

**2020-2021
COMMITTEE FOR EQUALITY AND JUSTICE
STUDY ON PROBATION REVOCATIONS
AND RECOMMENDATIONS**

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I. Background Information.

In 2018, Minnesota had the fifth-lowest incarceration rate in the nation. Perhaps relatedly, Minnesota also has the fifth-highest community supervision rate among states.¹ On February 3, 2020, the Minnesota Sentencing Guidelines Commission (“MSGC”) published its annual report on Probation Revocations for Offenders Sentenced from 2003–2017 and Revoked to Prison through 2018 (“2020 MSGC Probation Revocation Report”).² The 2020 MSGC Probation Revocation Report found, in part, that probationers in Minnesota who are Black or American Indian are generally revoked at higher rates than individuals from all other races. The 2020 MSGC Probation Revocation Report found that American Indian offenders had their probation revoked at a higher rate (26.3%) than any other racial or ethnic group. American Indian offenders also had the highest revocation rate in each offense type and in each judicial district in Minnesota.³ In addition, in the Third Judicial District, the revocation rate for American Indian probationers was 30.7%, and for Black probationers was 25.3%, versus 19.8% for probationers across all racial backgrounds.⁴ In the Seventh Judicial District, the revocation rate for American Indian probationers was 32.7%, versus 19.2% for probationers across all racial backgrounds.⁵ These disparities provided the catalyst for this study and recommendation that the local Equal Justice Committees be charged with studying the issues at the district level.

II. Access and Fairness Subcommittee Study on Probation Revocations

During the 20-21 biennium, the Access and Fairness Subcommittee (“Subcommittee”) of the Committee for Equality and Justice (“CEJ”) was charged to review the 2020 MSGC Probation Revocation Report and work with Equal Justice Committees to make recommendations as needed. Specifically, the Subcommittee was charged to meet with various jurisdictions to identify the process used to address disparities at the local level and to determine if that process or pieces of that process could be replicated in other jurisdictions. In addition, the Subcommittee was charged with determining resource availability for providing the data at the district level. Finally, the Subcommittee was charged to create an outline of the suggested steps/processes that can be used by the Equal Justice Committees for reviewing probation revocation data to determine if there are any issues or underlying causes of disparity and how any issues can be addressed.

III. District Level Probation Revocation Studies

The Subcommittee determined that four jurisdictions had undertaken studies on disparate impact of probation revocations: First District, Second District, Fourth District, and Ninth District (Beltrami County). While information was sought from each district, only the First and Ninth District responded to this Subcommittee’s inquiries.

The First District studied probation revocations of all races and ethnicities both at the district level and by county. The Ninth District exclusively studied probation revocations of American Indians in Beltrami County.

¹ U.S. DOJ Bulletin, “Correctional Populations in the United State, 2017-2018,” Aug. 2020, at page 11, appx. 1; Correctional Populations in the United States, 2017-2018 (bjs.gov)

² See Appendix 1. Offenders were included in this report if revocation occurred on or before December 31, 2018.

³ *Id.* at page 7, figure 4

⁴ *Id.* at page 10, figure 8

⁵ *Id.*

The First Judicial District Equal Justice Committee reviewed all revocations from each county in the district for the period of 2014-2019, using an internal committee that worked directly with the Department of Corrections and its own county probation staff. The First District then compared those results to the total population based on the 2019 U.S. Census Population Estimates for both race and ethnicity. The results of the study reflected that some racial minorities were disproportionately revoked. For example, American Indian probationers comprised only 3.46% of the probation pool, but they were revoked at a rate of 11.57%. The District compared that to the white population, which comprised 62.26% of the total population and accounted for only 10.17% of revocations. The First District is in the process of finalizing its report. Upon completion, the First District Equal Justice Committee will present its report to the bench and then will work directly with specific counties within the district to address disproportionate revocation rates by race.

The Ninth District performed a similar study but limited its analysis to Beltrami County as the 2020 MSGC Probation Revocation Report reflected, in part, that American Indian probationers in Beltrami County are generally revoked at higher rates than other individuals. Beltrami County District Court worked with the Department of Corrections to analyze each case which led to a revocation to prison. Beyond the work in the Ninth District, Beltrami County went on to analyze each court file to determine the underlying reason for revocation to prison. Upon completion of its analysis, Beltrami County met with the bench to discuss the findings and to address trends regarding requests for execution of sentences and then met with the Department of Corrections to address its findings.

IV. Probation Revocation Studies at the District Court Level

Each Equal Justice Committee and its district/county court administration staff are particularly well suited to undertake a study to determine if certain racial minorities are being revoked at a higher rate than other individuals within the district.

The Subcommittee recommends that each local Equal Justice Committee implement the following plan to study disproportionate revocation rates.

1. Utilize the 2020 MSGC Probation Revocation Report⁶ or conduct its own analysis on revocation rates to determine if and where racial minorities are disproportionately revoked to prison.⁷
2. Examine each case where there is a revocation to prison. This work can be completed with the assistance of the Department of Corrections, county probation staff and/or district court administration. The following information may be reviewed as part of the study: probation revocation reports and/or summaries, Sentencing Orders and court transcripts. In conducting this analysis, the Subcommittee recommends that the local Equal Justice Committee track the following information:
 - a. The assigned judge who ultimately executed the sentence;

⁶ These reports are issued annually by the MSGC. The most current version should be utilized.

⁷ As reflected above, the First District conducted its own study, whereas Beltrami County was able to work with the MSGC and the Robina institute to obtain the statistical information supporting the 2020 MSGC Probation Revocation Report. Due to limited resources, the MSGC and the Robina Institute previously advised the CEJ that these agencies cannot undertake this work statewide.

- b. The probation agent at the time the sentence was executed;
 - c. Whether the Defendant was committed to the Commissioner of Corrections for a different crime;
 - d. Whether the Defendant was on probation on a dispositional or durational departure;
 - e. Whether the Defendant was a short-term offender;
 - f. The length of the probationary term at sentencing;
 - g. The number of probationary conditions imposed at sentencing;
 - h. Whether the Defendant requested the execution of the sentence; and
 - i. If there is additional information in the file or on the court transcript that may be helpful.
3. Prepare analysis, prepare summaries addressing trends and present information to your local bench, county probation and/or Department of Corrections.

V. Other Recommendations

In the context of the Subcommittee's work, statewide probationary practices were examined. The Subcommittee observed certain actions that may be implemented at the district or county level to assist in reducing the disproportionate impact of revocation rates on minority populations:

1. Conduct trainings for the bench, community corrections, and prosecutors regarding cultural awareness, and work to ensure that probation recommendations are being made consistently.
2. Use probation caps of five years maximum, taking the severity of the offense into account with respect to further reductions.
3. Establish specialty courts for offenses such as DWI, domestic violence, mental health courts or drug offenses.
4. Create programs for early discharge from probation if certain benchmarks are met (for example, the dosage probation program is a pilot project being conducted in Washington County).⁸
5. Perform bail reduction efforts.
6. Hold meet and release warrant days for low-level offenders.

⁸ Attached at Appendix 2 is a summary of this Subcommittee's research findings regarding direct work of various agencies throughout the state which are implementing creative probationary policies and/or procedures or pilot programs to address disproportionate impact of revocations.

2018 Probation Revocations

Offenders Sentenced from 2003–2017
Revoked to Prison through 2018

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ABOUT THIS REPORT

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.

Table of Contents

Introduction	1
Data Summary	2
Volume of Cases and Revocation Data by Year	2
Revocation Data by Year Sentenced	4
Combined Revocation Data, 2003–2017	5
Revocation Rates by Offense Type	5
Revocation Rates by Gender, Race & Ethnicity	7
Revocation Rates by Judicial District	9
Revocation Rates by Dispositional Departures	10
Revocation Rates by County	11
Appendices	14
Appendix 1. Procedures for Calculating Revocations	14
Appendix 2. Average Pronounced Probation Lengths	15
Appendix 3. How the Guidelines Work	17
Appendix 4. Minnesota Judicial District Map	18

Table of Figures and Tables

Figure 1. Number of Offenders Sentenced to Probation or Prison by Year Sentenced, 2003–2017	3
Figure 2. Percent of Offenders Revoked by Year Sentenced, 2003–2017, Revoked through 2018.....	4
Figure 3. Probation Revocation Rates by Offense Type, Sentenced 2003–2017, Revoked through 2018	5
Table 1. Probation Revocation Rates by Offense Groups	6
Figure 4. Probation Revocation Rates by Race & Ethnicity, Sentenced 2003–2017, Revoked through 2018	7
Figure 5. Probation Revocation Rates by Gender by Race & Ethnicity, Sentenced 2003–2017, Revoked through 2018.....	8
Figure 6. Probation Revocation Rates by Offense Type and Race/Ethnicity, Sentenced 2003–2017, Revoked through 2018	8
Figure 7. Probation Revocation Rates by Judicial District, Sentenced 2003–2017, Sentenced through 2018	9
Figure 8. Probation Revocation Rates by Judicial District by Race & Ethnicity, Sentenced 2003–2017, Revoked through 2018	10
Figure 9. Probation Revocation Rates by Dispositional Departure, Sentenced 2003–2017, Revoked through 2018	11
Table 2. Revocation Data by County, Sentenced 2003-2017, Sentenced through 2018	11
Figure 10. Average Pronounced Probation Length, in Months, by Offense Type, 2015–2017	15
Figure 11. Average Pronounced Probation Length, in Months, by Judicial District, 2015–2017	15
Figure 12. Average Pronounced Probation Term, in Months, by District and Offense Type, 2015–2017	16

Introduction

The 2018 Minnesota Sentencing Guidelines Commission Probation Revocation Report provides information about felony-level offenders sentenced from 2003 to 2017 who were revoked to prison due to probation violations through year-end 2018.¹ Of all felony offenders in Minnesota initially sentenced to probationary sentences from 2003 to 2017, 16.2 percent had their stayed sentences revoked² due to probation violations, and were committed to state prison, by December 31, 2018.

A probation violation occurs when an offender's behavior or criminality violates conditions of probation but does not result in a new felony conviction for which the offender receives a prison sentence.³ An offender's probation can be revoked if probation revocation proceedings are initiated and the court makes appropriate findings to support the revocation. The court, rather than the Minnesota Department of Corrections (DOC), makes the determination as to whether probation will be revoked.⁴ The majority of revocations occurred within the first two years of receiving a felony probationary sentence.

The probation revocations in this report were analyzed in two ways. First, the revocation data were analyzed by year. That is, as each year of revocation data became available, it was added to the prior years' data to generate a cumulative revocation rate for offenders sentenced each year from 2003 through 2017. Thus, the revocation rate for 2015 shows an increase in this report from the rate that was reported last year because additional probationers who had originally been sentenced in 2015 were revoked in 2017. Second, the data were combined to present total revocation rates for the entire period. Results were broken down by judicial district, race and ethnicity, gender, offense type, departure type, and county.

This report is not intended to be a recidivism study; rather, it describes, in very basic terms, revocation data for felony offenders who were originally sentenced to probation. It is the Commission's intention to update this report annually, when new DOC and Minnesota Sentencing Guidelines Commission (MSGC) data become available for analysis. An explanation of how the Guidelines work, along with the Standard Grid, Sex Offender Grid, and Drug Offender Grid can be found in the Commission's report entitled *2018 Sentencing Practices: Annual Summary Statistics for Felony Offenders*, available at mn.gov/sentencing-guidelines/reports.

¹ Offenders were included in this report if revocation occurred on or before December 31, 2018.

² See Appendix 1 on p. 14 for a more complete explanation of this terminology.

³ The behavior resulting in a probation revocation may include a conviction for a gross misdemeanor or misdemeanor offense. These non-felony convictions would not, in and of themselves, result in the offender going to prison because they do not carry the potential for a DOC prison sentence. However, the non-felony criminal behavior may trigger a probation revocation proceeding on a felony-level case, which may then result in a probation revocation for violating the conditions of felony probation.

⁴ The DOC has the authority to revoke an offender who was on parole or supervised release.

Data Summary

Through the end of 2018, the total revocation rate in Minnesota was 16.2 percent (Table 1, p. 6, and Table 2, p. 11). The majority of revocations occurred within the first two years after being sentenced (Figure 2, p. 4).

Among offense types, offenders convicted of person offenses had the highest rate of revocation at 19.9 percent, while the “other”⁵ category had the lowest at 12 percent (Figure 3, p. 5). As a group, offenders convicted of criminal sexual conduct (CSC) had the highest revocation rates (about 27%).

American Indian offenders had their probation revoked at a higher rate (26.3%) than any other racial or ethnic group (Figure 4, p. 7). American Indian offenders also had the highest revocation rate in each offense type (Figure 6, p. 8) and in each judicial district in Minnesota (Figure 8, p. 10).

The First Judicial District had the lowest rate of revocation (10.9%), while the Ninth District had the highest (25.1%). Rice County, which is located in the Third Judicial District, had the lowest revocation rate (7.6%), and Beltrami County, which is in the Ninth Judicial District, had the highest revocation rate (33.6%) (Figure 7, p. 9 and Table 2, p. 11). Revocation rates tended to be higher for offenders for whom the Guidelines had originally recommended prison (Figure 9, p. 11).

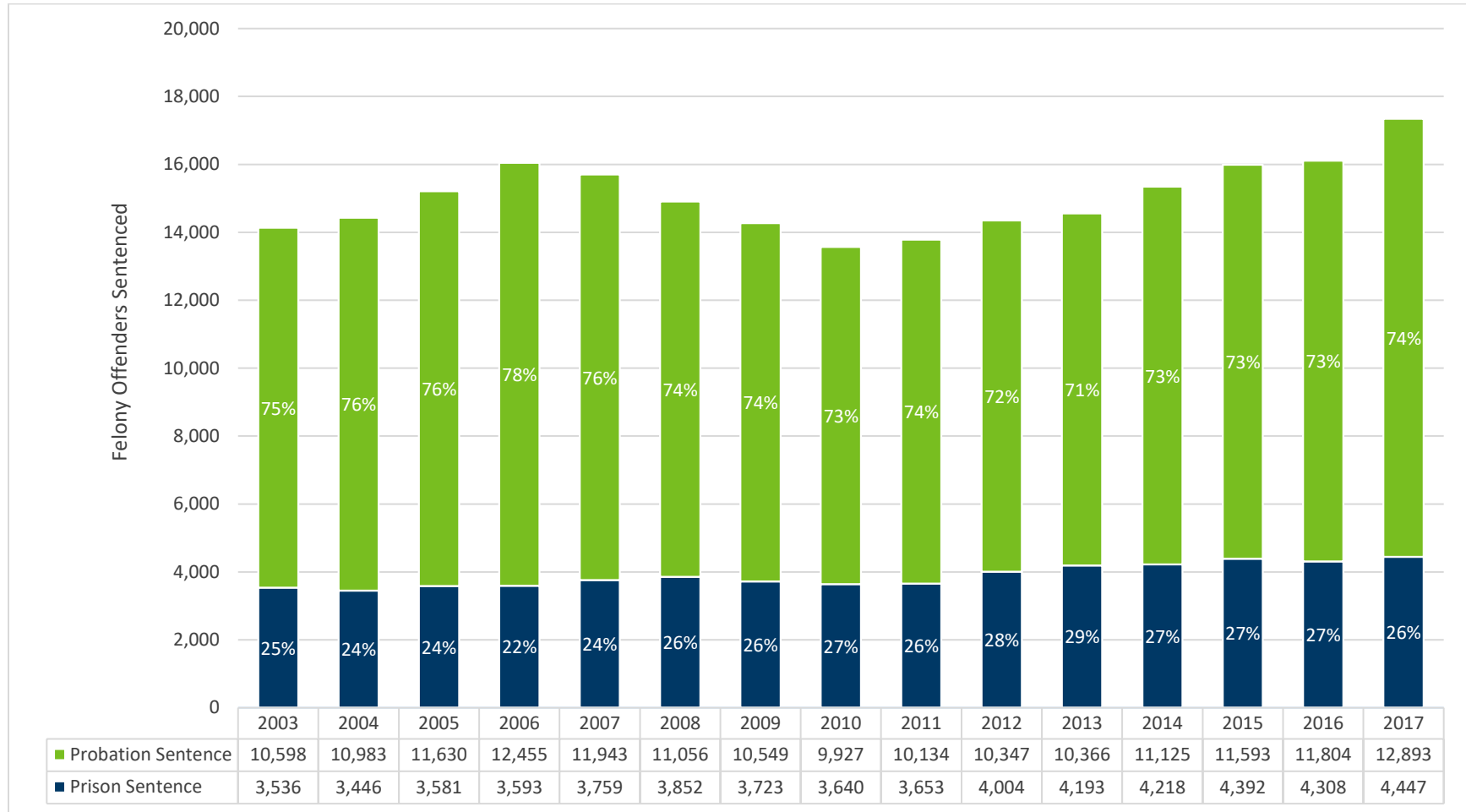
Volume of Cases and Revocation Data by Year

Figure 1 (p. 3) illustrates the total number of offenders sentenced to prison or probation for felony convictions from 2003 to 2017. Offenders are displayed by the type of sentence received. Excluded from Figure 1 are offenders who received a misdemeanor or gross misdemeanor sentence, or fine-only sentence, for a felony offense. These offenders are not subject to imprisonment as a result of a probation violation. On average, for people who were sentenced to either prison or probation, 75 percent were placed on probation and 25 percent were committed to prison.

Among those placed on probation, the length of probation varies by offense type and judicial district. More information on pronounced probation durations may be found in Appendix 2 on page 15.

⁵ “Other” category includes: Fleeing police, escape, voting violations, tax evasion laws, and other offenses of less frequency.

Figure 1. Number of Offenders Sentenced to Probation or Prison by Year Sentenced, 2003–2017



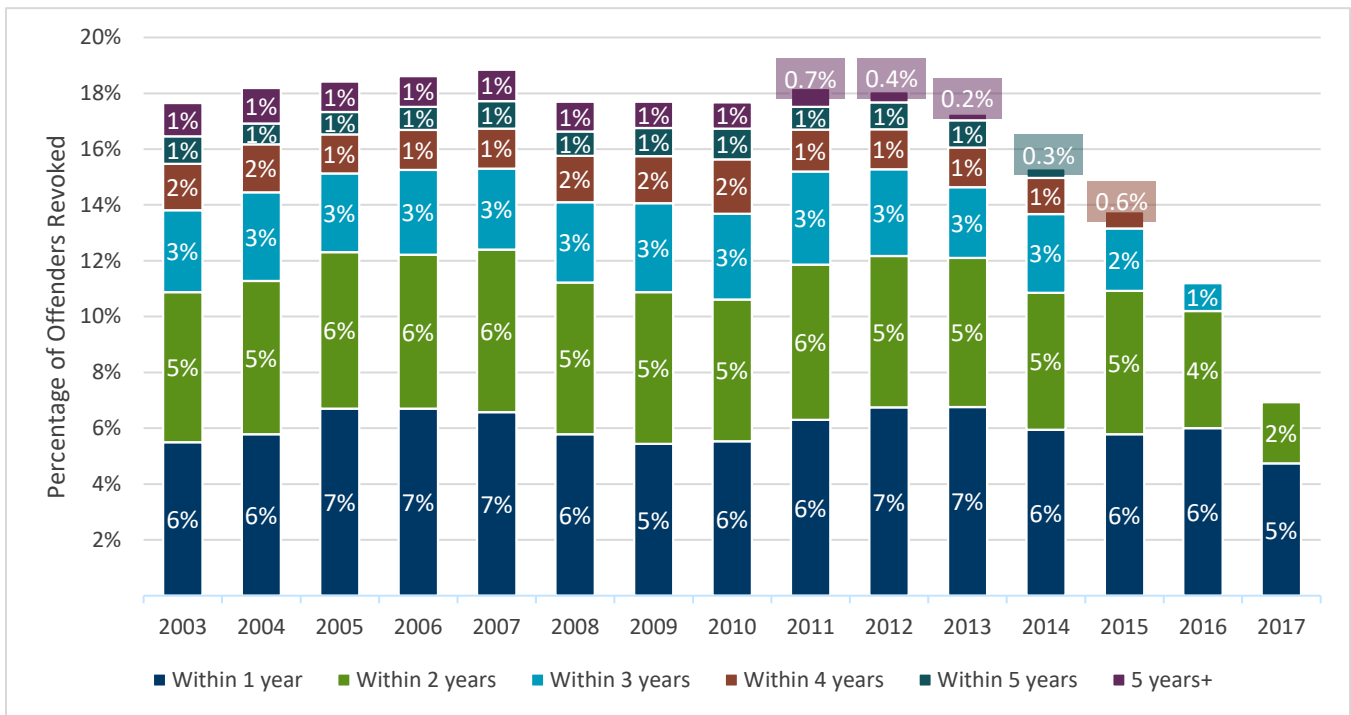
Revocation Data by Year Sentenced

While the total revocation rate is 16.2 percent, for most years for which six or more years of revocation data are available (cases sentenced 2003–2012) the revocation rate is about 18 percent. In Figure 2, the revocation data are presented by year sentenced.⁶ Revocation data reported for the most recent years are incomplete.

Offenders sentenced more recently have had less time at risk for revocation than offenders sentenced in earlier years. It is expected that the numbers for the more recent years will increase as more time passes, and as more data are added to this report.

The majority of revocations occurred within the first two years of receiving a felony probationary sentence (Figure 2). In 2017, five percent were revoked within the first year of being sentenced to probation. In 2016, six percent were revoked within the first year and another four percent were revoked within the second year. Of the offenders who were sentenced to probation in 2003, five percent were revoked to prison within one year of being sentenced, another five percent were revoked within the second year, three percent within the third year, two percent within the fourth year, one percent within the fifth year, and another one percent after five years.

Figure 2. Percent of Offenders Revoked by Year Sentenced, 2003–2017, Revoked through 2018



⁶ The data are cumulative, not standardized to a particular timeframe for revocation (e.g., tracking only offenders revoked within a three-year standardized timeframe). MSGC includes all revocations going back to 2003. For each year presented, the last data bar is incomplete. For example, in 2015, the “within 4 years” bar is only a partial year of the data. An offender sentenced in Jan. 2015 would fall in the “within 4 years” category if he/she was revoked at any time between Jan. 2015 and Dec. 2018, but an offender sentenced in Dec. 2015 would fall in that same category between Dec. 2015 and Nov. 2019. Since 2019 revocation data are not available, data are incomplete for the final bar.

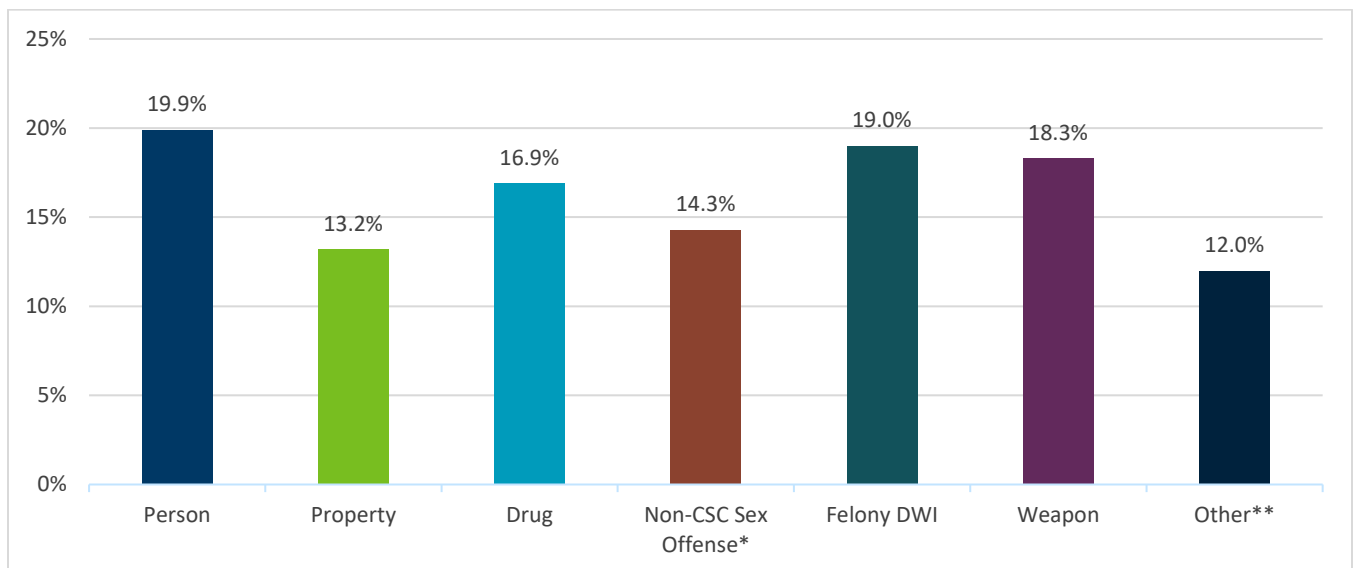
Combined Revocation Data, 2003–2017

In the figures and tables below, the revocation data were combined to provide information on total revocations for all cases sentenced between 2003 and 2017. Through December 31, 2018, the total combined revocation rate for cases sentenced during these years was 16.2 percent.

Revocation Rates by Offense Type

Figure 3 shows the percentage of offenders revoked within each offense type. Offenders convicted of person offenses were revoked at a higher rate. Offenders in the property and “other” category were revoked at the lowest rates.

Figure 3. Probation Revocation Rates by Offense Type, Sentenced 2003–2017, Revoked through 2018



* Non-CSC sex offense is an offense on the sex offender grid other than criminal sexual conduct (chiefly failure to register as a predatory offender and possession and dissemination of child pornography).

** “Other” category includes: Fleeing police, escape, voting violations, tax evasion laws, and other offenses of less frequency.

Table 1 (p. 6) displays revocation rates for offenses organized into general offense groups.⁷ As a group, offenders convicted of criminal sexual conduct (CSC) had the highest revocation rates (about 27%). Among the CSC offenses, second-degree CSC had the lowest revocation rate at 24 percent, while third degree had the highest revocation rate at 31 percent.

⁷ Offenses were grouped for easier comparison. It is important to note that there can be variation in revocation rates within these offense groups.

In the assault group, revocation rates for domestic assault by strangulation and first- through fourth-degree assaults ranged from 16 percent to 19 percent, while the revocation rates for fifth-degree assault and domestic assault were higher: 30 percent and 24 percent, respectively.

The revocation rates for possession or dissemination of child pornography (14%) and failure to register as a predatory offender (15%) were lower than those observed for CSC offenses. These offenses are on the Sex Offender Grid and are included in the non-CSC sex offense group in Table 1.

Among the controlled substance offenses (“Drug,” Table 1), the revocation rate ranged from 15 percent for first-degree to 18 percent for third-degree. The revocation rate was slightly higher for fourth-degree offenses at 21 percent. The revocation rate for fifth-degree offenses, the largest drug offense category, was 16.6 percent.

Among the theft offenses, the revocation rate for motor vehicle theft (21.6%) was much higher than the rate for theft of movable property (9.8%). The total rate for the general theft offense group was 11.3 percent (Table 1).

Table 1. Probation Revocation Rates by Offense Groups

Offense Type and Offense	Total Number of Probation Cases 2003–2017	Total Number of Revocations through 12/31/2018	Percentage of Cases Revoked
Person	42,580	8,491	19.9
Murder/Manslaughter	204	27	13.2
Assault	16,805	3,301	19.6
Criminal Sexual Conduct	5,079	1,362	26.8
Robbery	3,053	696	22.8
Threats of Violence/Stalking	13,537	2,510	18.5
Other Person	3,329	467	14.0
Property	56,188	7,389	13.2
Theft	21,649	2,445	11.3
Burglary	12,382	2,426	19.6
Other Property	22,730	2,646	11.6
Drug	47,358	7,981	16.9
Felony DWI	7,668	1,460	19.0
Non-CSC Sex Offense*	3,268	468	14.3
Weapon	2,398	438	18.3
Other**	7,946	950	11.9
Total	167,403	27,177	16.2

* “Non-CSC sex offense” is an offense on the sex offender grid other than criminal sexual conduct (chiefly failure to register as a predatory offender and possession and dissemination of child pornography).

** “Other” category includes: Fleeing police, escape, voting violations, tax evasion laws, and other offenses of less frequency.

Revocation Rates by Gender, Race & Ethnicity

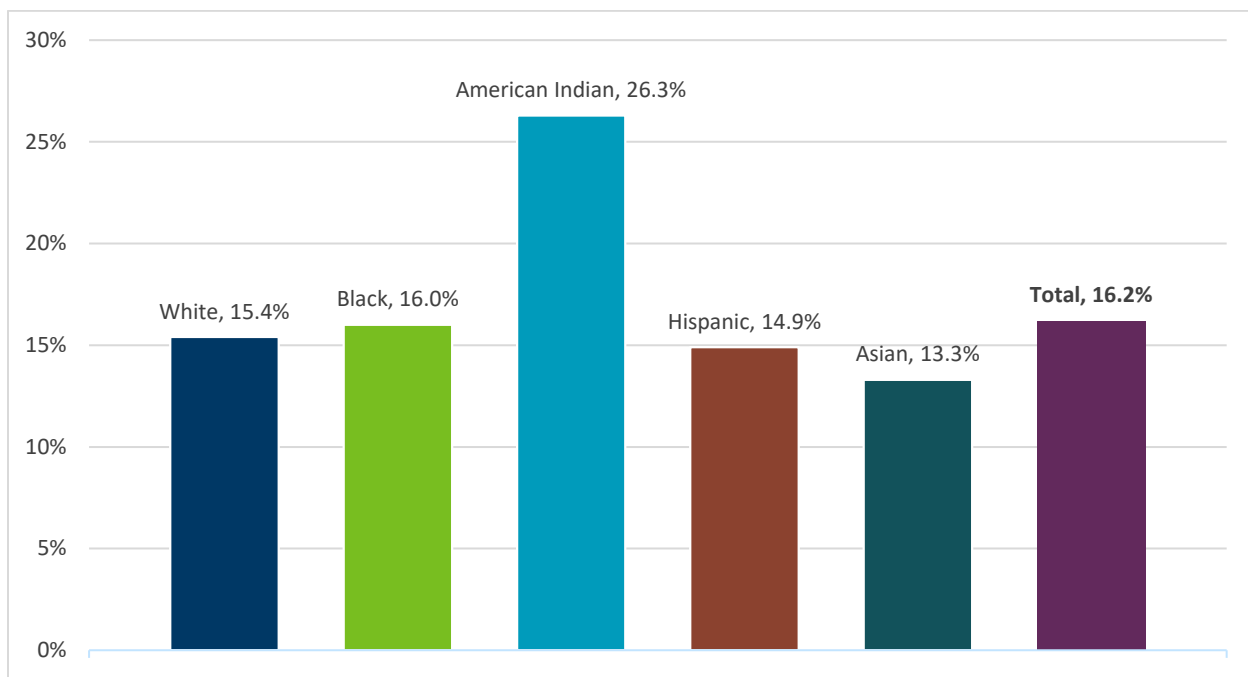
Approximately 79 percent of felony probationers are male and 21 percent are female. Figure 5 (“Total”) shows the percentage of offenders revoked by gender. Male offenders had a higher rate of probation revocation than female offenders (17.1% versus 12.9%).

From 2003 to 2017, 61.9 percent of felony probationers were white, 23.4 percent black, 6.9 percent American Indian, 5.2 percent Hispanic, and 2.4 percent Asian. The racial and ethnic make-up of felony probationers remained fairly constant over this timeframe.

Figure 94 shows probation revocations by race and ethnicity. American Indian offenders have their probation revoked at a higher rate than any other racial or ethnic group. Asian offenders have the lowest rate at 13.3 percent, while the rate for American Indian offenders was 26.3 percent. The average revocation rates for the other groups were approximately 15 to 16 percent.

American Indian offenders had the highest revocation rates for both male and female offenders (Figure 5, p. 8) and the highest revocation rate in each offense type (Figure 6, p. 8).

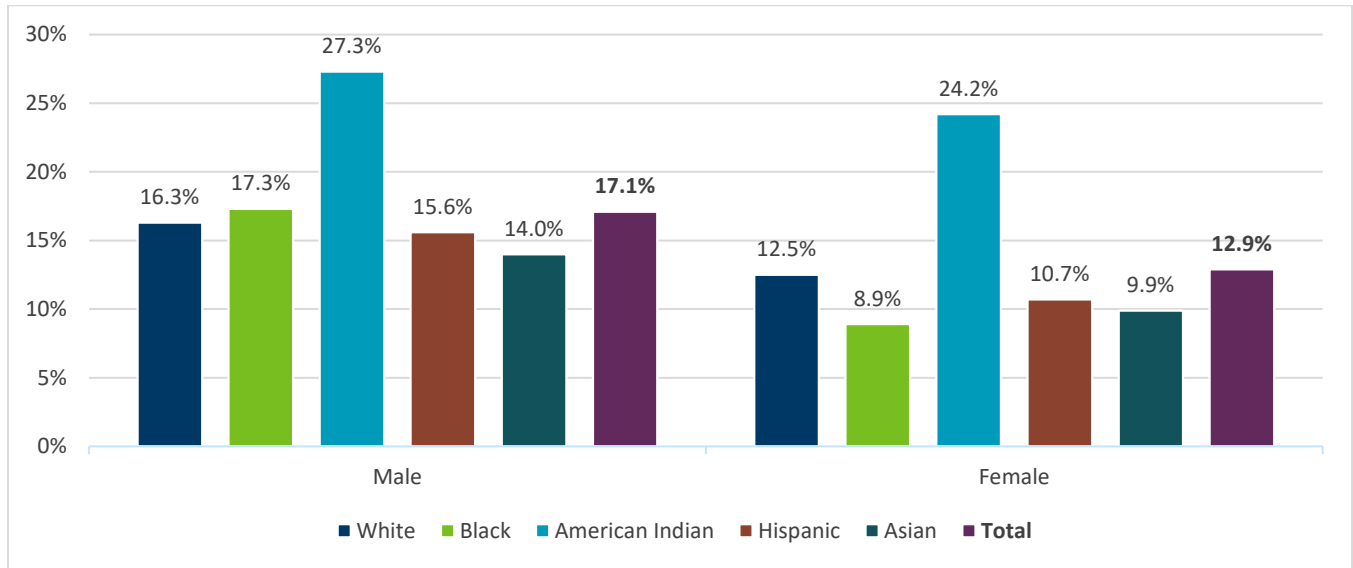
Figure 4. Probation Revocation Rates by Race & Ethnicity, Sentenced 2003–2017, Revoked through 2018



Note: Thirteen revoked offenders for whom race is “other” or “unknown” were excluded.

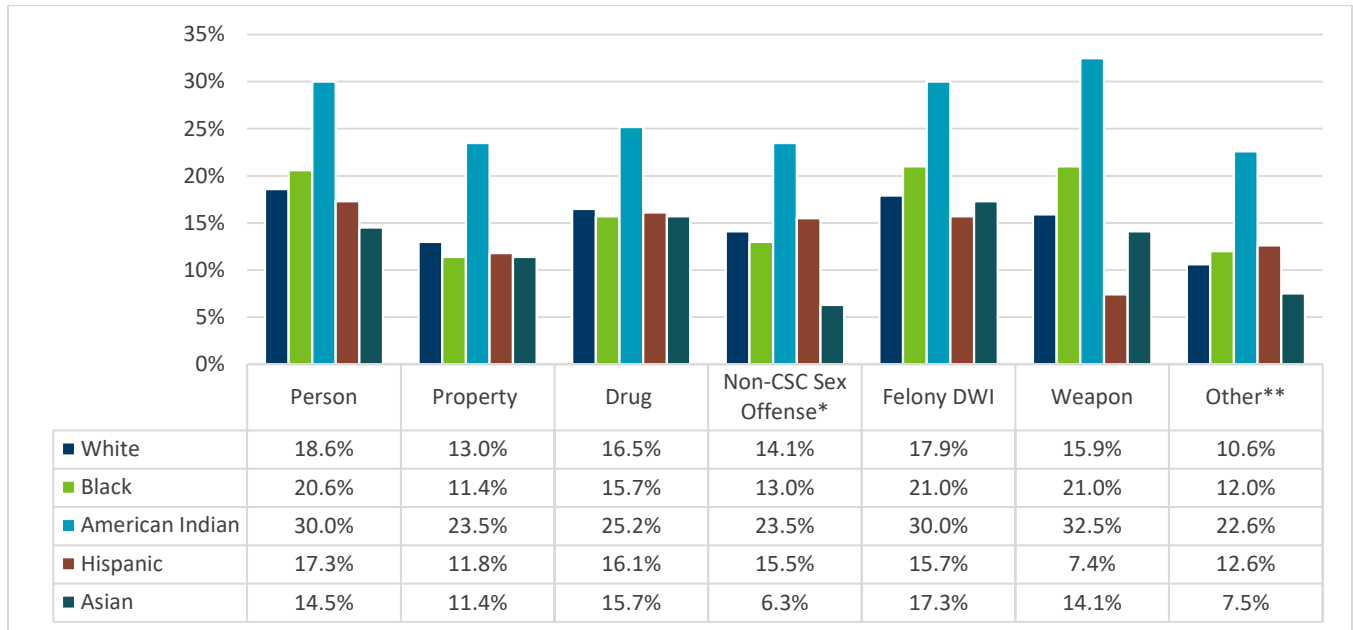
When revocation rates are examined by race & ethnicity and offense type (Figure 6), American Indian offenders have higher revocation rates than other racial and ethnic groups in all offense types. The revocation rates for property offenses are particularly notable because the rates for people of other racial and ethnic groups are, on average, 12 percent, while the rate for American Indians is double, at 24 percent.

Figure 5. Probation Revocation Rates by Gender by Race & Ethnicity, Sentenced 2003–2017, Revoked through 2018



Note: Thirteen offenders for whom race is “other” or “unknown” were excluded.

Figure 6. Probation Revocation Rates by Offense Type and Race/Ethnicity, Sentenced 2003–2017, Revoked through 2018



Note: Thirteen revoked offenders for whom race is “other” or “unknown” were excluded.

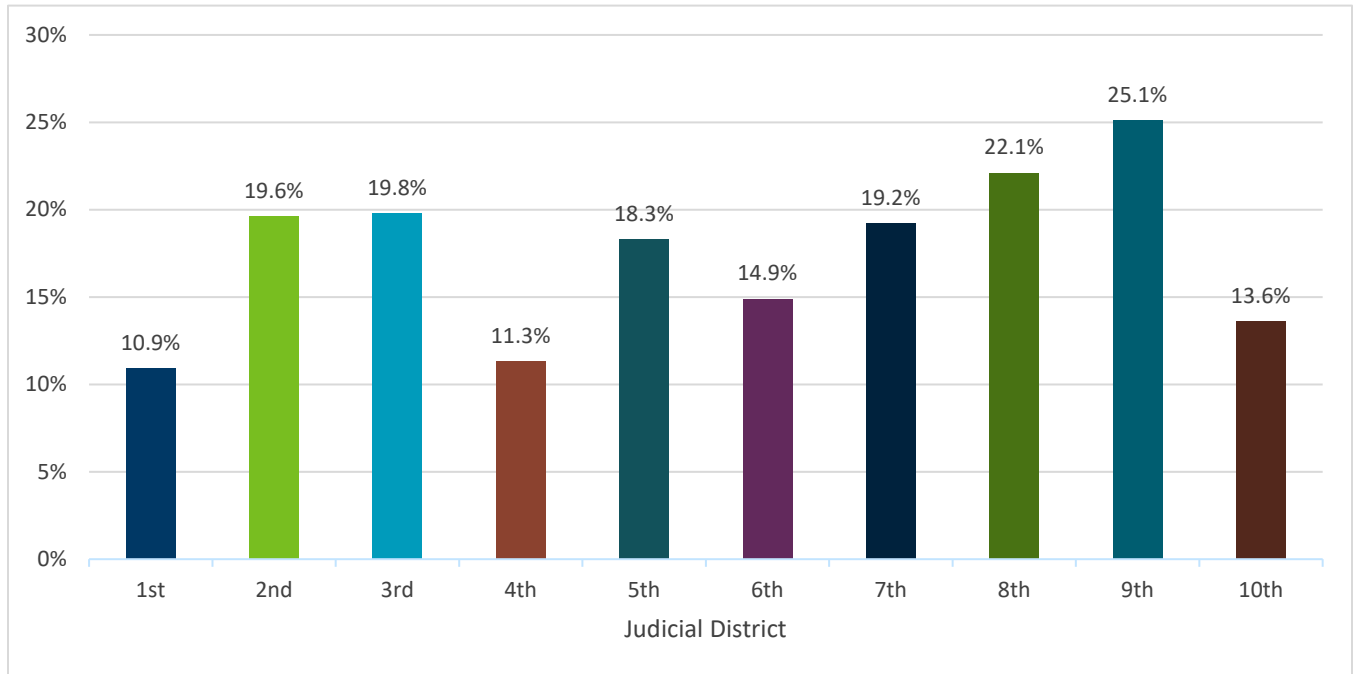
* “Non-CSC sex offense” is an offense on the sex offender grid other than criminal sexual conduct (chiefly failure to register as a predatory offender and possession and dissemination of child pornography).

** “Other” category includes: Fleeing police, escape, voting violations, tax evasion laws, and other offenses of less frequency.

Revocation Rates by Judicial District

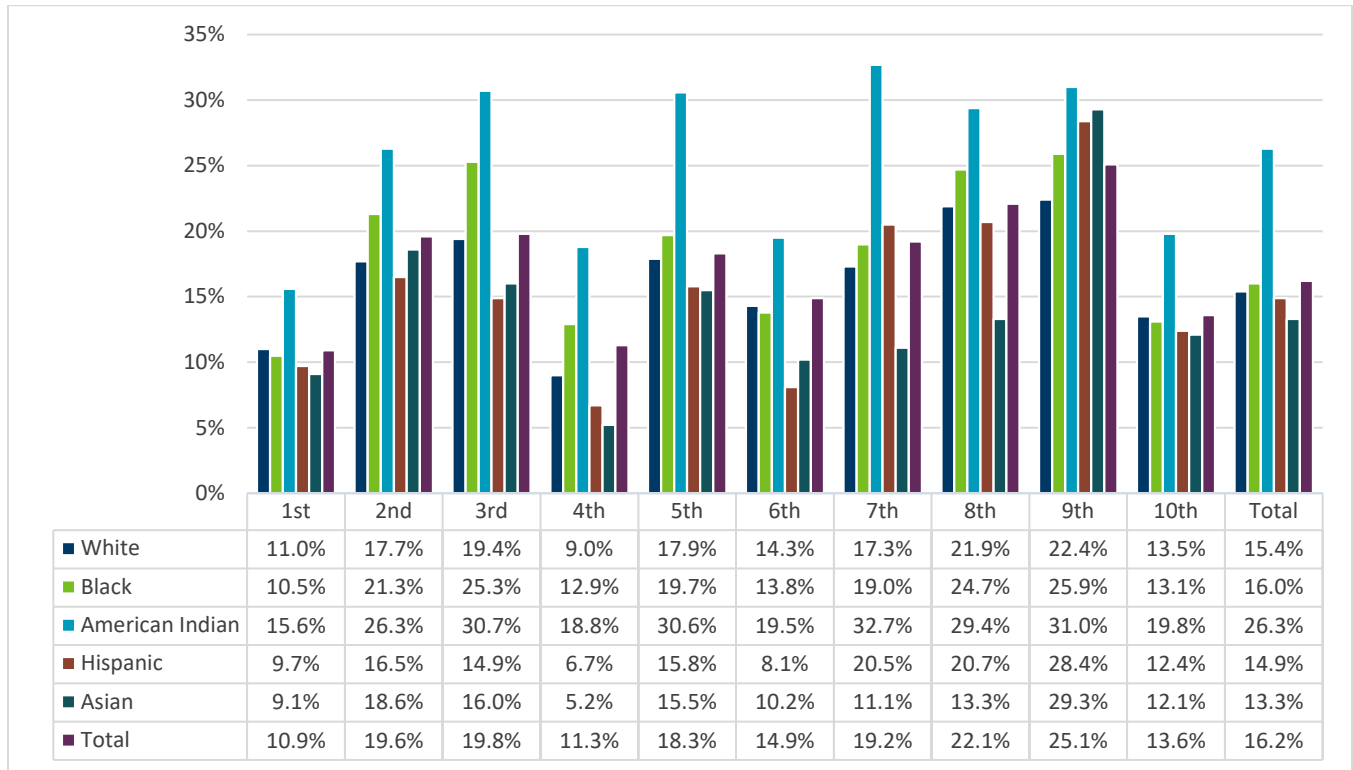
Figure 7 provides revocation rates by Minnesota judicial district. The Eighth Judicial District and Ninth Judicial District have the highest rates of revocation (over 20%), while the First Judicial District and Fourth Judicial District have the lowest (under 12%). See Appendix 4 (p. 14) for a map of Minnesota’s ten judicial districts.

Figure 7. Probation Revocation Rates by Judicial District, Sentenced 2003–2017, Sentenced through 2018



The relatively high revocation rate for probationers who are American Indian (Figure 4, p. 7) is not explained by the facts that the Ninth Judicial District has the highest revocation rate among judicial districts (Figure 7) and that American Indians make up a larger proportion of probationers in the Ninth Judicial District than other districts (27.7% of probationers in the Ninth District compared to 6.9% of all probationers). Probationers who are American Indian have the highest revocation rates in all judicial districts (Figure 8, p. 10). Even when American Indians are excluded, revocation rates remain highest in the Ninth Judicial District compared with other judicial districts (22.8% in the Ninth District compared to 15.0% statewide).

Figure 8. Probation Revocation Rates by Judicial District by Race & Ethnicity, Sentenced 2003–2017, Revoked through 2018



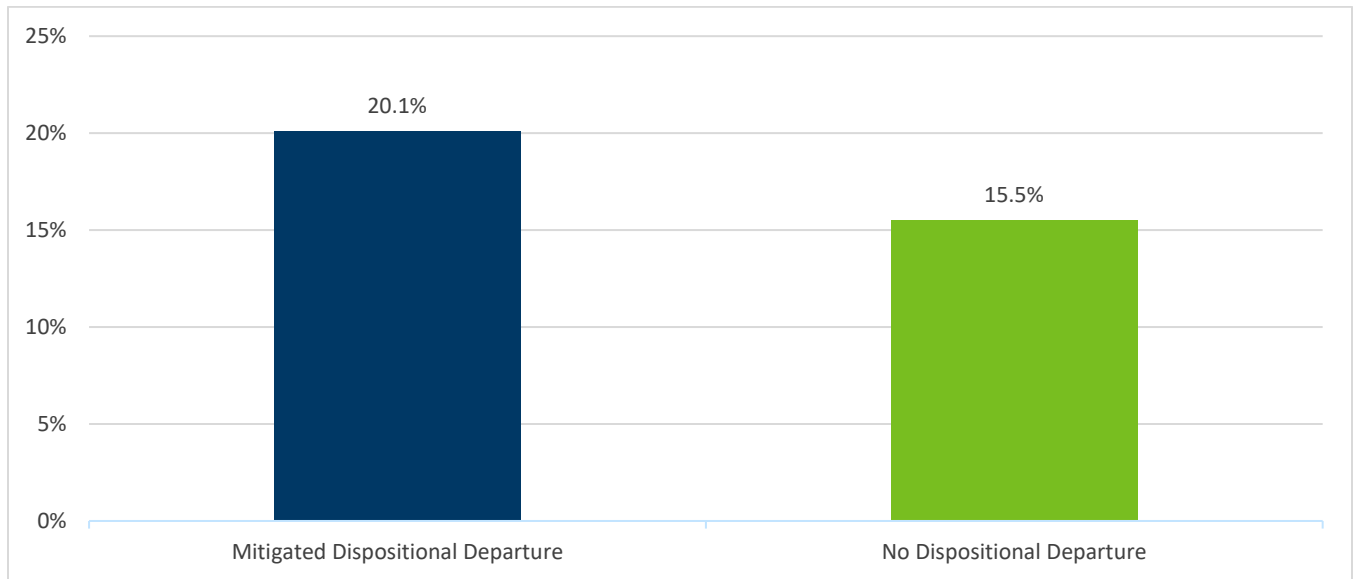
Note: Thirteen revoked offenders for whom race is “other” or “unknown” were excluded.

Revocation Rates by Dispositional Departures

Revocation rates were higher for offenders who were originally given mitigated dispositional departures at sentencing. A mitigated dispositional departure occurs when the Guidelines recommend a prison sentence, but the court imposes a stayed probationary sentence instead. The Guidelines recommend prison for offenders who either have committed more serious offenses or who have accumulated multiple criminal history points.

Figure 9 shows the revocation rate for offenders who had received mitigated dispositional departures (20.1%) compared with those who had received presumptive probation sentences (15.5%). A total 15 percent of the felony offenders on probation received mitigated dispositional departures. For more information on total departure rates, see MSGC’s report entitled *2018 Sentencing Practices: Annual Summary Statistics for Felony Offenders*, available at mn.gov/sentencing-guidelines/reports.

Figure 9. Probation Revocation Rates by Dispositional Departure, Sentenced 2003–2017, Revoked through 2018



Revocation Rates by County

Table 2. Revocation Data by County, Sentenced 2003-2017, Sentenced through 2018

County	Total Number of Probation Cases 2003–2017	Total Number of Revocations through 12/31/2018	Percentage of Cases Revoked
Aitkin	687	154	22.4
Anoka	9,621	1,243	12.9
Becker	1,563	366	23.4
Beltrami	2,162	726	33.6
Benton	1,543	337	21.8
Big Stone	105	25	23.8
Blue Earth	2,188	372	17.0
Brown	532	100	18.8
Carlton	1,544	120	7.8
Carver	1,541	119	7.7
Cass	1,498	303	20.2
Chippewa	339	83	24.5
Chisago	1,560	226	14.5
Clay	2,278	585	25.7
Clearwater	342	64	18.7
Cook	132	19	14.4
Cottonwood	431	65	15.1
Crow Wing	2,231	571	25.6

County	Total Number of Probation Cases 2003–2017	Total Number of Revocations through 12/31/2018	Percentage of Cases Revoked
Dakota	11,609	1,141	9.8
Dodge	462	116	25.1
Douglas	1,050	167	15.9
Faribault	497	75	15.1
Fillmore	329	61	18.5
Freeborn	1,149	326	28.4
Goodhue	1,625	170	10.5
Grant	111	24	21.6
Hennepin	31,406	3,559	11.3
Houston	531	94	17.7
Hubbard	717	123	17.2
Isanti	1,346	139	10.3
Itasca	1,968	583	29.6
Jackson	298	51	17.1
Kanabec	780	167	21.4
Kandiyohi	1,666	375	22.5
Kittson	93	14	15.1
Koochiching	398	102	25.6
Lac qui Parle	105	16	15.2
Lake	322	48	14.9
Lake of the Woods	122	20	16.4
Le Sueur	506	72	14.2
Lincoln	85	17	20.0
Lyon	905	192	21.2
McLeod	1,286	178	13.8
Mahnomen	776	136	17.5
Marshall	219	39	17.8
Martin	910	236	25.9
Meecker	482	119	24.7
Mille Lacs	1,433	326	22.7
Morrison	1,143	277	24.2
Mower	1,731	494	28.5
Murray	199	25	12.6
Nicollet	598	119	19.9
Nobles	806	82	10.2
Norman	213	64	30.0
Olmsted	4,625	1,013	21.9
Otter Tail	1,667	228	13.7
Pennington	674	94	13.9
Pine	1,391	113	8.1

County	Total Number of Probation Cases 2003–2017	Total Number of Revocations through 12/31/2018	Percentage of Cases Revoked
Pipestone	251	39	15.5
Polk	1,848	560	30.3
Pope	205	53	25.9
Ramsey	20,241	3,961	19.6
Red Lake	121	17	14.0
Redwood	837	188	22.5
Renville	429	68	15.9
Rice	1,618	123	7.6
Rock	125	17	13.6
Roseau	548	99	18.1
St Louis	8,645	1,401	16.2
Scott	3,457	490	14.2
Sherburne	2,388	304	12.7
Sibley	426	64	15.0
Stearns	5,007	683	13.6
Steele	1,252	201	16.1
Stevens	140	29	20.7
Swift	201	54	26.9
Todd	593	123	20.7
Traverse	91	19	20.9
Wabasha	582	95	16.3
Wadena	587	149	25.4
Waseca	498	114	22.9
Washington	5,361	947	17.7
Watonwan	449	90	20.0
Wilkin	145	27	18.6
Winona	1,541	199	12.9
Wright	2,991	327	10.9
Yellow Medicine	296	63	21.3
Total (Statewide)	167,403	27,177	16.2

Appendices

Appendix 1. Procedures for Calculating Revocations

This analysis includes felony offenders who initially received a stayed probationary sentence between 2003 and 2017. Offenders were tracked for revocations through December 31, 2018. Probation revocations are determined through a process of matching Department of Corrections (DOC) prison admission data with MSGC sentencing data.⁸ The DOC data include admissions as a result of revocations. An offender who was revoked to prison following a conviction for a new felony crime are classified by DOC as a “new admissions” and are not included in this analysis. MSGC would like to stress the following limitations in this report:

1. This is not intended to be a recidivism study. It describes, in very basic terms, revocation data for felony offenders who were originally sentenced to probation. The analysis does not statistically control for a variety of factors that may influence an offender’s success.
2. The data were not standardized: All offenders sentenced between 2003 and 2017 were tracked through December 31, 2018. Therefore, an offender sentenced to probation on January 2, 2003 is tracked for a longer period of time (fifteen years, 11 months, 30 days), while an offender sentenced to probation on January 2, 2017 is tracked for a shorter period of time (1 year, 11 months, 30 days). It is our intention to update this report annually when new prison admissions data are available from DOC.
3. This analysis captures only revocations due to probation violations. Any revocations due to new felony commitments are excluded. This analysis does include revocations due to new misdemeanor or gross misdemeanor convictions, as well as “technical” violations, as these are all considered violations of the terms of felony probation. Also, this analysis does not account for any previous attempts by the court to “restructure” an offender’s stayed sentence before revoking it.⁹
4. MSGC recognizes that offenders are not typically “at risk” for violating terms of probation while they are confined in a jail or workhouse. In the majority of cases, some conditional confinement time was pronounced as part of the initial stayed sentence. For the offenders placed on probation from 2003-2017, the total conditional confinement rate was 89 percent.
5. Although MSGC has data for offenders sentenced in 2018, these offenders have been excluded from this report because there had not been a full calendar year in which to track them while on probation.
6. This report excludes offenders who originally had a stay of adjudication and received a prison sentence upon revocation. A stay of adjudication does not meet the definition of an initial stayed sentence, as described above, because the offender was not convicted.¹⁰ This report tracks revocations of probationary sentences imposed following conviction.

⁸ MSGC monitoring data are offender-based; cases represent offenders rather than individual charges. Offenders sentenced within the same county in a one-month period are generally counted once, based on their most serious offense.

⁹ See [Minn. Stat. § 609.14](#). Even if considered to be a revocation (of, for example, a stay of imposition), a restructuring of sentence that does not result in commitment to the Commissioner of Corrections is outside the scope of this report.

¹⁰ See Minn. Sentencing Guidelines § 2.D.1.e and 2.D.106.

Appendix 2. Average Pronounced Probation Lengths

The following information displays the average pronounced¹¹ probation length, in months, for felony¹² cases¹³ sentenced from 2016–2018. The average pronounced probation duration was 64.7 months. The most common probation term was 60 months and 84 percent of probation terms were of 5 years or less.

Figure 10 displays the average pronounced probation length by offense type. Criminal sexual conduct offenses received significantly longer probation terms when compared to other offense types.

Figure 10. Average Pronounced Probation Length, in Months, by Offense Type, 2016–2018

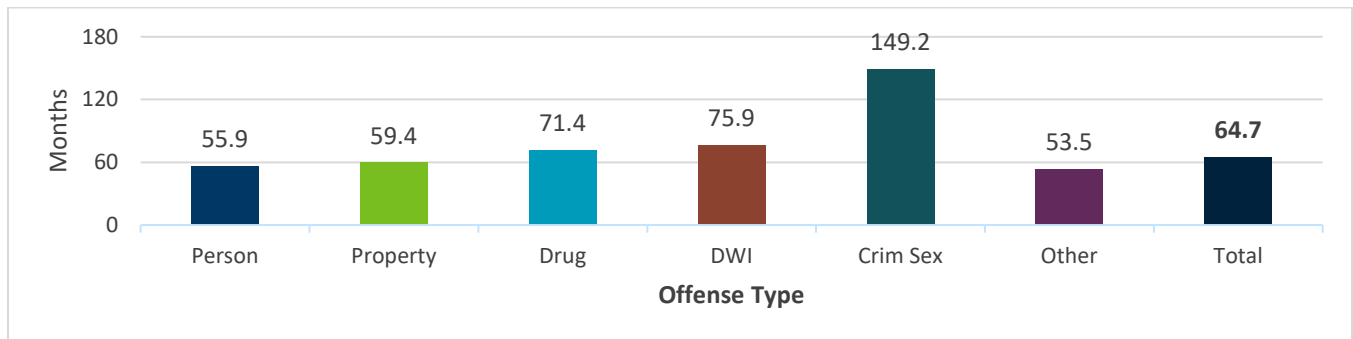
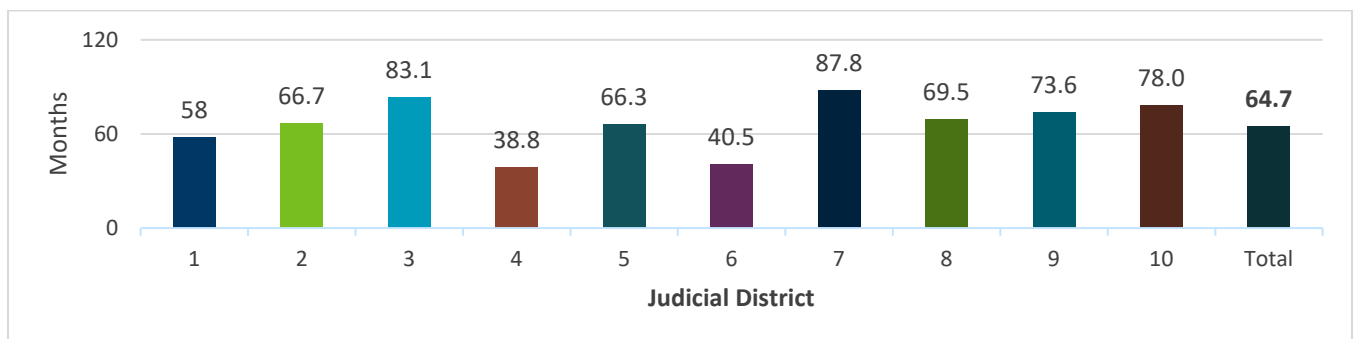


Figure 11 displays average pronounced probation terms by judicial district. While the average pronounced probation term ranged from a low of 39 months in the fourth district to a high of 88 months in the seventh district; in all districts, more than 70 percent of probation terms were of 60 months or less. In the fourth district, 99 percent of probation terms were of 60 months or less; while in the third and seventh districts, 73 percent of probation terms were of 60 months or less.

Figure 11. Average Pronounced Probation Length, in Months, by Judicial District, 2016–2018



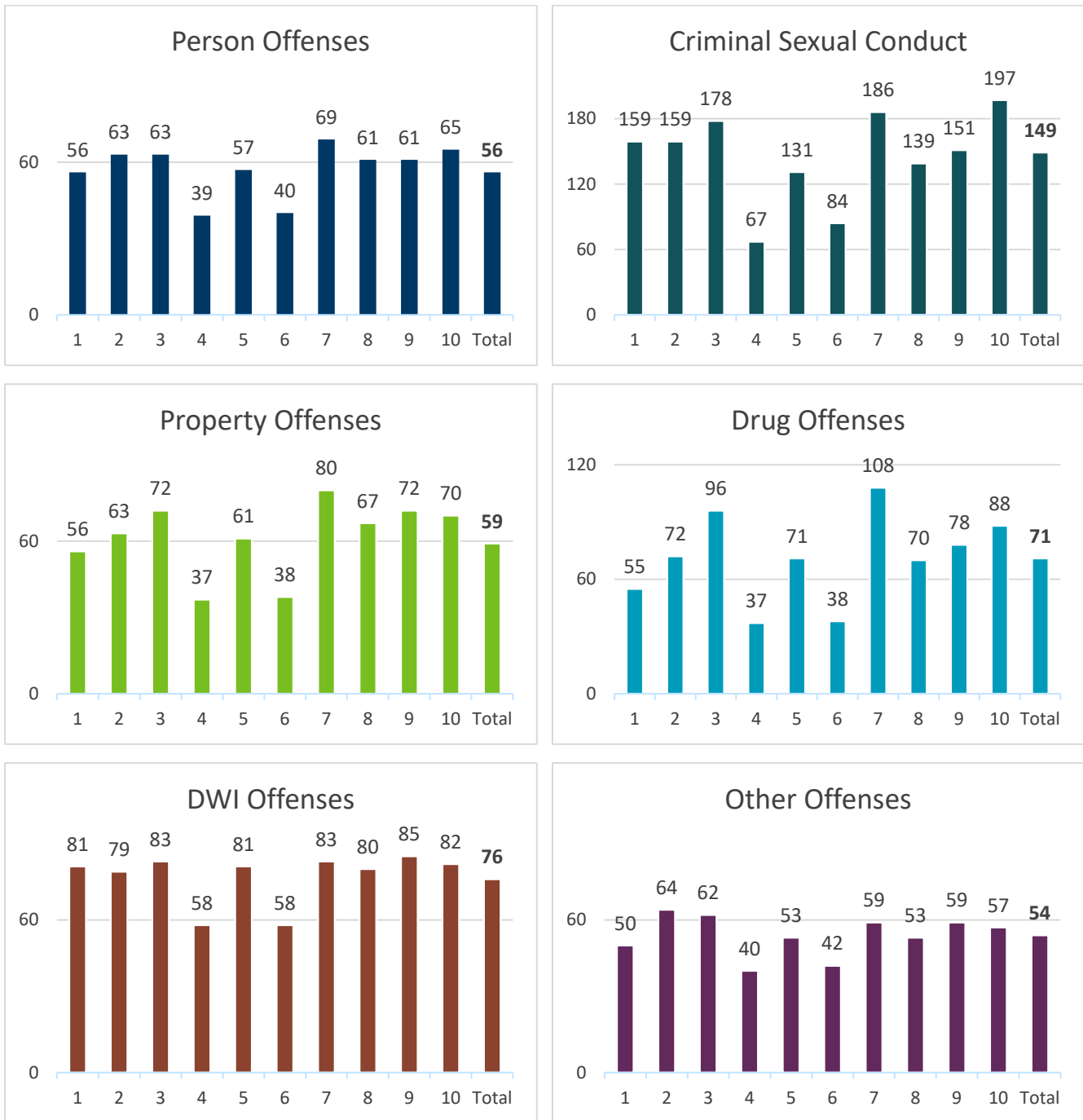
¹¹ MSGC has no information on how long offenders actually serve on probation before they are discharged.

¹² Probation terms for felony offenses that received misdemeanor or gross misdemeanor sentences are excluded, as were probation terms of less than one month since such terms involve almost immediate discharges from probation with credit for time served.

¹³ Minnesota Sentencing Guidelines Commission monitoring data are offender-based, meaning cases represent offenders rather than individual charges. Offenders sentenced within the same county in a one-month period are generally counted only once, based on their most serious offense.

The following set of graphs (Figure 12) display the average pronounced probation terms by offense type and judicial district. For example, from 2016–2018, the average pronounced probation term for person offenses in District 1 was 59 months. Criminal sexual conduct offenses have the longest average pronounced probation term in every district.

Figure 12. Average Pronounced Probation Term, in Months, by District and Offense Type, 2016–2018



Appendix 3. How the Guidelines Work

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

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

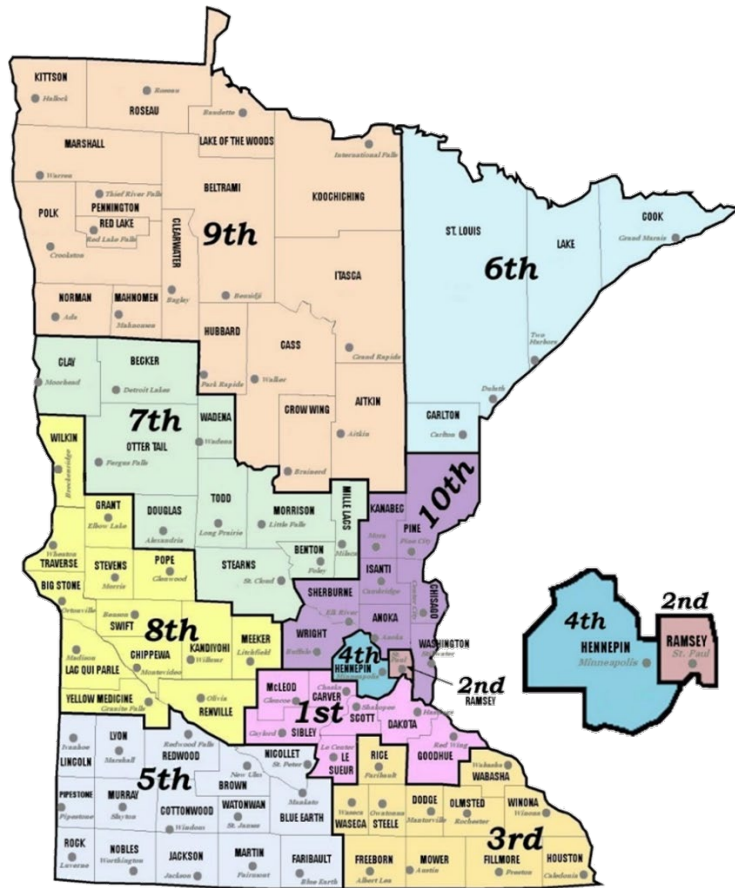
The recommended (presumptive) guideline sentence is found in the cell of the sentencing grid in which the offender's criminal history score and severity level intersect. The Guidelines recommend imprisonment in a state prison in the non-shaded cells of the grid.

The Guidelines generally recommend a stayed sentence for cells in the shaded area of the 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 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>.

Appendix 4. 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.

In addition to the Subcommittee’s review of what local EJs can do to improve the disparities in probation revocations, the Subcommittee spoke with a number of justice partners to see what they are doing to stem the issue.

I. Blue Earth County

Courts can use current caps to probation, limiting the duration to a maximum of five years, with certain exceptions.¹ This has already been put into practice in some counties. Blue Earth County stated “[i]n relation to probation caps, some of the changes we made have been related to sentencing lengths. We started with a training on smarter sentencing. Outside of criminal sexual conduct and felony DWI, we have tried to shorten the lengths of supervision in cases therefore looking to reduce the number of violations submitted. The theory is not to hold on to people just to try and catch them.”

II. Ramsey County

Ramsey County has gone further with probation term limits, stating that there was a change from the typical recommendations of five-year probation lengths to often two or three-year lengths for lower level felony offenses, such a fifth-degree controlled substance cases. Another change was that courts were ultimately ordering fewer conditions of probation, so as not to be setting up probationers for failure. Finally, many courts in the county are expanding the use of home monitoring as the sentence, rather than in addition to a sentence.

III. MACCAC 6W (Chippewa, Lac qui Parle, Swift, and Yellow Medicine counties)

Regarding probation caps, MACCAC 6W Community Corrections stated that “consistent with research and smart sentencing practices, some time ago our agency revised our recommended felony probationary periods to a standard of not more than five years with the exceptions of sex offenses and felony DWI/CVO.”

MACCAC 6W Community Corrections also worked in conjunction with the bench of each of its counties to implement a swift, certain, and fair protocol for high-risk and high-need felony probation cases. The program is called SCERT, and the model was based on the Hawaii Hope program. Technical violations, such as missed appointments, failure to test, or positive chemical tests are addressed swiftly with a brief sanction of three, six, or nine days in jail for the first, second, or third violation, respectively. During that time, probationers are also placed on a random color coded testing program, engaged in cognitive behavioral interactions, and assessed for treatment service for any chemical dependency issues. Four or more violations typically result in a longer local jail sanction to allow for an updated chemical use assessment while in custody to determine the appropriate treatment course. Probationers are often allowed furlough from the remaining sanction when an appropriate treatment bed is located and available.

Finally, MACCAC 6W made specific note that they have established probation reform in general by revising early discharge recommendations and by making most felony offenses eligible for discharge within 12, 18, or 24 months if the probationer has met all special conditions (the county does not consider payment of a fine a special condition) and been violation-free for the previous twelve months. Additionally, because

¹ The MSGC updated its probation cap guidelines to a maximum of five years, with exceptions for homicide and sex offenses, effective August 1, 2020.

this is a recent change, MACCAC 6W stated that all cases that have been on supervision for five or more years will be recommended for early discharge if they meet that criteria.

IV. Washington County

Washington County Courts have partnered with community corrections to sentence probationers to a trial program called Dosage Probation.² In this program, the court may sentence the offender to five years of probation, then the community corrections team assesses whether the probationer would be eligible for early discharge based on the probationer's internal motivation to change their behavior. This program has only been instituted in two counties across the country, and shows much promise in aspects of reform, reduction of revocations, and reduction of recidivism.

V. Hennepin County

Hennepin County Courts have made some progress working with their county corrections staff to implement a meet and release warrant, for those low level first-time violators with whom they have lost contact or never had contact, in which the probationer will be booked into jail, then released shortly thereafter. Also, when looking at bail reduction efforts, conditional release, or drug testing, the courts have worked closely with the county probation staff to reduce revocations.

VI. Beltrami County

One observation from a Beltrami corrections supervisor was that several years ago Beltrami courts took a fairly regimented approach to probation, and the third violation, even if a technical violation, was likely to result in an executed sentence. However, corrections report that in recent years, the overall dynamic has changed in a way that favors reduced revocation rates. For example, there are several specialty courts in Beltrami County that are driving down revocation rates. The oldest, a DWI court, has been in action since 2006. In 2012-13, a domestic violence specialty court was piloted, and has been successful in keeping down probation revocations. Finally, a nascent drug court may further drive down revocation rates when it is fully established.

VII. Robina Institute and the DOC

Several counties have brought in the Robina Institute at the University of Minnesota to discuss ways to improve rates of probation revocation in general, and the disproportionate impact of revocations on minority populations. Notably, the Minnesota Department of Corrections has also been working closely with the Robina Institute to meet with chief judges in districts with the highest percentages of revocations, with the goal of establishing working committees in counties consisting of local stakeholders, DOC, and the Robina Institute to review joint sentencing and probation data, and develop specific recommendations and action steps within those counties to reduce revocations.

Beltrami County worked with the Robina Institute to further delve into their statistics on probation revocations. This process is still under way, but positive changes have already begun. For example, with a high Native American population in the district, Beltrami County has worked with tribal leaders to implement a mentorship program for people who are on probation. The county has also worked with the Wilder Foundation to survey high-risk and high-needs probationers. These surveys were particularly

² <https://s3.amazonaws.com/static.nicic.gov/Library/027940.pdf>

helpful to identify a higher than typical number of probationers who do not have reliable transportation, and Beltrami community corrections is now doing more home visits than many other counties as a response.

Ramsey County partnered with the Robina Institute to start looking more in-depth at its probation violation data as a pathway to revocation. In the process, Ramsey County applied for and was awarded the Reducing Revocations Challenge Grant. This initiative focuses on transforming community supervision and reducing the failures of supervision that contribute to mass incarceration. As part of the grant, Ramsey County is conducting quantitative and qualitative analyses and a policy review to gain better understanding of the drivers of probation revocation in the county. The findings will be used to develop local strategy to reduce revocations.