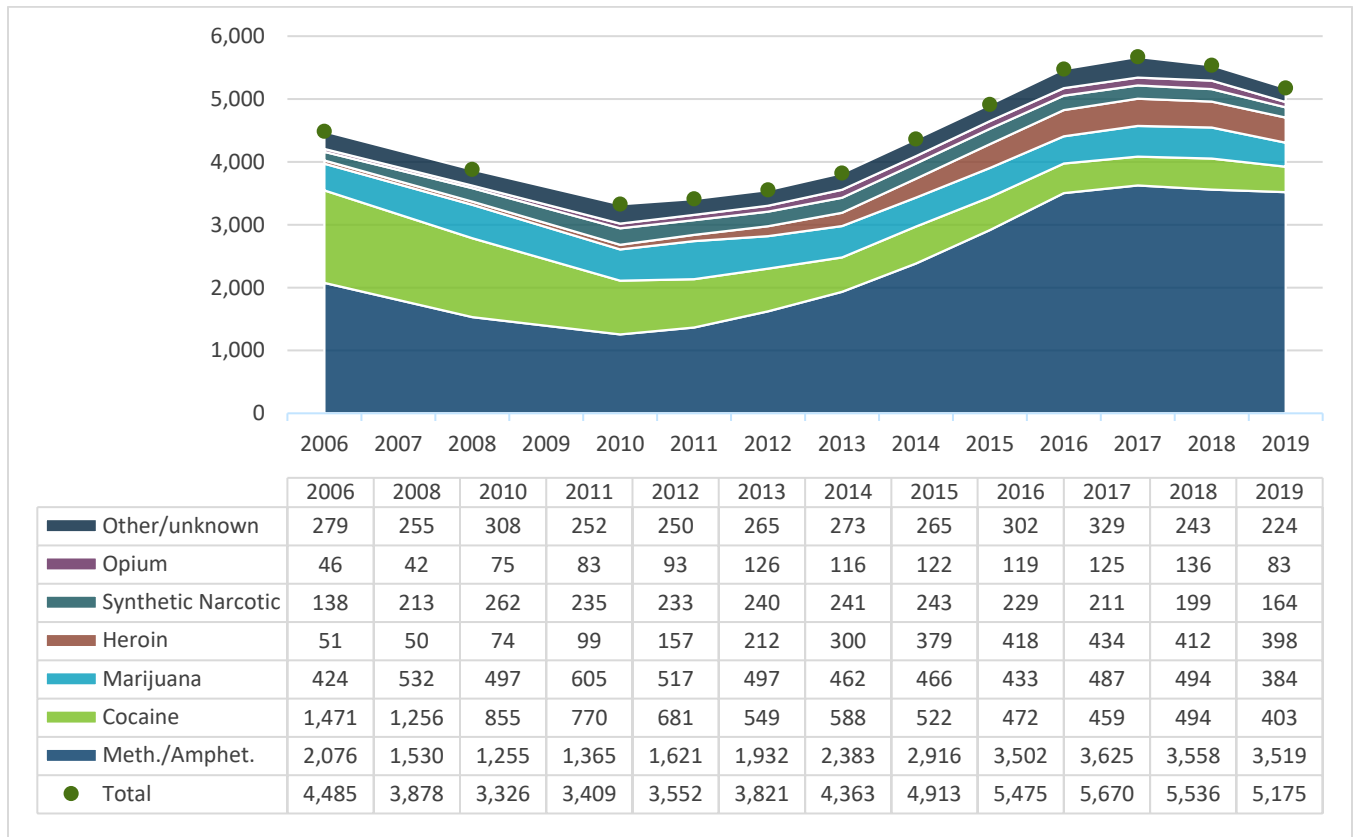
The distribution of cases among drug types, as encoded on criminal complaints,⁸ has changed over time. In 1996, 48 percent of the cases sentenced involved cocaine, 24 percent involved marijuana, 14 percent were unknown or of some other type, and 14 percent involved methamphetamine (“meth”) or amphetamines. In 2002, cocaine still represented the largest number of drug cases (40%), but the methamphetamine and amphetamine category (“meth/amphetamine”) had grown to 38 percent, and marijuana had decreased to 13 percent. Meth/amphetamine cases constituted a majority of drug offenses sentenced in 2004 (51%), regained majority status in 2013, and constituted 64 percent of drug offenses sentenced from 2016 through 2018. In 2019 the meth share rose to 68 percent (Figure 4).

In 2019, there were decreases in the number of cases for every drug type. The decreases ranged from one percent for meth/amphetamine to 39 percent for opium. Marijuana declined by 22 percent, cocaine and synthetic narcotic cases each declined by 18 percent, and heroin declined by three percent.

⁷ In 2005, the offense of manufacture of methamphetamine; possession of precursors (Minn. Stat. § [152.021](#), subd. 2a(b)) was reclassified and is no longer a first-degree offense. This statutory change contributed to the decline in the total number of first-degree cases. These “precursor offenses” are now reported in the “Other” category.

⁸ Drug-type information is based on Minnesota Offense Code (MOC) categories, as encoded on criminal complaints by county attorneys or their staff members. This information is not formally alleged or proven, and may not even be reviewed or verified by the prosecutor.

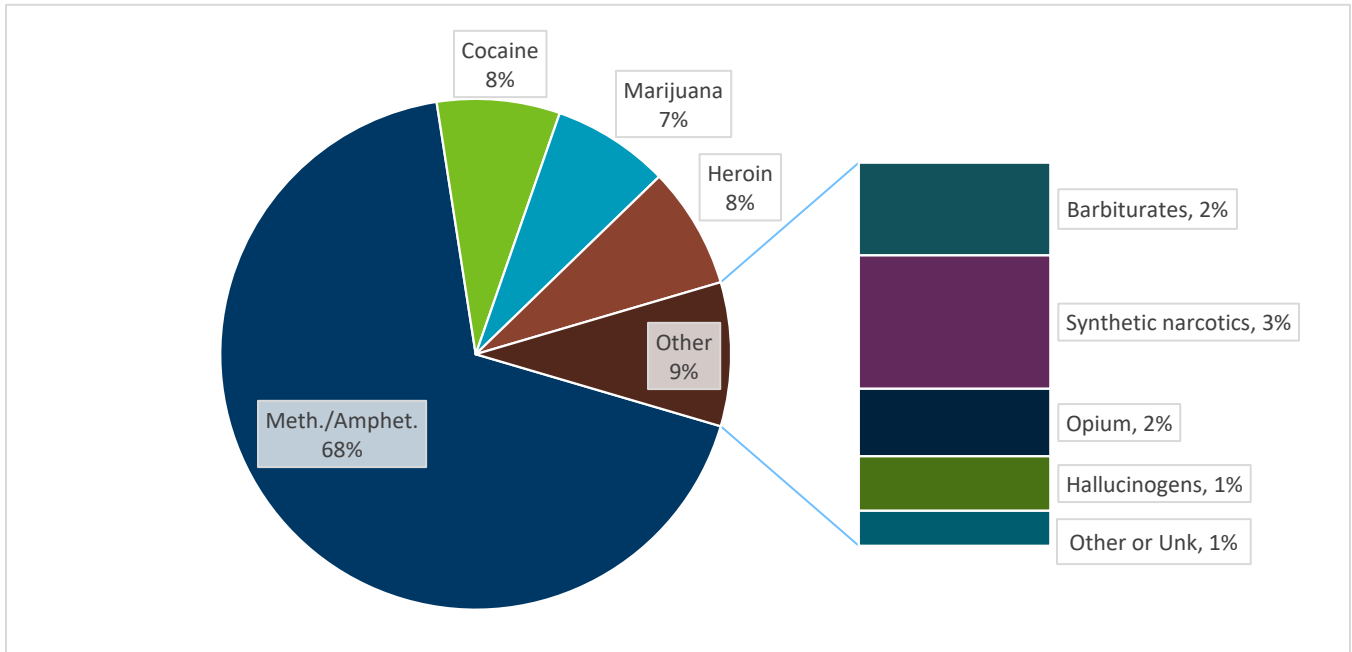
Figure 4. Distribution of Drug Cases by Drug Type, 2006, 2008, 2010–2019



Drug-type information is based on Minnesota Offense Codes (MOCs) as encoded on criminal complaints.

At 68 percent, the meth/amphetamine category continued to be the drug type with the largest number of cases in 2019, while eight percent of the cases involved cocaine, eight percent involved heroin, seven percent involved marijuana, and nine percent were for other or unknown substances. The number of marijuana cases fell to 384 for the first time since 2004, and marijuana cases were surpassed, for the first time on record, by heroin cases. Among the “other” drug types, synthetic narcotics had the largest number of cases at 164 (3%) (Figure 5).

Figure 5. Percentage of Drug Cases by Drug Type, 2019



Drug-type information is based on Minnesota Offense Codes (MOCs) as encoded on criminal complaints.

Distribution of Cases over Time (Region)

In the last decade, the number of drug cases outside the seven-county metro area of Anoka, Dakota, Carver, Hennepin, Ramsey, Scott, and Washington counties has increased more than the number of drug cases in those metro counties. In 1998, 33 percent of all drug cases were sentenced in Greater Minnesota (Figure 6). That percentage grew to around 50 percent in 2003–2009, and to nearly 60 percent from 2012–2018. In 2019, a record 63 percent of drug cases were sentenced in Greater Minnesota, surpassing the previous record high of 60 percent in 2013.

By comparison, 44 percent of non-drug cases were sentenced in Greater Minnesota in 2019. The metro counties account for a larger percentage of the state’s non-drug cases than the state’s drug cases (Figure 7).

Figure 6. Distribution of Drug Cases by Region, 1998–2019

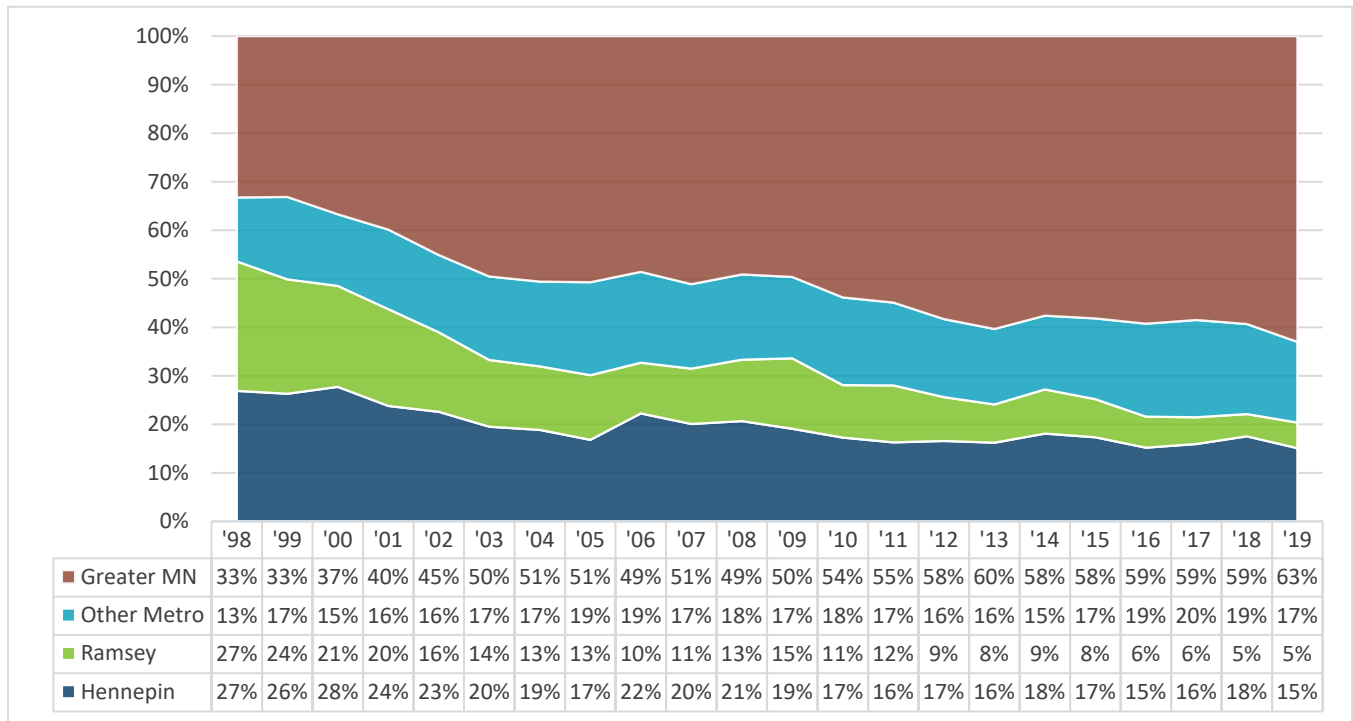
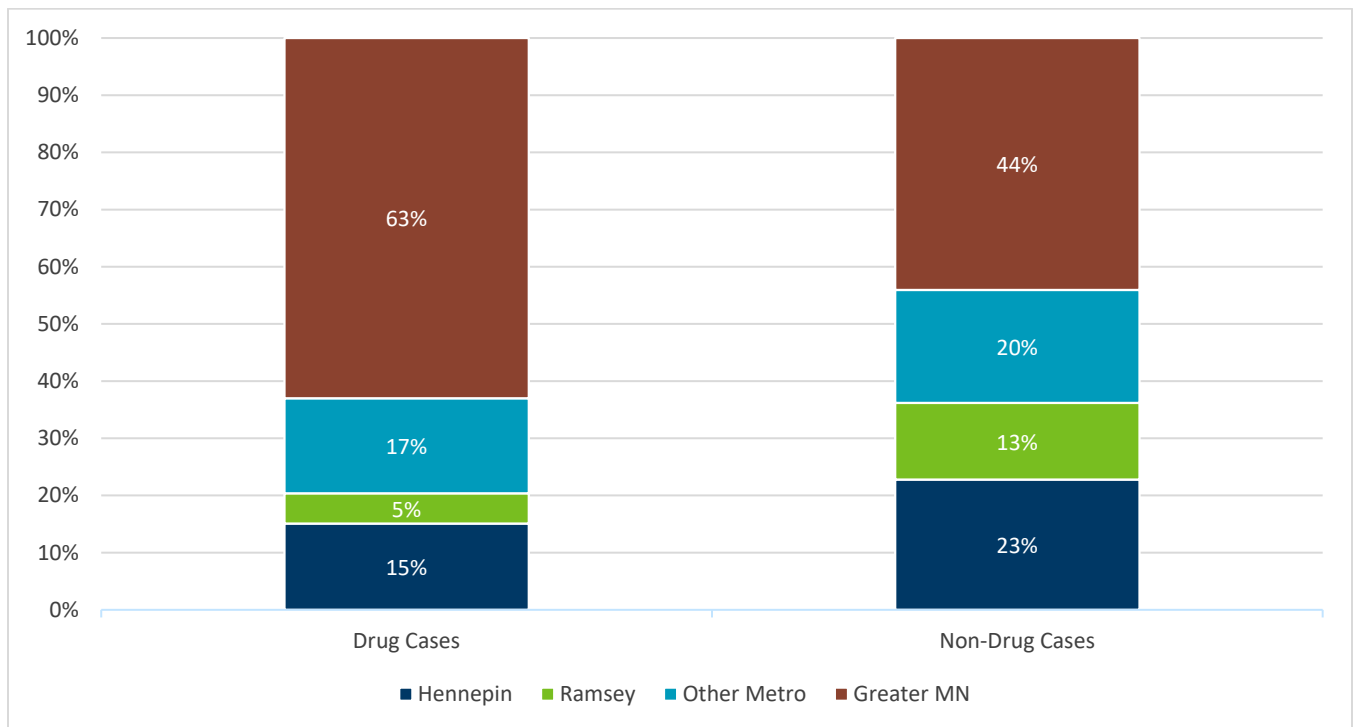


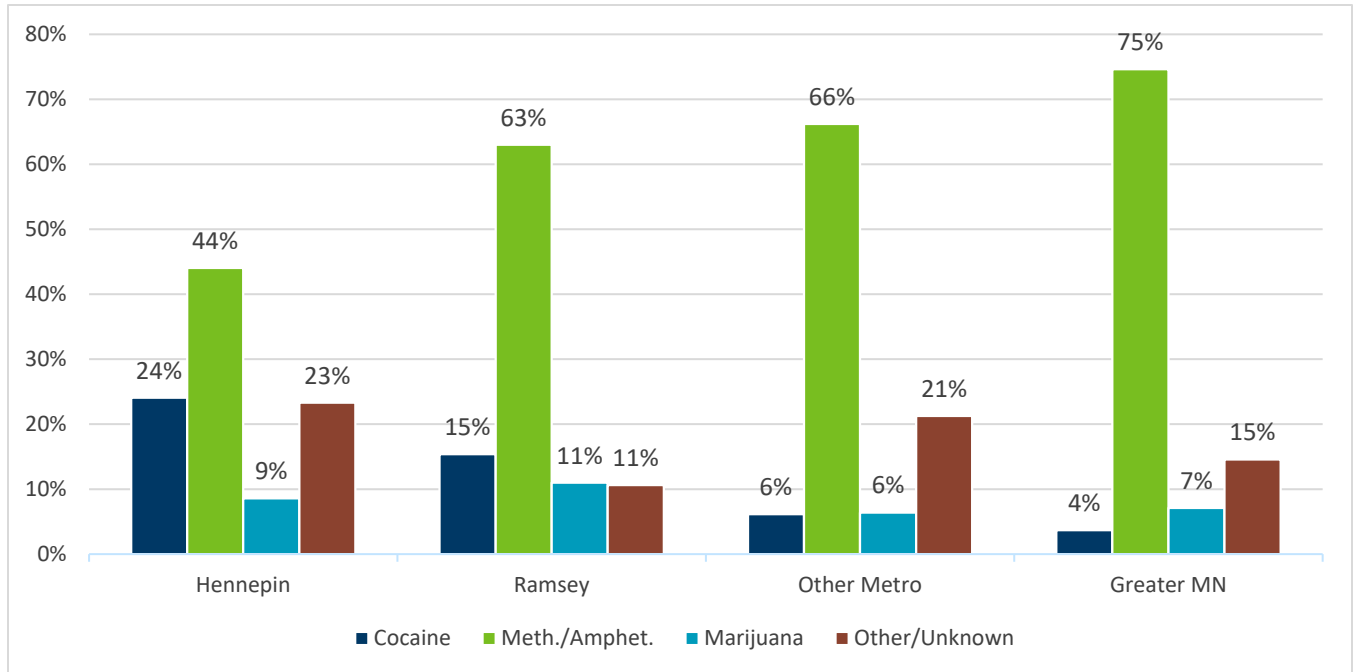
Figure 7. Distribution of Drug and Non-Drug Cases by Region, 2019



2019 Distribution of Cases (Drug Types and Region)

There was a difference in the distribution of drug types among regions as well (Figure 8). Beginning in 2016, meth/amphetamine became the most common drug type in all regions—although, in Hennepin County, meth/amphetamine cases constituted less than half of the cases. Before 2016, cocaine had been the drug type found most frequently in Hennepin County.

Figure 8. Distribution of Drug Cases by Drug Type and Region, 2019



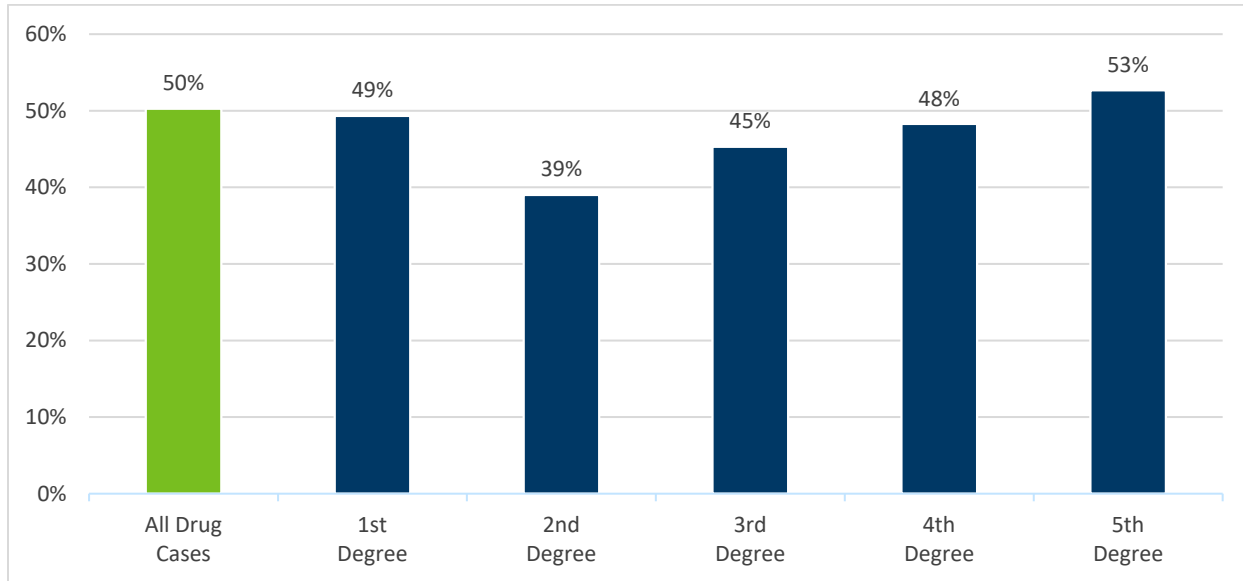
Drug-type information is based on Minnesota Offense Codes (MOCs) as encoded on criminal complaints.

2019 Distribution of Cases (Prior Conviction)

In 50 percent of felony drug cases, there was a prior conviction for a felony-level drug offense (Figure 9).⁹ Among the drug degrees, second-degree cases were the least likely (39%) to have prior convictions.

⁹ In first- and second-degree (and pre-DSRA third-degree) controlled substance cases, many (but not all) of these prior convictions will trigger mandatory minimum prison sentences. For a further discussion of mandatory minimum sentences, see p. 35.

Figure 9. Percent of Felony Drug Cases with a Prior Felony Drug Conviction, 2019



Distribution by Race and Ethnicity

Figure 10 shows drug cases sentenced from 1981 through 2019 by racial or ethnic group. From 1981 to 1995, the white group's percentage of drug cases decreased from 89.5 percent to 50 percent, while the black group's percentage increased from 6.9 percent to 39.8 percent. In 2019, the white group accounted for 65.7 percent of drug cases and the black group accounted 16.5 percent (Figure 10. Distribution of Drug Cases by Race/Ethnicity, 1981–2019). The white group accounted for a larger percentage of the state's drug cases than the state's non-drug cases (Figure 11).

Figure 10. Distribution of Drug Cases by Race/Ethnicity, 1981–2019

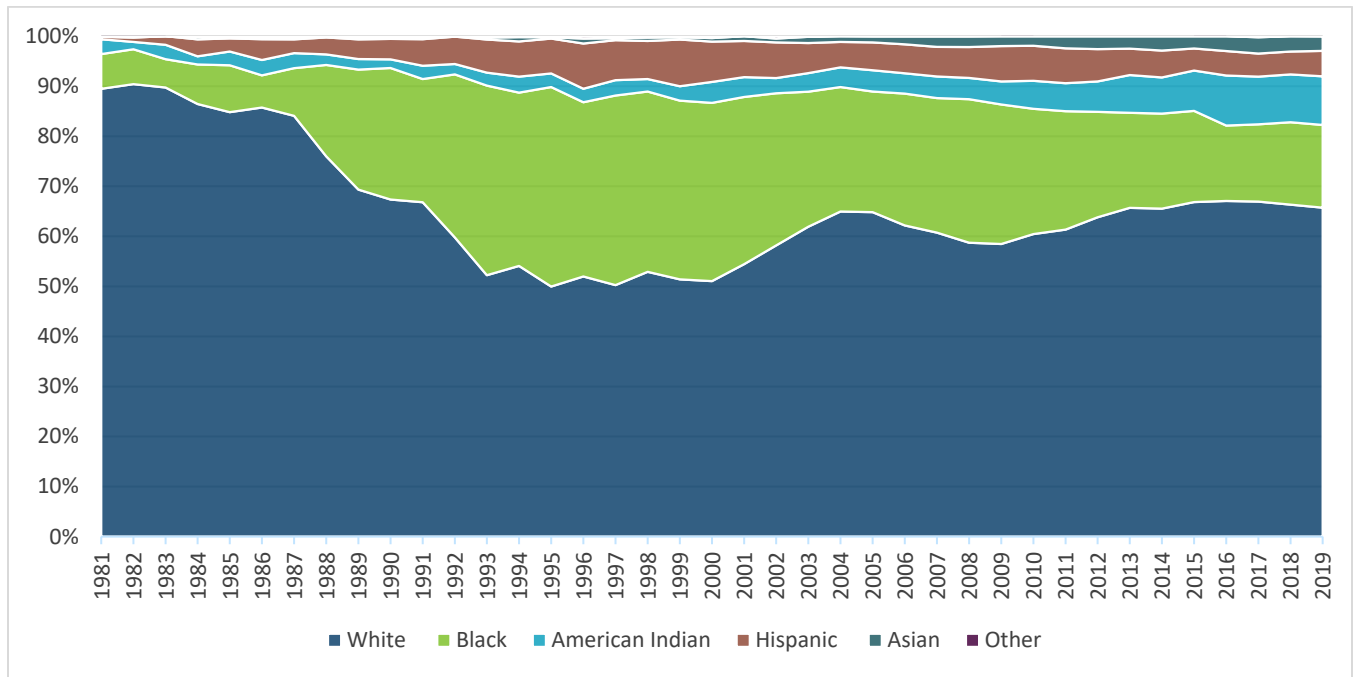


Figure 11. Distribution of Drug and Non-Drug Cases by Race/Ethnicity, 2019

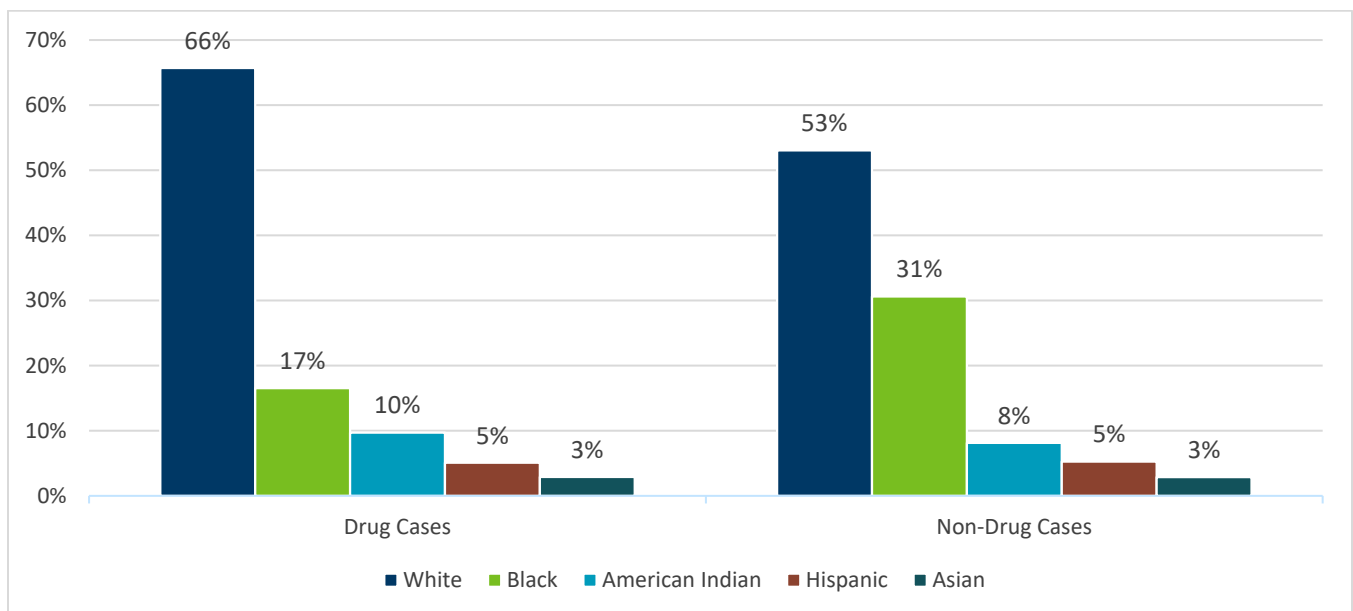
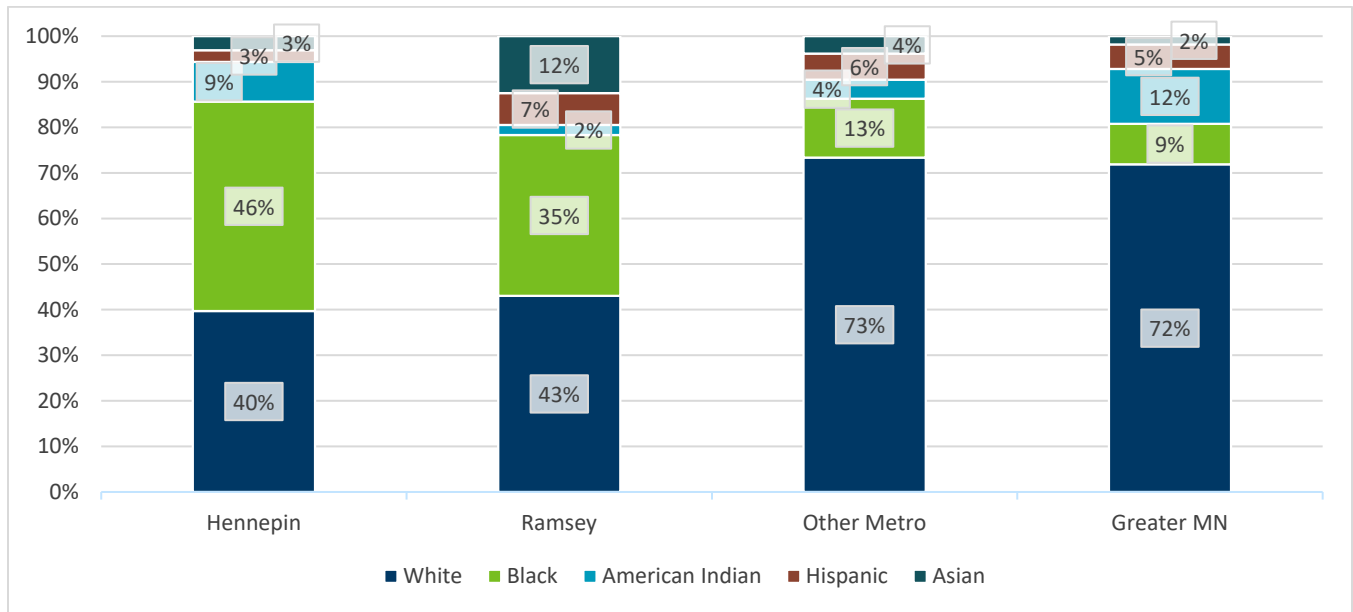


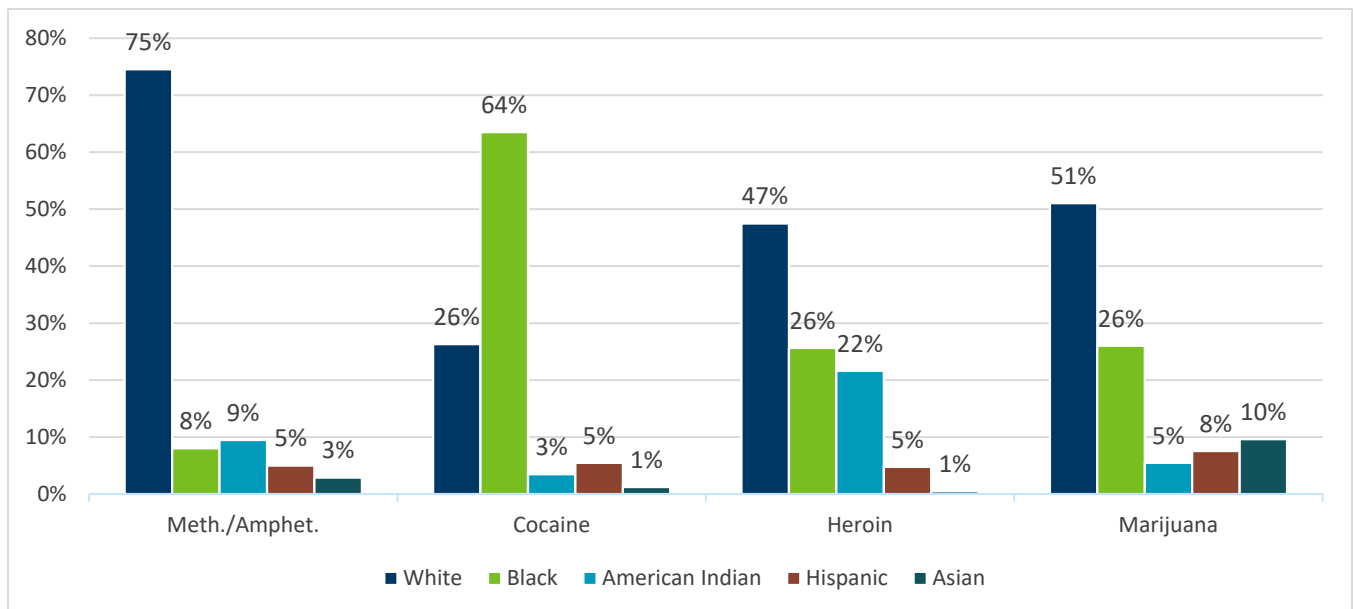
Figure 12 displays the racial or ethnic distribution of drug cases by region. The black group accounted for a larger percentage of the drug cases sentenced in Hennepin and Ramsey counties than in the rest of the state. These counties include the cities of Minneapolis and St. Paul, respectively.

Figure 12. Distribution of Felony Drug Cases by Race and Region, 2019



Recall that meth/amphetamine cases accounted for over two-thirds of the felony drug cases sentenced (Figure 5Figure 4). In 2019, the white group accounted for three-quarters of the meth/amphetamine cases sentenced (Figure 13), which directly impacted the racial or ethnic distribution of drug cases (Figure 11).

Figure 13. Distribution of Drug Cases by Race/Ethnicity and Drug Type, 2019

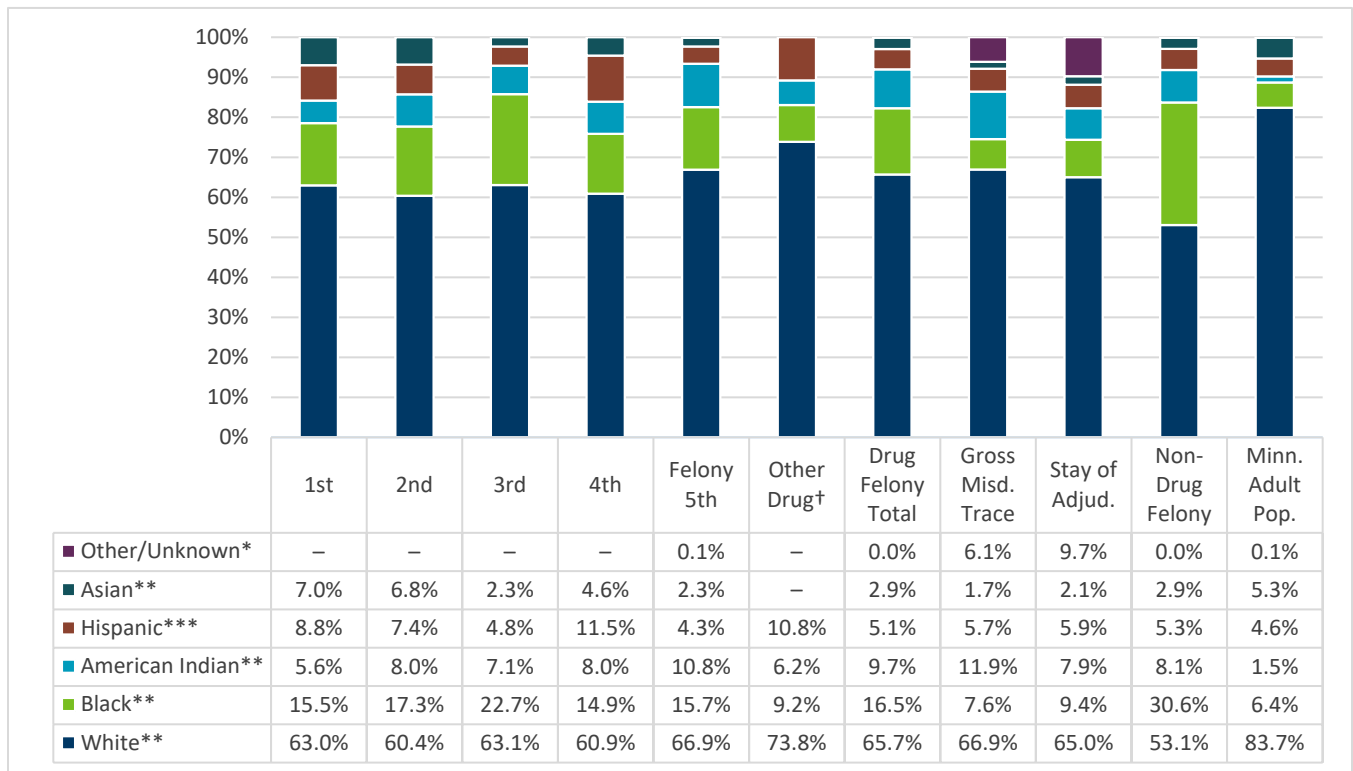


Drug-type information is based on Minnesota Offense Codes (MOCs) as encoded on criminal complaints.

Figure 14 displays the 2019 racial or ethnic composition by drug degree for felony drug cases, gross misdemeanor trace amount cases, stay of adjudication cases, non-drug felony cases, and Minnesota’s estimated adult population. The average percentage of white felony drug cases, gross misdemeanor trace cases, stays of

adjudication, and felony non-drug cases was lower than the white adult population at 63.7 percent compared to the estimated adult population of 83.7 percent white. The average percentage of black felony drug cases, gross misdemeanor trace cases, stays of adjudication, and felony non-drug cases was higher than the black adult population at 15.9 percent compared to the estimated adult population of 6.43 percent black. The average percentage of American Indian felony drug cases, gross misdemeanor trace cases, stays of adjudication, and felony non-drug cases was also higher than the American Indian adult population at 8.2 percent compared to the estimated adult population of 1.5 percent American Indian.

Figure 14. Distribution of Felony Drug Cases by Race/Ethnicity and Drug Type, Compared to Non-Drug Felony Cases, Gross Misdemeanors, Stays of Adjudication, and Estimated Adult Population, 2019



Source of Gross Misdemeanor Trace & Stays of Adjudication: Minnesota Judicial Branch. (Obtained 11/10/2020.)

Source of July 1, 2019, population estimate: U.S. Census Bureau (Sept. 2020).

*Other/Unknown Gross Misdemeanor Trace cases: 2.8% multiracial; 0.1% Native Hawaiian/Pacific Islander; 0.9% “Null;” 0.7% “other;” 1.2% refused; 0.4% unavailable. Other/Unknown Stays of Adjud. cases: 3.2% multiracial; 0.4% Native Hawaiian/Pacific Islander; 3.5% “Null;” 1.0% “other;” 0.9% refused; 0.9% unavailable.

*MSGC category of “Other/Unknown” is not a valid comparison group to the U.S. Census category of “Native Hawaiian/Other Pacific Islander” for which there were 4,975 people in the MN Adult Population.

**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.

***MSGC lists all Hispanic cases and residents as Hispanic, regardless of race.

†“Other Drug” includes 1 possession of precursors with intent to manufacture methamphetamines, 11 sale of a simulated/analog controlled substance, and 53 methamphetamine crimes involving children.

Sentencing Practices

In 2019, 90 percent of felony drug sentences included incarceration: 20 percent in state prison and 70 percent in local correctional facilities (Table 1). The remaining ten percent of sentences did not include incarceration; however, those sentences may have included credit for incarceration served before sentencing and sanctions such as drug treatment or home confinement.

Table 1. Total Incarceration, Felony Drug Sentences, 2019

Incarceration Type	Number	Percent
State Prison	1,012	20%
Local Confinement	3,639	70%
Total Incarceration	4,651	90%
Total	5,175	100%

Incarceration in State Prison

After Minnesota established five degrees of drug offenses in 1989, the number of drug cases increased dramatically, as have imprisonment rates and average pronounced sentences. While the number of non-drug cases has also increased during this same time period, the increase has been less dramatic, and the imprisonment rates and average pronounced sentences in non-drug cases have remained relatively stable (Table 2).

Imprisonment for felony drug cases has increased significantly over the past 25 years, at a higher rate than for any other offense category. The reason for this increase may be twofold: a larger total number of drug cases are sentenced, and a higher percentage of them receive prison.¹⁰ The imprisonment rate for drug cases was highest in 2003 at 28 percent, and second-highest in 2013 at 27 percent (Table 2). Despite the lower imprisonment-rate trend in recent years, it is still true that more drug cases are receiving prison sentences for longer periods of time than 30 years ago, which directly impacts the amount of correctional resources required to accommodate this prison population.

In 1991, there were 217 drug cases resulting in prison (13% prison rate), with an average pronounced sentence of 35 months. By 2003, this number climbed to 1,107 cases (28% prison rate). The average drug duration peaked at 52 months in 2003, falling to the 42- to 46-month range thereafter. Most recently, the prison rate fell from 20 percent in 2017 to 19 percent in 2018, the lowest rate since 1997. In 2019, the prison rate returned to 20

¹⁰ It is difficult to measure the extent to which the incarceration increases may have been driven by changes in individual behavior; in enforcement, prosecutorial, or judicial practice; or in policy. With that in mind, the following policy changes are notable: [Minn. Sentencing Guidelines \(1989\)](#) (at the same time legislature created five degrees of drug offenses, durations increased for the severity levels to which some of those degrees would be assigned); [1992 Minn. Laws ch. 359](#) (sale redefined to include possession with intent to sell; cocaine thresholds reduced); [1997 Minn. Laws ch. 239, art. 4](#) (heroin thresholds reduced); [1998 Minn. Laws ch. 367, art. 4](#) (methamphetamine thresholds reduced); and [2016 Minn. Laws ch. 160](#) (Drug Sentencing Reform Act: cocaine and methamphetamine thresholds increased, new Drug Offender Grid established, scope of mandatory minimums reduced, etc.).

percent. While the number of drug cases receiving prison fell, from 1,051 in 2018 to 1,012 in 2019, the prison rate increased because the total number of drug cases decreased. The average sentence duration fell to 42 months.

Table 2. Imprisonment Sentences, Prison Rates and Average Pronounced Durations for Drug and Non-Drug Cases, 1991–2019

Year	Drug Cases			Non-Drug Cases		
	Number of Prison Sentences	Prison Rate	Average Duration	Number of Prison Sentences	Prison Rate	Average Duration
1991	1,693	13%	35 months	7,468	21%	46 months
1992	1,830	14%	38 months	7,495	22%	49 months
1993	1,800	19%	42 months	7,837	22%	47 months
1994	1,692	17%	44 months	8,095	22%	51 months
1995	1,719	19%	41 months	7,702	24%	46 months
1996	1,695	17%	42 months	7,785	24%	47 months
1997	2,127	16%	42 months	7,720	24%	44 months
1998	2,542	22%	40 months	8,345	24%	47 months
1999	2,391	22%	42 months	8,243	23%	48 months
2000	2,596	24%	47 months	7,799	23%	49 months
2001	2,596	24%	47 months	8,200	22%	48 months
2002	3,424	27%	50 months	9,554	22%	46 months
2003	3,896	28%	52 months	10,596	23%	50 months
2004	4,038	25%	46 months	10,713	23%	45 months
2005	4,366	23%	44 months	11,096	23%	46 months
2006	4,485	20%	42 months	11,961	22%	45 months
2007	4,167	24%	42 months	12,001	23%	46 months
2008	3,878	25%	43 months	11,516	25%	46 months
2009	3,578	25%	42 months	11,262	25%	43 months
2010	3,326	25%	43 months	10,985	26%	47 months
2011	3,409	24%	43 months	11,162	25%	46 months
2012	3,552	25%	44 months	11,655	27%	48 months
2013	3,821	27%	43 months	11,497	27.5%	46 months
2014	4,363	25%	43 months	11,782	26%	46 months
2015	4,913	24%	41 months	11,850	27%	46 months
2016	5,475	22%	42 months	11,452	27%	48 months
2017	5,670	20%	41 months	12,318	26%	48 months
2018	5,536	19%	45 months	12,748	25%	48 months
2019	5,175	20%	42 months	12,160	26%	51 months

Distribution of Estimated Prison Beds by Drug Type over Time

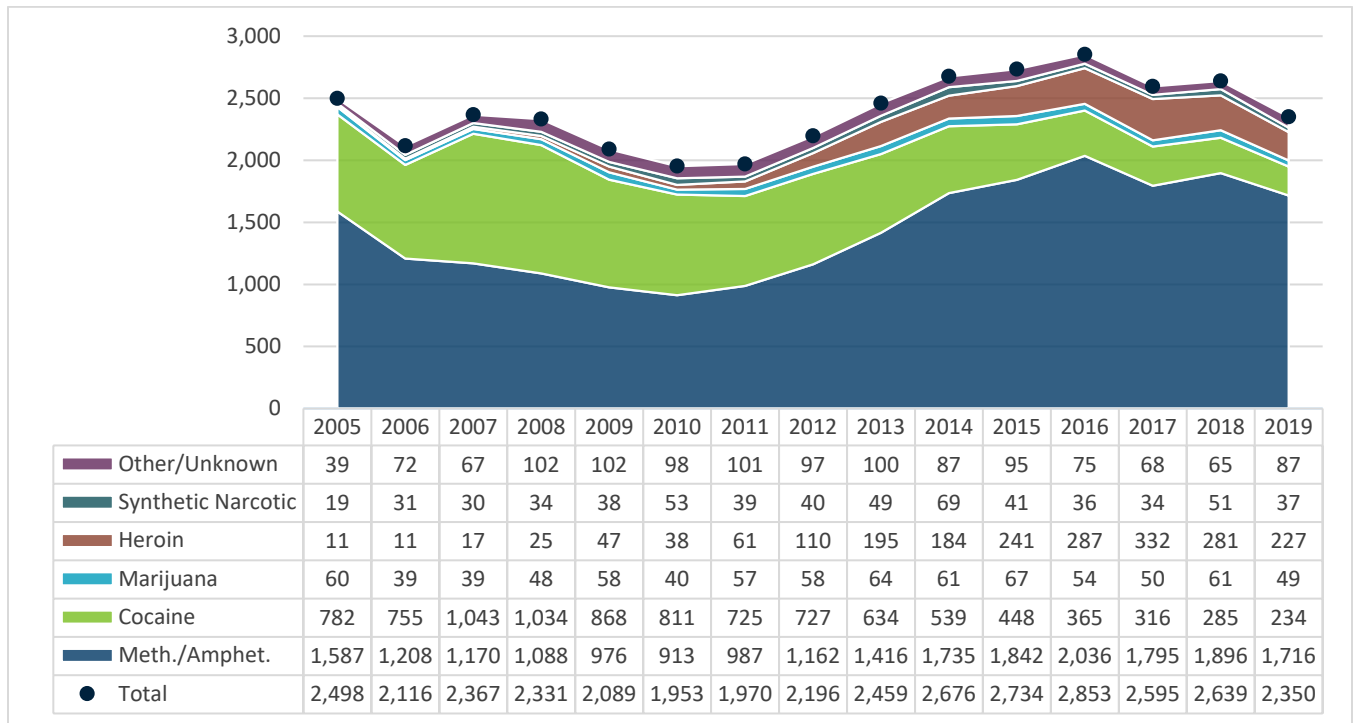
Figure 15 displays the estimated number of prison beds occupied by executed prison sentences by drug type from 2005 to 2019. These estimates are calculated assuming service of the estimated term of imprisonment, which is two-thirds of the executed sentence. While these estimates provide a description of the relative number of beds by drug types, they do not mirror the actual Minnesota Department of Corrections population for any given year because they do not reflect—

- Beds for probation revocations;
- Credit for time served before sentencing;
- Extended incarceration for violations in prison;
- Early releases for participation in early release programs such as Challenge Incarceration;
- Beds for supervised release revocations.

Moreover, not all estimated prison beds are needed in the first year. The total need for the estimated prison beds is, instead, apportioned over a period of approximately nine years, with each year requiring a smaller share of the total estimated prison beds than the year before.

With these caveats in mind, it is estimated that prison sentences for drug cases sentenced in 2019 will, over time, require 2,350 beds, which is a decrease from the estimated 2,639 beds for drug sentences in 2018. Relative to other drug types, the share of estimated prison beds taken up by meth/amphetamine cases reached a record high in 2019 when 68 percent of the cases sentenced accounted for 73 percent of the estimated prison beds. This is an increase from 72 percent in 2018. From 2007 through 2010, the meth/amphetamine share of drug sentences' prison beds stayed below 50 percent, but then increased steadily through 2016.

Figure 15. Estimated Prison Beds for Drug Cases by Drug Type, Sentenced 2005–2019



Drug-type information is based on Minnesota Offense Codes (MOCs) as encoded on criminal complaints.

Probation Cases

The rise in the number of drug cases has resulted in an increase in the number of probation sentences, as well as an increase in the number serving local confinement time (i.e., local correctional facility, county jail or workhouse) as a sentence or a condition of a probation sentence. In 2019, there were 4,163 drug cases not sentenced to prison which is a 182-percent increase over the number in 1991 (Table 3). In comparison, the number of non-drug cases only increased by about 53 percent during the same time period.

Almost all drug cases not sentenced to prison receive probation (99% in 2019). The increase in the number on probation cases expands the size of the probation-revocation pool, which impacts the prison population. In 2019, the average pronounced period of probation for drug sentences was 65.5 months; the median length of stay was 60 months.

Felony probationers may receive up to one year in local correctional facilities as a condition of probation. The vast majority serve some time in a local correctional facility. Since 1991, more than 80 percent had local time imposed as a condition of probation. Felony drug probationers have consistently had local time imposed at a slightly higher rate than non-drug cases. From 2012 through 2016, the local incarceration rate for the drug cases had been 91 percent, falling to 90 percent in 2017 and 89 percent in 2018. In 2019, a slightly lower percentage of drug sentences (87%) than non-drug sentences (89%) included time in local correctional facilities. For both drug and non-drug sentences, the average time pronounced in a local correctional facility in most years has

usually been more than 100 days. In 2019, the average pronounced duration in a local correctional facility was for both groups was 92 days (Table 3).

Table 3. Non-Imprisonment Sentences, Rates and Average Pronounced Local Confinement for Drug and Non-Drug Cases, 1991–2019

Year	Drug Cases			Non-Drug Cases		
	Number of Non-Prison Sentences	Local Confinement Rate	Average Duration	Number of Non-Prison Sentences	Local Confinement Rate	Average Duration
1991	1,476	86%	90 days	5,908	80%	110 days
1992	1,575	87%	101 days	5,825	83%	111 days
1993	1,459	86%	116 days	6,114	81%	112 days
1994	1,412	87%	98 days	6,332	80%	117 days
1995	1,398	87%	101 days	5,887	82%	110 days
1996	1,404	83%	104 days	5,887	81%	108 days
1997	1,781	87%	105 days	5,877	82%	107 days
1998	1,192	88%	99 days	6,334	83%	110 days
1999	1,872	88%	99 days	6,311	84%	104 days
2000	1,982	90%	101 days	5,985	85%	106 days
2001	1,973	91%	108 days	6,374	84%	104 days
2002	2,486	90%	114 days	7,435	86%	103 days
2003	2,789	91%	115 days	8,167	86%	109 days
2004	3,015	91%	117 days	8,290	88%	110 days
2005	3,353	91%	118 days	8,526	89%	99 days
2006	3,573	91%	118 days	9,278	89%	96 days
2007	3,165	90%	118 days	9,243	88%	106 days
2008	2,914	88%	117 days	8,628	87%	106 days
2009	2,696	90%	113 days	8,421	87%	105 days
2010	2,503	82%	120 days	8,168	80%	107 days
2011	2,591	89%	120 days	8,327	87%	104 days
2012	2,650	91%	122 days	8,553	87%	104 days
2013	2,795	91%	121 days	8,330	89%	101 days
2014	3,253	91%	121 days	8,674	89%	102 days
2015	3,729	91%	119 days	8,642	88%	99 days
2016	4,246	91%	122 days	8,373	89%	97 days
2017	4,542	90%	102 days	9,299	89%	94 days
2018	4,485	89%	95 days	9,573	88%	95 days
2019	4,163	87%	92 days	9,018	89%	92 days

Departure Rates

Role and Definition of Departures in the Sentencing Guidelines System

The Guidelines establish a presumptive sentence for felony offenses based on the severity of the offense and the offender’s criminal history score. The presumptive sentence is based on the typical case; however, the court may depart from the Guidelines when substantial and compelling circumstances exist. A “departure” is a pronounced sentence other than that recommended in the appropriate cell of the applicable 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 actually 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 arrive at agreements regarding acceptable sentences for which an appeal will not be pursued. 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. Only a small percent of cases (1% to 2%) result in an appeal of the sentence pronounced by the court.

Description of Departure Types

Dispositional Departure. A “dispositional departure” occurs when the court orders a disposition other than that recommended in the Guidelines. There are two types of dispositional departures: mitigated and aggravated. A mitigated dispositional departure occurs when the Guidelines recommend a prison sentence but the court pronounces a stayed sentence. An aggravated dispositional departure occurs when the Guidelines recommend a stayed sentence but the court pronounces a prison sentence.

Durational Departure. A “durational departure” occurs when the court orders a sentence with a duration other than the presumptive fixed duration or range in the appropriate cell on the applicable Grid. There are two types of durational departures: aggravated durational departures and mitigated durational departures. An aggravated durational departure occurs when the court pronounces a duration that is more than 20 percent higher than the fixed duration displayed in the appropriate cell on the applicable Grid. A mitigated durational departure occurs when the court pronounces a sentence that is more than 15 percent lower than the fixed duration displayed in the appropriate cell on the applicable Grid.

Departure Rates for Drug and Non-Drug Cases

Total Departure Rate: Drug and Non-Drug Cases

The total departure rate refers to the percentage of cases not receiving the presumptive Guidelines sentence. In 2019, the total departure rate for drug cases was 19 percent, compared to 29.5 percent for non-drug cases. The total mitigated departure rate was 17 percent for drug cases and 28 percent for non-drug cases (Table 4).

Table 4. Total Departure Rates, Drug and Non-Drug Cases, Sentenced 2019

Departure Type	Drug Cases		Non-Drug Cases	
	Number	Percent	Number	Percent
No Departure	4,209	81.3	8,573	70.5
Total Departures	966	18.7	3,587	29.5
<i>Mitigated</i>	890	17.2	3,368	27.7
<i>Aggravated</i>	68	1.3	175	1.4
<i>Mixed</i>	8	0.2	44	0.4
Total	5,175	100.0	12,160	100.0

Aggravated Dispositional Departures: Drug and Non-Drug Cases

Aggravated dispositional departures occur relatively infrequently compared to other types of departures. Less than one percent of drug cases received aggravated dispositional departures (sentenced to prison when the Guidelines recommended a stayed sentence) (Table 5). An defendant's request for an executed prison sentence¹¹ or plea agreement accounted for 95 percent of aggravated dispositional departures in drug cases, excluding cases in which the departure reason was "unknown." The aggravated dispositional departure rate for drug cases was higher than for non-drug cases.

Table 5. Aggravated Dispositional Departure Rates, Drug and Non-Drug Cases, Sentenced 2019

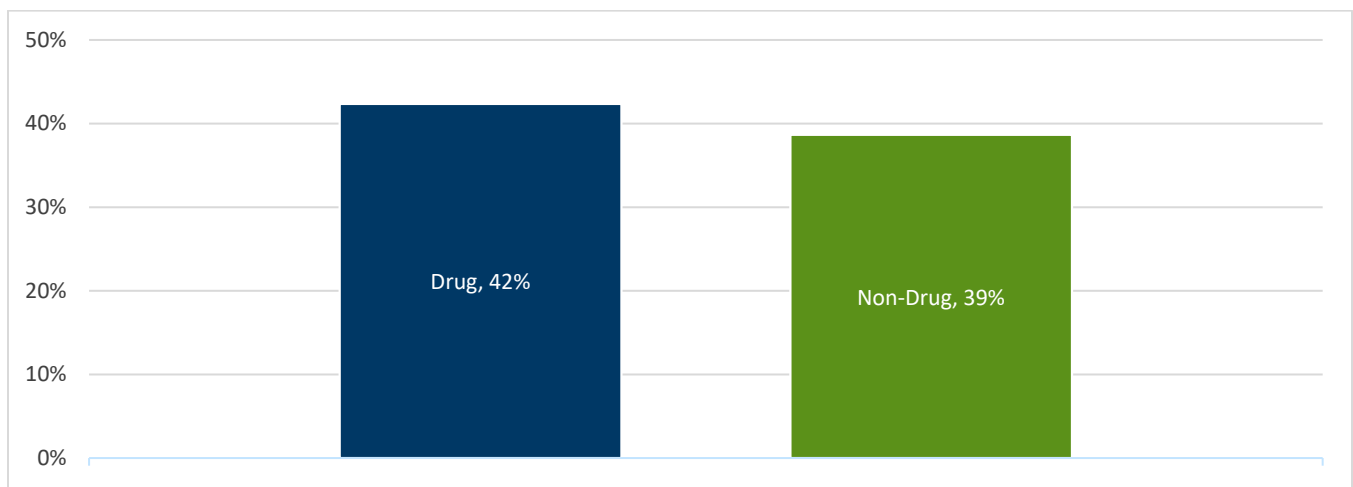
	Drug Cases	Non-Drug Cases
Number of Presumptive Stays	3,893	7,466
Aggravated Dispositions (and Percent of Presumptive Stays)	22 (0.6%)	11 (0.1%)
Aggravated Dispositions with Departure Reasons	21	11
Requests for Prison, pre-8/1/2015 offense date (and Percent of Aggravated Dispositions with Departure Reasons)	20 (95%)	5 (46%)

¹¹ This request is usually made to allow the defendant to serve the sentence concurrently (at the same time) with another prison sentence. For offenses committed after 7/31/2015, a sentence that is executed pursuant to a defendant's right to demand execution is not an aggravated dispositional departure (Guidelines section 2.D.1.f).

Mitigated Dispositional Departures: Drug and Non-Drug Cases

In 2019, 42 percent of the drug cases recommended prison received a mitigated dispositional departure (a non-prison, probationary sentence). This compared to 39 percent of non-drug cases (Figure 16). Compared to 2018 (38%), mitigated dispositional departures increased for drug cases while they remained very close for the non-drug cases (38% in 2018). Departure rates vary greatly by general offense type and specific offense. (See *2019 Sentencing Practices, Annual Summary Statistics for Felony Cases Sentenced in 2019*, on the “Annual Summary” tab, for more information on departure rates by offense type at mn.gov/sentencing-guidelines/reports.)

Figure 16. Mitigated Dispositional Departure Rates, Presumptive Commitments Only, Drug and Non-Drug Cases, Sentenced 2019



Dispositional Departures: Frequently Cited Reasons for Departure

“Amenability to treatment” and “amenability to probation” were the most frequently cited reasons for mitigated dispositional departure in drug cases. In a large percentage of these cases, the sentencing court noted either that a plea agreement supported the departure, or that the prosecutor recommended or did not object to the departure. Such plea agreements or prosecutor recommendations supported 59 percent of mitigated dispositions in drug cases, compared to 62 percent in non-drug cases. The sentencing court noted the prosecutor’s objection to the mitigated disposition in 21 percent of the drug cases and 16 percent of non-drug cases.¹²

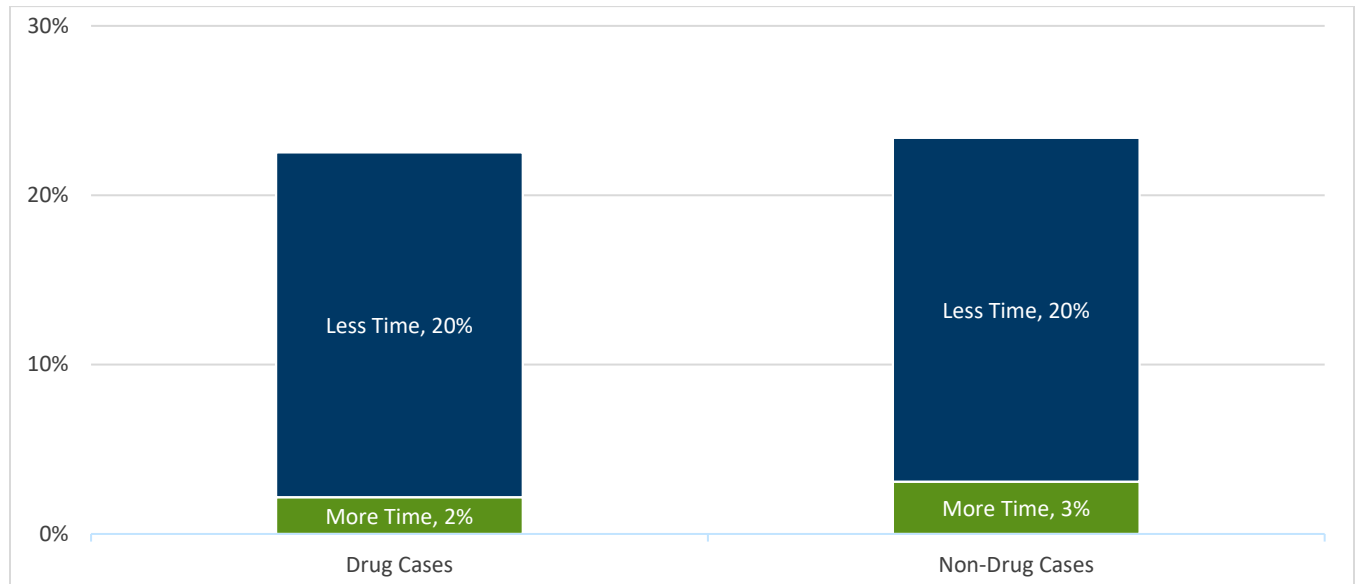
Durational Departures (Prison Cases): Drug and Non-Drug Cases

The mitigated durational departure rate for executed prison cases was 20 percent for both drug and non-drug cases (Figure 17). The aggravated durational departure rate was two percent for drug cases and three percent for non-drug cases. (See *2019 Sentencing Practices, Annual Summary Statistics for Felony Cases*, on the “Annual

¹² The percentages do not total 100 percent because the prosecutor’s position was not recorded in a number of cases. The sentencing court is not required to record the prosecutor’s position.

Summary” tab, for more information on departure rates by offense type at mn.gov/sentencing-guidelines/reports.)

Figure 17. Durational Departure Rates for Cases Receiving Executed Prison Sentences, Drug and Non-Drug Cases, Sentenced 2019



“Plea Agreement” was the most frequently cited reason for mitigated durational departure in drug cases. In 65 percent of the drug cases and 77 percent of the non-drug cases, the court indicated that there was a plea agreement for the mitigated durational departure, or that the prosecutor recommended, or did not object to, the mitigated durational departure. The court reported that the prosecutor objected to a mitigated duration in about four percent of the drug cases and seven percent of non-drug cases.¹³ As reported by the court, mitigated durational departures were more commonly supported either by a plea agreement or by the prosecutor’s recommendation or lack of objection (65%) than mitigated dispositional departures (59%).

Long-Term Trends in Departure Rates for Drug Cases

Figure 18 shows that, for most of the last twenty years (post 1998), the mitigated dispositional departure for drug cases has been between 35 and 39 percent. The rate was higher in 2004 to 2006 (reaching a rate of 46 percent in 2006) and lower in 2012 and 2013 (falling to a rate of 31 percent in 2013). More recently, in 2016 and 2017, the rate was in the low 40s, but fell again to 39 percent in 2018. In 2019 it rose to 42 percent, the highest rate since 2006.

¹³ See footnote 12.

Figure 18. Mitigated Dispositional Departure Rates, Drug Cases, Presumptive Commitments Only, Sentenced 1996–2019

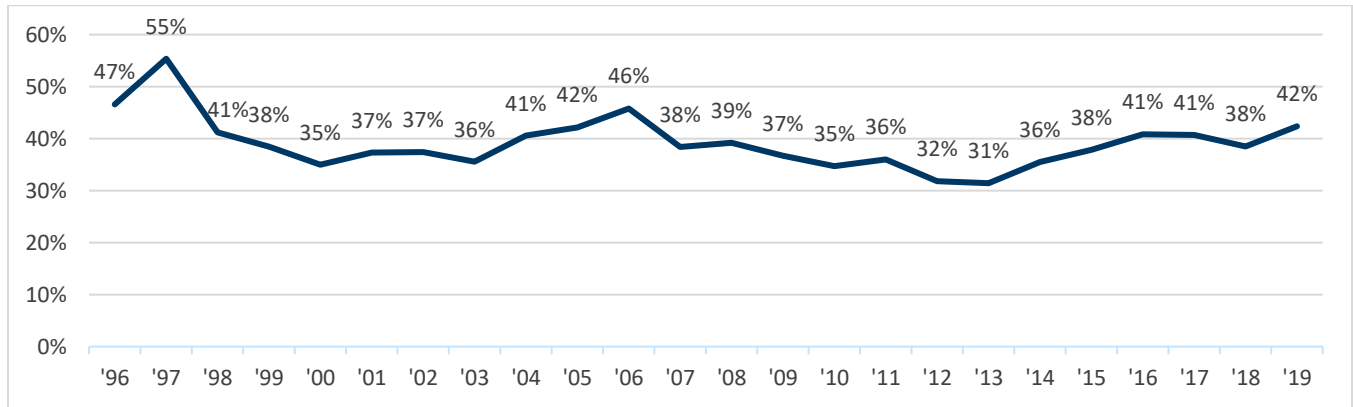
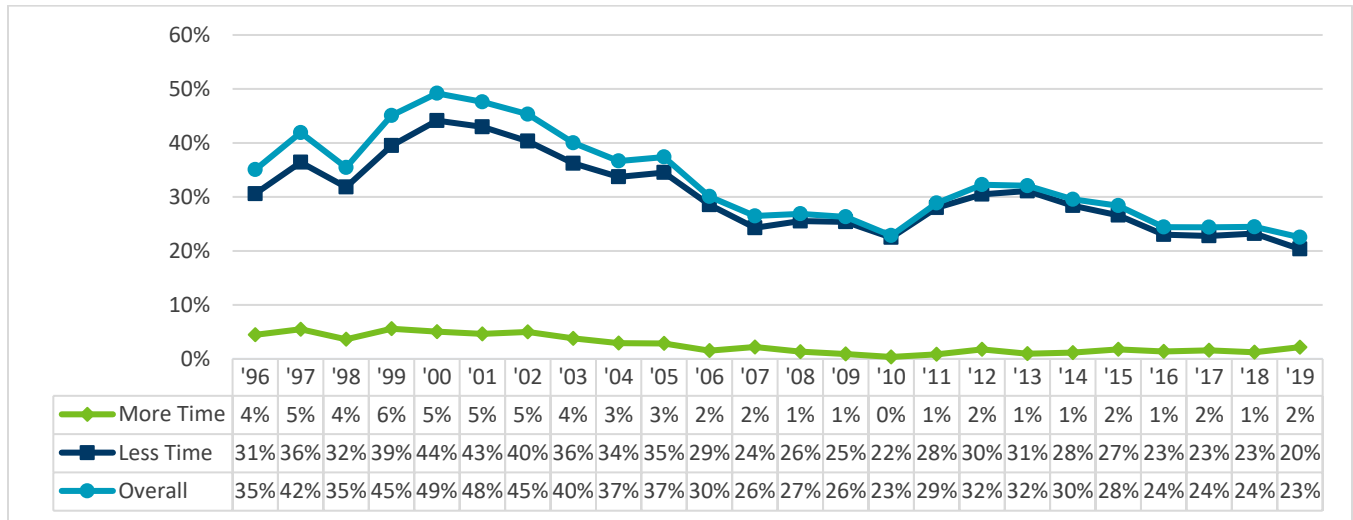


Figure 19 shows that the mitigated durational departure rate increased through the 1990s, peaking at 44 percent in 2000. After 2000, however, this rate steadily declined to a low of 23 percent in 2010. The rate then climbed to 31 percent in 2012 and 2013, but fell thereafter. In 2016 through 2018, the mitigated durational departure rate has stabilized at its previous low of 23 percent. In 2019, the mitigated durational departure rate fell to 20 percent, the lowest rate ever observed. The aggravated durational departure rate, on the other hand, has been consistently low, remaining at or below two percent since 2006.

Figure 19. Durational Departure Rates for Drug Cases Receiving Prison Sentences, 1996-2019



Departure Rates for Drug Cases by Region

While departure rates for drug cases fluctuate from year to year and vary by region, they are high across the state (Figure 20 & Figure 21).

In 2019, the mitigated dispositional departure rates rose in Hennepin, Ramsey and the other metro counties¹⁴ and decreased slightly in Greater Minnesota (Figure 20). In the seven years before 2014, the other metro counties had the highest rates and Ramsey County or Greater Minnesota had the lowest. Between 2014 and 2019, Ramsey County had the highest mitigated dispositional departure rate in five of the six years (including 2019), and Greater Minnesota had the lowest rate in four of the six years (including 2019).

Figure 20. Mitigated Dispositional Departure Rates by Region, Drug Cases, Presumptive Commitments Only, Sentenced 1996–2019

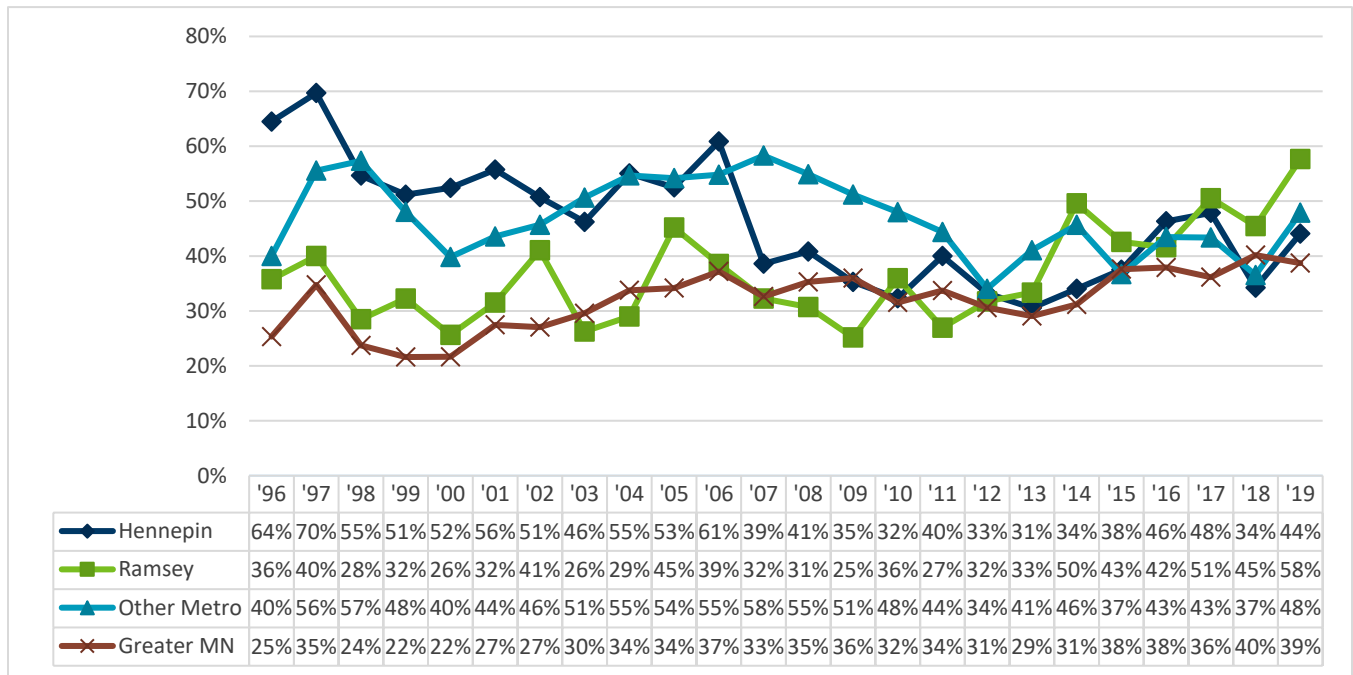
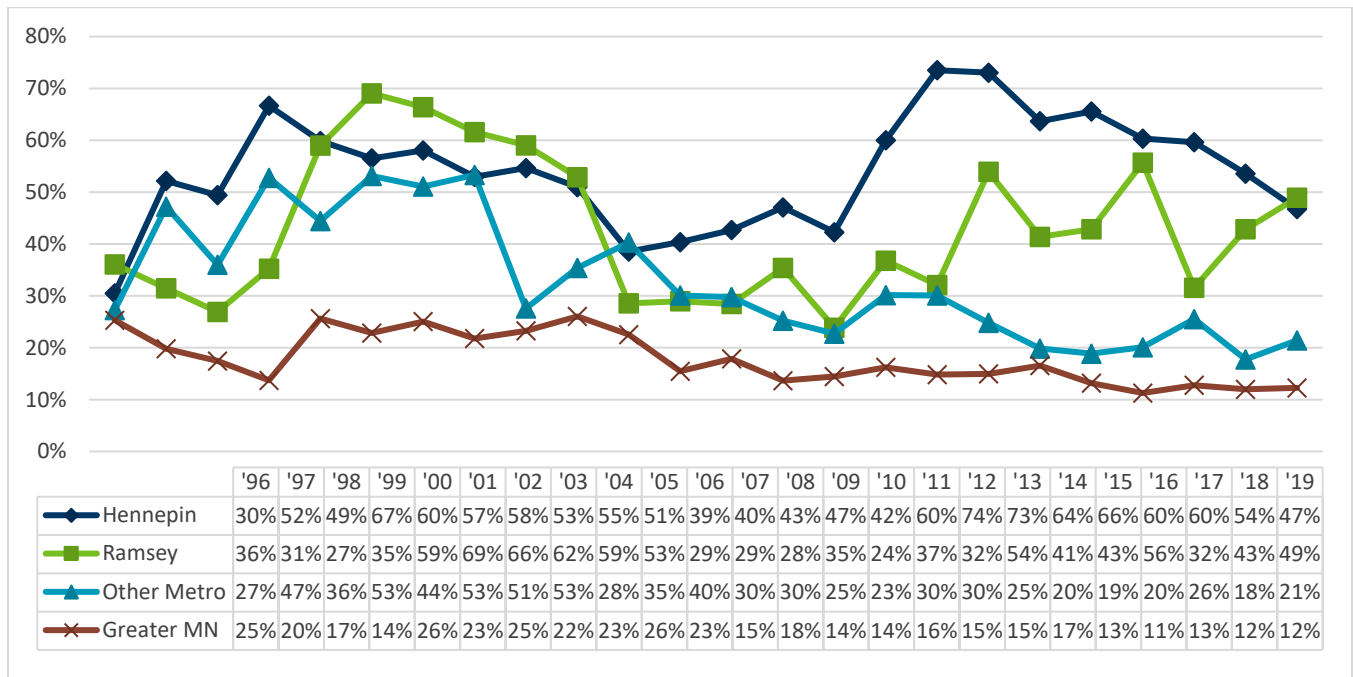


Figure 21 shows that, in 2019, the mitigated durational departure rate for executed sentences rose in Ramsey County from 43 percent to 49 percent and, in the other (non-Hennepin) metro counties, from 18 percent to 21 percent. The mitigated durational departure rate declined in Hennepin County from 54 percent to 47 percent. The rate in Greater Minnesota remained the same, at 12 percent.

Because the mandatory minimum sentence lengths for subsequent first- and second-degree drug offenses are less than the durations recommended by the Guidelines, it is possible for a court to give a mitigated durational departure while still complying with the mandatory minimum prison sentence.

¹⁴ “Other metro counties” are Anoka, Carver, Dakota, Scott and Washington counties.

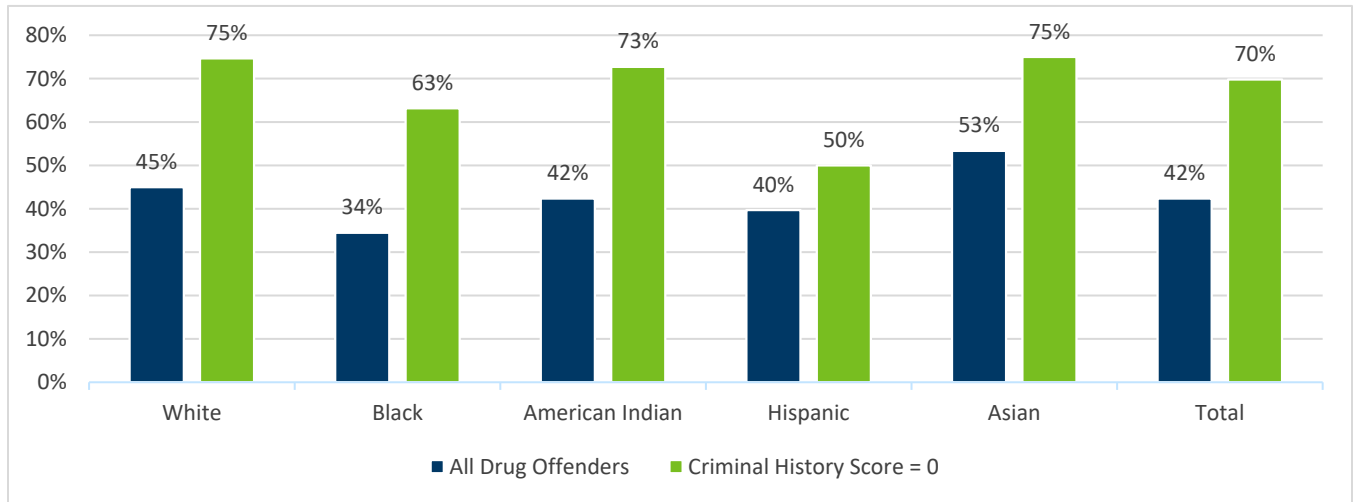
Figure 21. Mitigated Durational Departure Rates by Region for Drug Cases Receiving Executed Prison Sentences, Sentenced 1996–2019



Departure Rates for Drug Cases by Race or Ethnicity

Departure rates vary by racial or ethnic group. In 2019, the rates of mitigated dispositional departure in the white, Asian, and American Indian groups were higher than the total rate, while the rates in the black and Hispanic groups were lower (Figure 22). The differences in departure rates may be related to variations in criminal history scores. At a criminal history score of zero, the mitigated dispositional departure rate was 70 percent, and all groups, except the Hispanic group, had an average mitigated dispositional departure rate of more than 60 percent. At 50 percent, the cases in Hispanic group had the lowest mitigated dispositional departure rate at a criminal history score of zero.

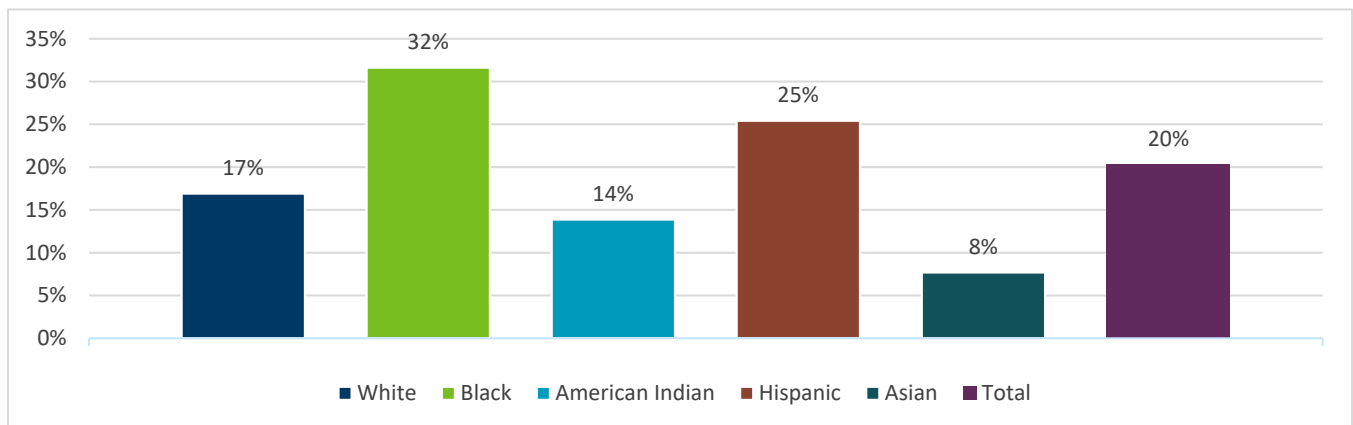
Figure 22. Mitigated Dispositional Departure Rates, Presumptive Commitments Only, by Race/Ethnicity, Sentenced 2019



The percentage of mitigated durational departures are highest for the black group (Figure 23). From 2018 to 2019, mitigated durational departure rates declined for the white group (from 20% to 17%), black group (from 41% to 32%), American Indian group (from 18% to 14%), and Asian group (from 17% to 8%); and rose for the Hispanic group (from 11% to 25%).

Mitigated durational departure rates vary by sentencing jurisdiction (Figure 21). Historically, a larger proportion of the black group is sentenced in Hennepin and Ramsey counties, where mitigated durational departure rates are highest. (See Figure 12, p. 16, for an illustration of the racial/ethnic distribution of drug cases by region.)

Figure 23. Mitigated Durational Departure Rates by Race/Ethnicity for Drug Cases Receiving an Executed Prison Sentence, 2019

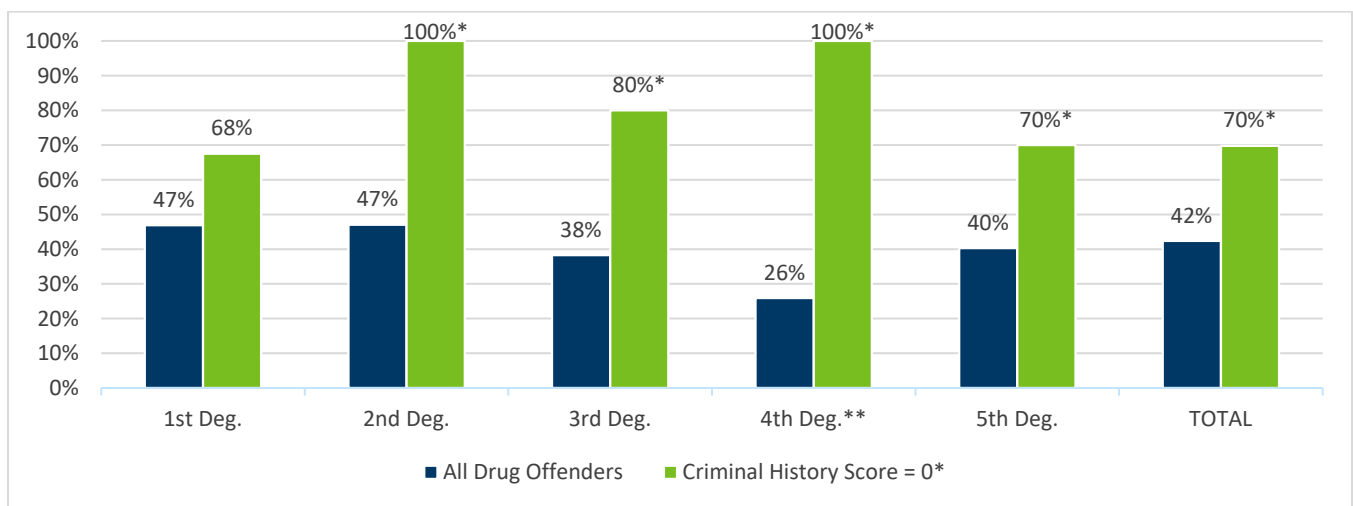


Departure Rates for Drug Cases by Drug Degree

Figure 24 shows the 2019 mitigated dispositional departure rates by drug degree. The 47-percent rate for first-degree was higher than the 2018 rate of 38 percent and was equal to the highest rate seen in the recent past in 2011. The rates for second-degree (47%) and third-degree (38%) also increased from 2018 (when they were 36% and 37%, respectively). The fifth-degree rate (40%) was slightly lower than the 2018 rate (42%). At 26 percent, the fourth-degree rate was higher than the 2018 rate (24%), but that variation is likely due to the smaller number of cases at that degree (27 cases in 2019).

Among cases at criminal history score zero, the total mitigated dispositional departure rate was 70 percent; higher than the 2018 rate of 64 percent. While departure rates at criminal history score zero are presented for all degrees, it should be noted that there were 117 first-degree presumptive commit cases with a criminal history score zero and only 10 or fewer cases at the other degrees.¹⁵

Figure 24. Mitigated Dispositional Departure Rates, Presumptive Commitments Only, by Drug Degree, 2019



* For 2nd Deg., 3rd Deg., 4th Deg., and 5th Deg., see footnote 15.

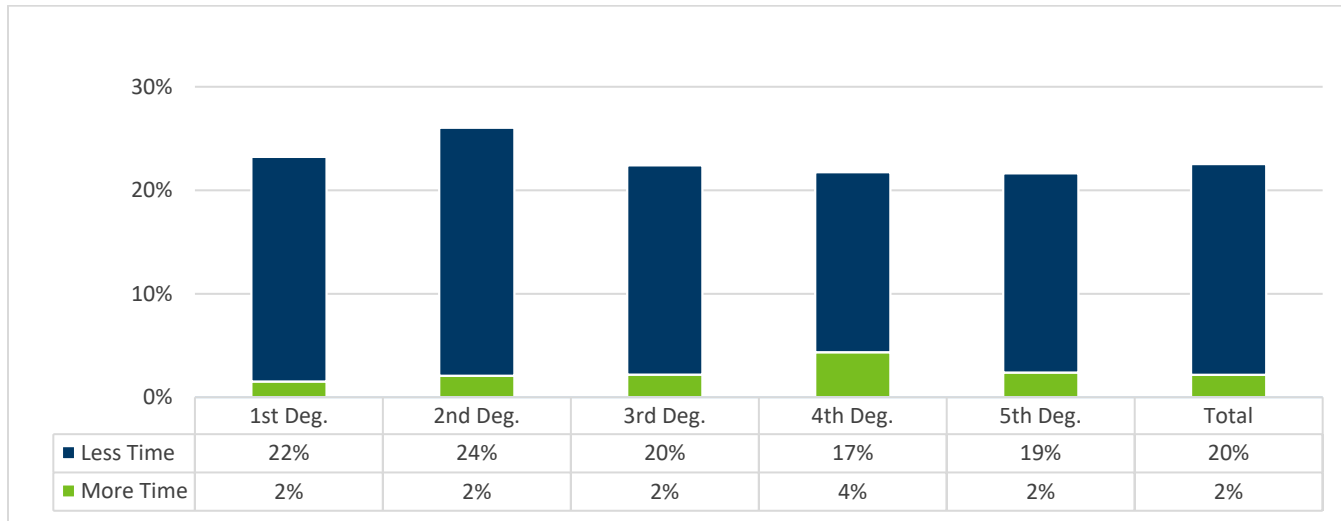
** Only 1 fourth-degree case had a criminal history score=0.

In 2019, mitigated durational departure rates were 22 percent for first-degree cases and 24 percent for second-degree cases (Figure 25). Both decreases from 2018 rates of 27 and 29 percent, respectively. The mitigated durational departure rate also decreased for third-degree (from 25% to 20%). The rates for fourth- and fifth-degree cases were similar to the 2018 rates. The median reduction in sentence length from the presumptive

¹⁵ For second-, third-, fourth-, and fifth-degree controlled substance crimes, the presumptive sentence at a criminal history score of 0 is a stayed prison sentence. Nevertheless, Figure 24 reflects mitigated dispositional departure rates for the small number of zero-criminal-history-score second-, third-, fourth-, and fifth-degree drug cases whose offenses are presumptive commits by operation of law. (See Minn. Sentencing Guidelines § 2.E.) For example, pre-DSRA subsequent third-degree drug cases (Minn. Stat. § 152.023, subd. 3(b)) and felony drug cases involving possession of a firearm (Minn. Stat. § 609.11) are always subject to a presumptive executed prison sentence.

sentence was 25 months for first-degree cases, 24 months for second-degree cases, and 15 months for third-degree cases.

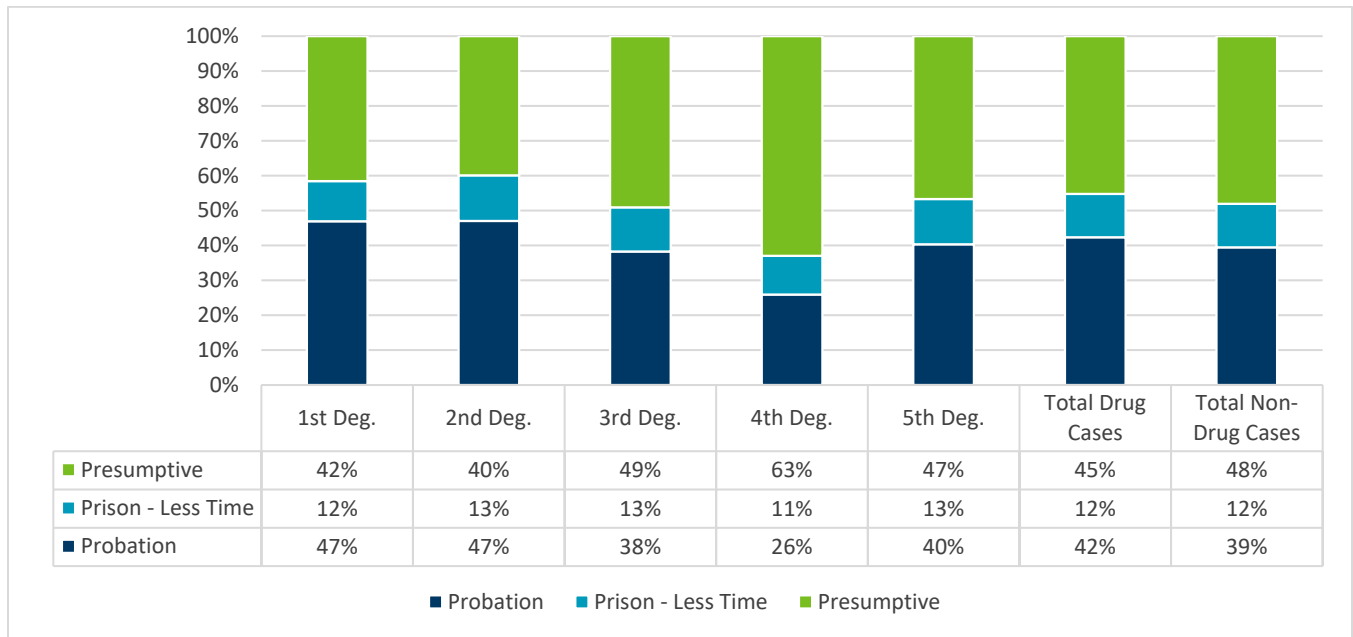
Figure 25. Durational Departure Rates by Drug Degree for Cases Receiving Executed Prison Sentences, 2019



Presumptive Commitment Drug Offense Sentencing by Degree

Of the 5,175 drug cases in 2019, 25 percent (1,282 cases) had presumptive prison sentences. Departure rates are so high that, among cases recommended prison in 2019 (as in 2011 through 2018), a greater number of cases received departures than received the recommended sentence. In 2019, 45 percent of such drug cases recommended a prison sentence received the recommended sentence or longer; 42 percent received a probation sentence; and 12 percent received a prison sentence with a duration that was less than recommended by the Guidelines. Almost half (48%) of non-drug cases with recommended prison sentences received the presumptive sentence (Figure 26).

Figure 26. Sentence Imposed by Drug Degree, Presumptive Commitment Cases Only, 2019

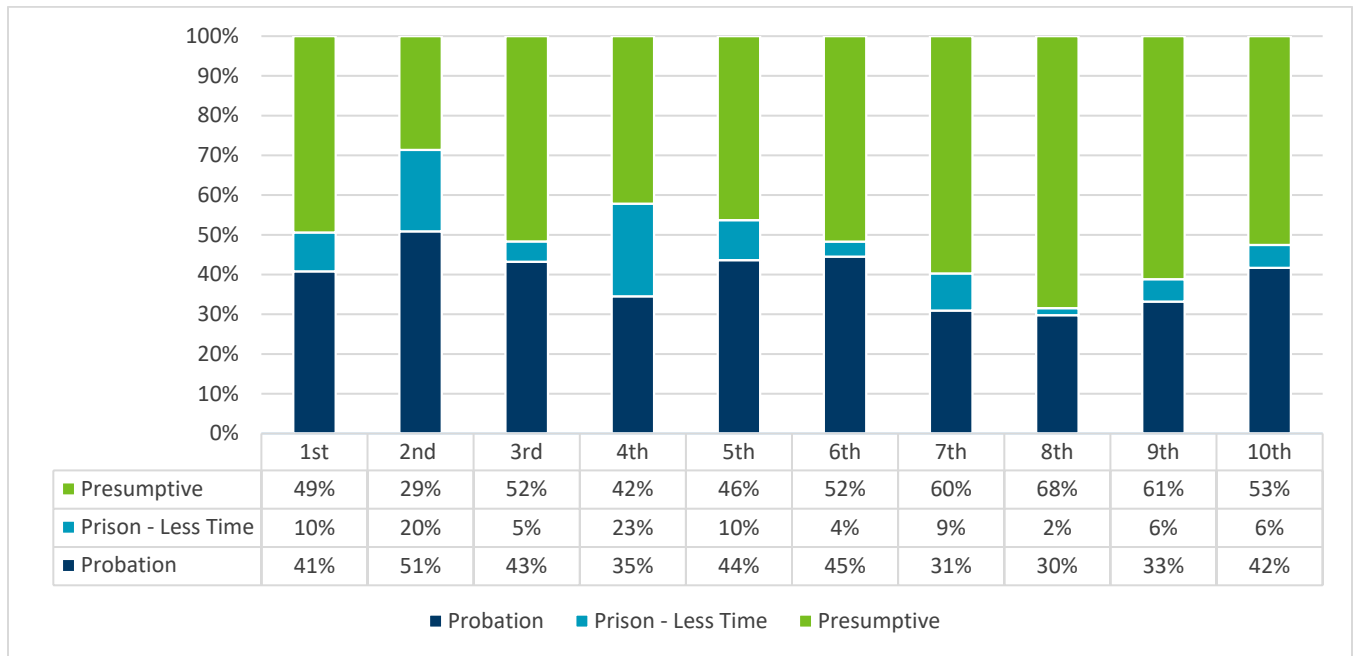


In 2019, 42 percent of first-degree and 40 percent of second-degree cases received the recommended sentence (a decrease from 46% in 2018 for first- and second-degree cases). Forty-nine percent of third-degree cases received the presumptive sentence (48% in 2018). The fourth-degree rate decreased to 63 percent (from 71% in 2018). The fifth-degree rate increases (47% in 2019, 44% in 2018).

Presumptive Commitment Drug Offense Sentencing by Judicial District

The likelihood of a case receiving the presumptive sentence varies widely across the state. Figure 27 shows the percent of offenses with presumptive commitment sentences that received the recommended sentence by judicial district. The portion receiving the presumptive sentence ranged from 20 percent in the Second District (Ramsey County) to 68 percent in the Eighth District (including west-central Minnesota). See page 38 for a map of Minnesota’s ten judicial districts.

Figure 27. Sentence Imposed by Judicial District, Drug Offenses, Presumptive Commitment Cases Only, 2019



Departure Rates for Subsequent Drug Offenders

Minnesota Statutes specify mandatory minimum prison terms for first- and second-degree (for post-DSRA drug offenses) and first- through third-degree (for pre-DSRA drug offenses) when the defendant has a prior drug conviction.¹⁶ When such a statutory mandatory minimum applies, the presumptive Guidelines disposition is imprisonment.¹⁷ The mandatory minimum durations are as follows: 48 months for first-degree offenses; 36 months for second-degree offenses; and 24 months for third-degree (pre-DSRA) offenses. Because the presumptive Guidelines sentence is greater than the mandatory minimum for all first- and second-degree offenses, the mandatory minimum usually altered the duration of only pre-DSRA third-degree offenses.¹⁸ For third-degree offenses committed post-DSRA, this mandatory minimum provision is repealed.

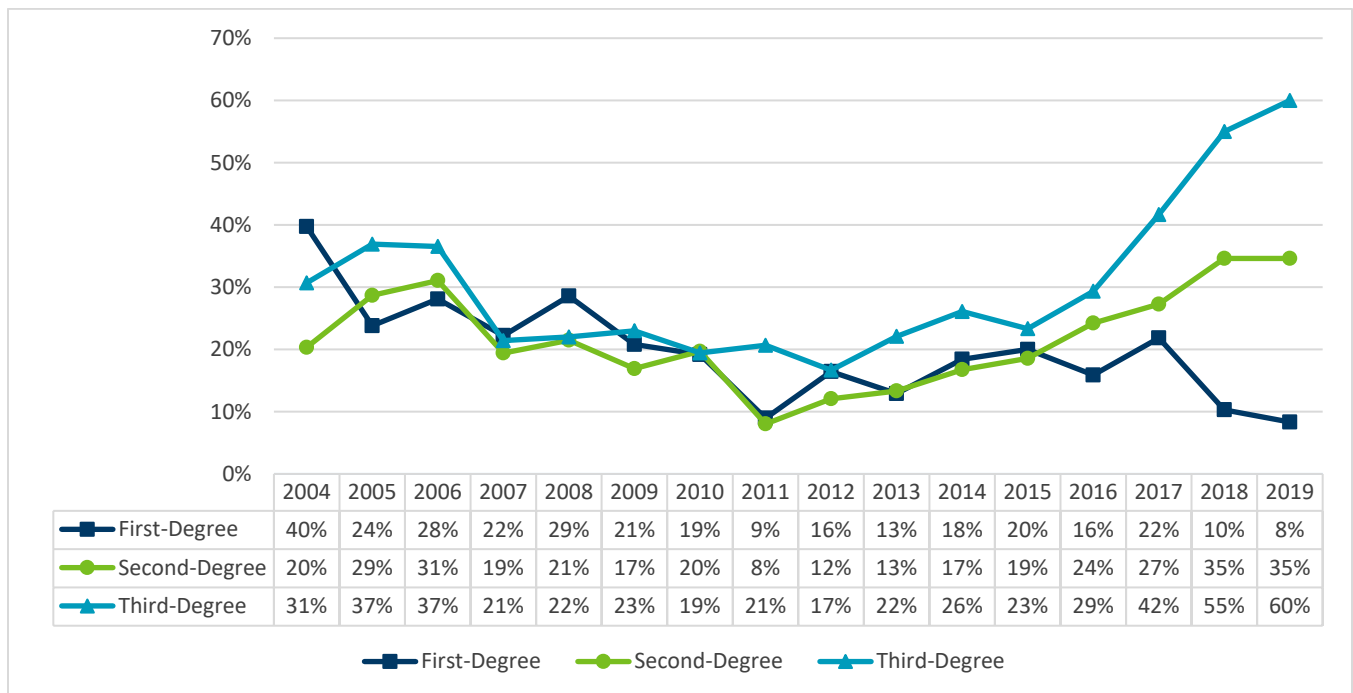
¹⁶ See subdivisions 3(b) of Minn. Stat. §§ [152.021](#), [152.022](#) and [152.023](#) (2015). Pre-DSRA, an actual conviction was not always necessary, as a past disposition under Minn. Stat. § [152.18](#), even without conviction, caused the current offense to become a “subsequent controlled substance conviction.” Minn. Stat. § [152.01](#), subd. 16a (2015). Post-DSRA, subsequent offenses are only those with prior first- and second-degree convictions. Minn. Stat. § [152.01](#), subd. 16a (2016).

¹⁷ See also *State v. Turck*, 728 N.W.2d 544 (Minn. App. 2007), *review denied* (Minn. May 30, 2007) (holding that the mandatory minimum sentencing provision for a repeat drug offender precluded a stay of execution).

¹⁸ Likewise, these mandatory minimums change presumptive stayed dispositions to presumptive prison commitments. This affected pre-DSRA Controlled Substance Crime in the Third Degree (presumptive stay for offenders with criminal history scores below 3), and now affects post-DSRA Controlled Substance Crime in the Second Degree (presumptive stay for cases with a criminal history score below 2). In a sense, however, any mandatory minimum prison disposition for a subsequent controlled substance conviction affects the presumptive disposition, inasmuch as such a disposition becomes a mandatory, rather than merely presumptive, executed term of imprisonment (see footnote 17).

In 2019, 74 first- and second-degree cases were second or subsequent subject to the mandatory minimum provisions. There were 10 subsequent third-degree cases with pre-DSRA dates of offense. Of these 84 subsequent cases, 19 (23%) received a mitigated dispositional departure from the Guidelines. The 23 percent dispositional departure rate was lower than the 2018 rate (26%) and 2017 rate (30%). The rate was lower for first-degree cases (8%) than for second-degree (35%) or third-degree (60%) (Figure 28). The court indicated that the prosecutor agreed to, recommended, or did not object to the mitigated disposition in 74 percent of the mitigated dispositions for subsequent drug offenses.

Figure 28. Mitigated Dispositional Departure Rate for Subsequent Drug Offenses by Degree, 2003–2019



Of the 65 subsequent drug cases that received executed prison sentences, all but one had a pronounced sentence equal to, or longer than, the mandatory minimum. One first-degree case received less than the mandatory minimum time.

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 for which a life sentence is mandated by statute (first-degree murder and certain criminal sexual conduct offenses) are excluded from the Guidelines. A separate Sex Offender Grid, with severity levels from H to A (most serious), is used for sentencing sex offenses. A separate Drug Offender Grid, with severity levels from D1 to D9 (most serious), was implemented for drug offenses committed after July 31, 2016. 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.

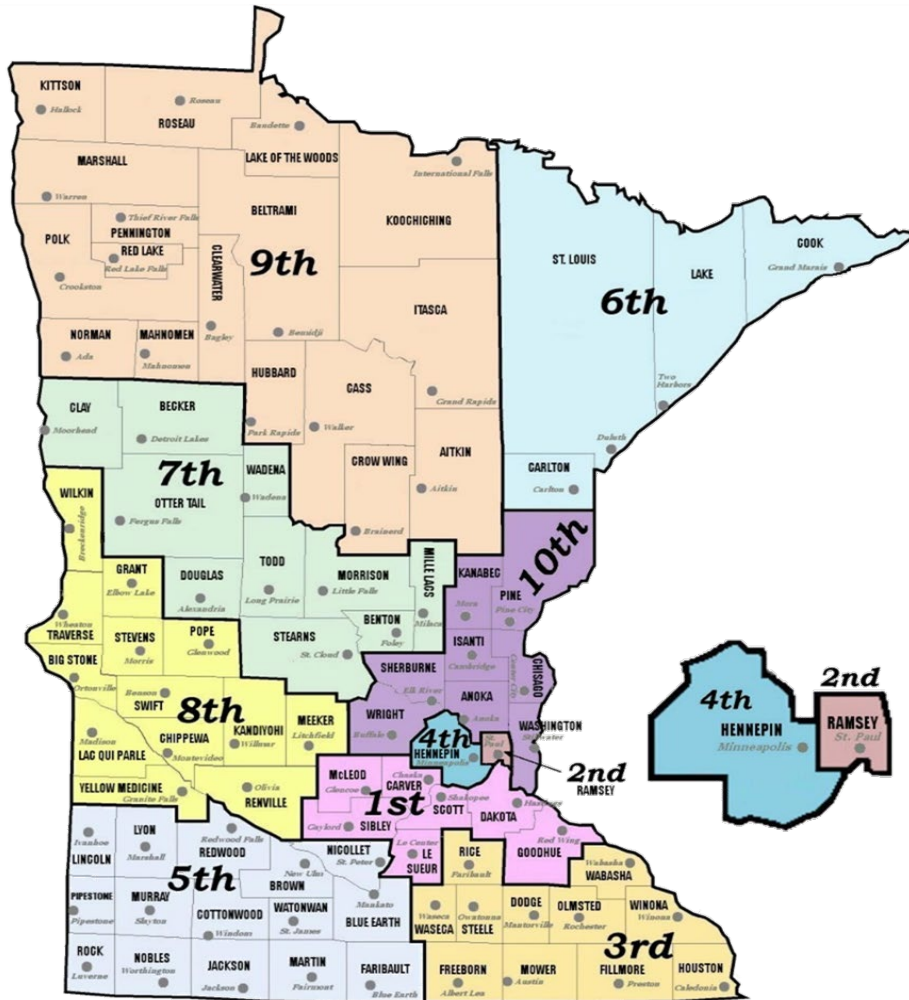
The recommended (presumptive) guideline sentence is found in the cell of the sentencing grid in which the offender's criminal history score and severity level intersect. The Guidelines recommend imprisonment in a state prison in the non-shaded cells of the grid. The Guidelines generally recommend a stayed sentence for cells in the shaded area of the applicable Grid. When a sentence is stayed, the court typically places the offender on probation and may require up to a year of local confinement (i.e., local correctional facility, county jail or workhouse) as a condition of probation. 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 applicable Guidelines Grid (e.g., offenses involving dangerous weapons which carry mandatory minimum prison terms, and some 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 applicable 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 Guidelines is available by contacting the Commission's office. *The Minnesota Sentencing Guidelines and Commentary* is available online at <http://mn.gov/sentencing-guidelines>.

Appendices

Appendix 1. Minnesota Judicial District Map



<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Fifth</u>	<u>Sixth</u>	<u>Seventh</u>	<u>Eighth</u>	<u>Ninth</u>	<u>Tenth</u>
Carver	Ramsey	Dodge	Hennepin	Blue Earth	Carlton	Becker	Big Stone	Aitkin	Anoka
Dakota		Fillmore		Brown	Cook	Benton	Chippewa	Beltrami	Chisago
Goodhue		Freeborn		Cottonwood	Lake	Clay	Grant	Cass	Isanti
Le Sueur		Houston		Faribault	St. Louis	Douglas	Kandiyohi	Clearwater	Kanabec
McLeod		Mower		Jackson		Mille Lacs	Lac qui Parle	Crow Wing	Pine
Scott		Olmsted		Lincoln		Morrison	Meeker	Hubbard	Sherburne
Sibley		Rice		Lyon		Otter Tail	Pope	Itasca	Washington
		Steele		Martin		Stearns	Renville	Kittson	Wright
		Wabasha		Murray		Todd	Stevens	Koochiching	
		Waseca		Nicollet		Wadena	Swift	Lake of the Woods	
		Winona		Nobles			Traverse	Mahnomen	
				Pipestone			Wilkin	Marshall	
				Redwood			Yellow Medicine	Norman	
				Rock				Pennington	
				Watowan				Polk	
								Red Lake	
								Roseau	

Source: Minn. Judicial Branch.

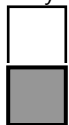
Appendix 2. Sentencing Guidelines Grid, Effective Before August 1, 2016

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

CRIMINAL HISTORY SCORE

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by-shootings)	11	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>346-480</i> ²	426 <i>363-480</i> ²
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> (unintentional murder)	10	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, 1st Degree</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>
<i>Aggravated Robbery, 1st Degree</i> <i>Controlled Substance Crime, 2nd Degree</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> ^{2,3}
<i>Controlled Substance Crime, 3rd Degree</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>
<i>Residential Burglary</i> <i>Simple Robbery</i>	5	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>	4	12 ¹	15	18	21	24 <i>21-28</i>	27 <i>23-32</i>	30 <i>26-36</i>
<i>Theft Crimes (Over \$5,000)</i>	3	12 ¹	13	15	17	19 <i>17-22</i>	21 <i>18-25</i>	23 <i>20-27</i>
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12 ¹	12 ¹	13	15	17	19	21 <i>18-25</i>
<i>Sale of Simulated Controlled Substance</i>	1	12 ¹	12 ¹	12 ¹	13	15	17	19 <i>17-22</i>

¹ 12¹=One year and one day



Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 609.185. See section 2.E, for policies regarding those sentences controlled by law.

Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. See sections 2.C and 2.E.

² Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. See section 2.C.1-2.

³ The stat. max. for Financial Exploitation of Vulnerable Adult is 240 months; the standard range of 20% higher than the fixed duration applies at CHS 6 or more. (The range is 62-86.)

Appendix 3. Drug Offender Grid, Effective on and After August 1, 2016

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

CRIMINAL HISTORY SCORE

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		0	1	2	3	4	5	6 or more
<i>Aggravated Controlled Substance Crime, 1st Degree Manufacture of Any Amt. Meth</i>	D9	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>Controlled Substance Crime, 1st Degree</i>	D8	65 <i>56*-78</i>	75 <i>64*-90</i>	85 <i>73*-102</i>	95 <i>81*-114</i>	105 <i>90*-126</i>	115 <i>98*-138</i>	125 <i>107*-150</i>
<i>Controlled Substance Crime, 2nd Degree</i>	D7	48	58	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>Controlled Substance Crime, 3rd Degree Failure to Affix Stamp</i>	D6	21	27	33	39 <i>34-46</i>	45 <i>39-54</i>	51 <i>44-61</i>	57 <i>49-68</i>
<i>Possess Substances with Intent to Manufacture Meth</i>	D5	18	23	28	33 <i>29-39</i>	38 <i>33-45</i>	43 <i>37-51</i>	48 <i>41-57</i>
<i>Controlled Substance Crime, 4th Degree</i>	D4	12 ¹	15	18	21	24 <i>21-28</i>	27 <i>23-32</i>	30 <i>26-36</i>
<i>Meth Crimes Involving Children and Vulnerable Adults</i>	D3	12 ¹	13	15	17	19 <i>17-22</i>	21 <i>18-25</i>	23 <i>20-27</i>
<i>Controlled Substance Crime, 5th Degree</i>	D2	12 ¹	12 ¹	13	15	17	19	21 <i>18-25</i>
<i>Sale of Simulated Controlled Substance</i>	D1	12 ¹	12 ¹	12 ¹	13	15	17	19 <i>17-22</i>

* Lower range may not apply. See section 2.C.3.c(1) and Minn. Stat. § 152.021, subdivisions 3(c) & 3(d).

¹ 12¹=One year and one day



Presumptive commitment to state imprisonment.



Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. See sections 2.C and 2.E.