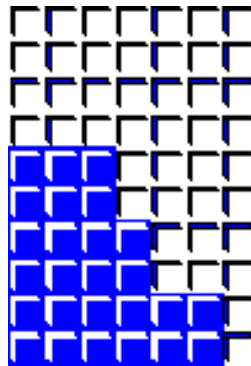


MINNESOTA SENTENCING GUIDELINES COMMISSION

Sentencing Practices

Weapons Offenses Sentenced in 2010

Published January 2012



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Summary of 2010 Data

Minnesota has had a mandatory minimum provision for certain felony offenses involving weapons since 1969, prior to the enactment of the sentencing guidelines. Legislators wanted to treat offenders who commit offenses with a dangerous weapon harshly, but they have also recognized that circumstances may exist that justify a sentence other than prison. The statute allows for sentencing apart from the specified mandatory minimum if substantial mitigating factors exist, unless the offense is a second or subsequent offense involving the use or possession of a firearm.

This report summarizes the mandatory minimum provisions for weapon offenses and describes the relationship and interaction between the mandatory minimums and the sentencing guidelines. The main body of the report focuses on sentencing practices for offenders sentenced in 2010, whose most serious conviction offense carried a mandatory minimum prison sentence under Minn. Stat. § 609.11. A weapon offense was identified based on whether the sentencing worksheet indicated that a finding was made that a weapon was involved and that the mandatory minimum provisions of Minn. Stat. § 609.11 applied. A discussion of the data, and their limitations, is included at the end of this report.

In 2010, 93 percent of the cases involving a dangerous weapon resulted in a sentence that included incarceration in a state or local facility: 60 percent were sentenced to prison and 33 percent received time in a local facility as a condition of probation. Imprisonment rates were significantly higher for offenders who had prior felony offenses (Figure 6). The rate for offenders with no prior felony offenses was 51 percent, compared to 70 percent for those with at least one prior felony offense. The average pronounced prison sentence was 71 months. Prison sentences ranged from 23 months for third-degree assault to 267 months for second-degree murder. Less than half (31%) of the cases involved the use of a weapon other than a firearm. Sixty-nine percent involved a firearm: 23 percent involved the use of a firearm; 17 percent involved the possession of a firearm; 29 percent involved a felon in possession of a firearm. Convictions for second-degree assault accounted for 33 percent of the cases.

Minn. Stat. § 609.11 – Mandatory Minimum Provisions

Minnesota Statute § 609.11, specifies the length of the mandatory minimum prison sentences that apply to offenses involving dangerous weapons and lists the conviction offenses to which the mandatory minimums apply. A mandatory minimum prison sentence applies if a finding of weapon involvement was made, and if the offender was convicted of one of the specific offenses listed in the statute (Minn. Stat. § 609.11, subd. 9). This mandatory minimum sentence applies regardless of the offender’s presumptive sentence according to the sentencing guidelines grid.

The statute specifies different penalties for firearm use and possession than for use of another dangerous weapon. The statute defines weapon use as, “brandishing, displaying, threatening with, or otherwise employing” a firearm or other dangerous weapons. The statute contains enhanced penalties for offenders who commit a second or subsequent offense. See Table 1 for specific mandatory minimums based on the type of weapon and type of use, as well as a history of the statute.

Minn. Stat. § 609.11, simply defines the circumstances under which the mandatory minimums apply. The statute does not need to be cited in the complaint for the mandatory minimum to apply.

Table 1. Mandatory Minimum Sentences

Type of Weapon / Type of Use	First Conviction	Subsequent Conviction
<i>Committed on/after January 1, 1999</i>		
Other Dang. Weapon Use	1 yr & 1 day	3 years
Use or Poss. of Firearm	3 years	5 years
Felon in Poss. of Firearm	5 years	5 years
<i>Committed on/after August 1, 1996</i>		
Other Dang. Weapon Use	1 yr & 1 day	3 years
Use or Poss. of Firearm	3 years	5 years
Felon in Poss. of Firearm	18 months	5 years
<i>Committed on/after August 1, 1994</i>		
Other Dang. Weapon Use	1 yr & 1 day	3 years
Use or Poss. of Firearm	3 years	5 years
<i>Committed before August 1, 1994</i>		
Other Dang. Weapon Use	1 yr & 1 day	3 years
Possession of Firearm	1 yr & 1 day	3 years
Use Firearm	3 years	5 years

Prosecutorial and Judicial Responsibilities and Discretion (Minn. Stat. § 609.11, subds.7 and 8)

The statute requires the factfinder to determine whether the defendant or an accomplice used or possessed a firearm or dangerous weapon in the commission of the offense at the time of a verdict or finding of guilt at trial, or the entry of a guilty plea. In addition, the factfinder must determine at sentencing whether the offense constitutes a second or subsequent offense.

The statute specifically allows the prosecutor to file a motion to have the defendant sentenced without regard to the mandatory minimum. The prosecutor must provide a statement as to the reasons for the motion. If the court finds substantial mitigating factors, the defendant may be sentenced without regard to the mandatory minimum.

The discretion to initiate a sentence other than the mandatory minimum was extended to the District Court by the Supreme Court in *State v. Olson*, 325 N.W.2d 13 (Minn. 1982).

For offenses committed on or after August 1, 1994, the court may not give a sentence less than the mandatory minimum if the offense is a second or subsequent dangerous weapon offense.

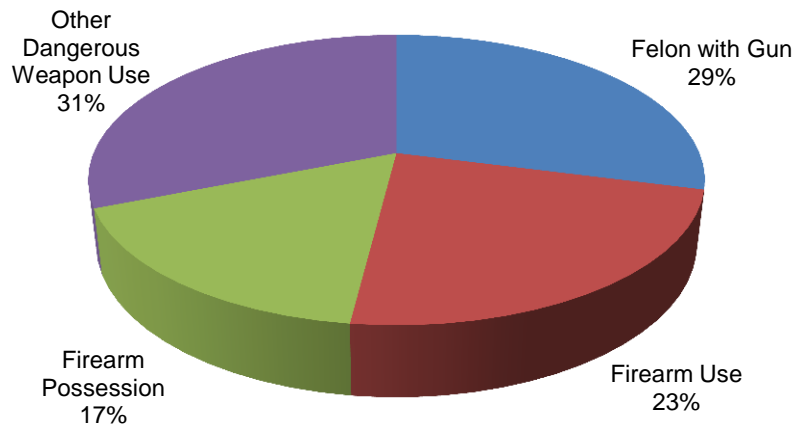
Case Volume and Distribution¹

If a mandatory minimum prison term applies, the recommended disposition under the sentencing guidelines is always prison; the recommended duration is the mandatory minimum or the presumptive sentence on the sentencing guidelines grid, whichever is greater.

Weapon Type and Offense

In 2010, 804 offenders were sentenced for using or possessing a weapon under Minn. Stat. § 609.11. Figure 1 shows that less than half of these cases (31%) cite the use of a dangerous weapon other than a firearm. Sixty-nine percent of the cases involved a firearm; 23 percent involved use of a firearm, 17 percent involved possession of a firearm, and 29 percent involved felons in possession of a firearm as described in Minn. Stat. § 624.712, subd. 5.

Figure 1. Distribution of Cases by Weapon Type

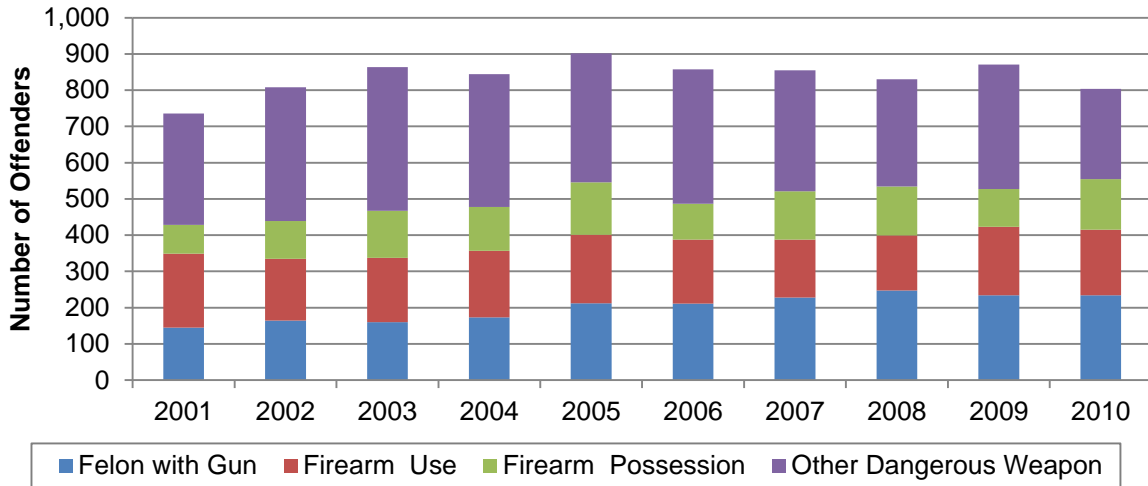


One-third (33%) of the offenders were convicted of second-degree assault, which is defined as assault with a dangerous weapon. Of those, 71 percent involved the use of a dangerous weapon other than a firearm; 21 percent involved the use of a firearm, and eight percent involved the possession of a firearm. Other than second-degree assault, the most frequently occurring offenses were possession of a gun by a felon (29%) and aggravated robbery (15%).

Figure 2 shows the number of weapons offenses each year, from 2001 through 2010. The number of weapons offenses peaked in 2005, with 902 offenders.

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

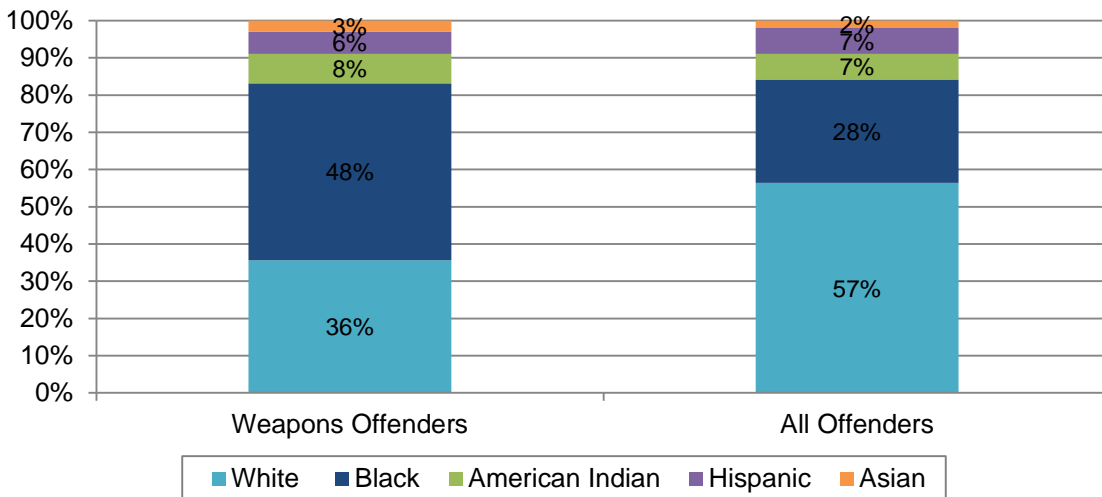
Figure 2. Number of Weapon Offenses, by Weapon Type: 2001-2010



Demographics

In 2010, 93 percent of the offenders were male; 48 percent were black, and 36 percent were white. As illustrated in Figure 3, the percentage of black offenders is much higher for weapons offenders than for the total felony offender population.

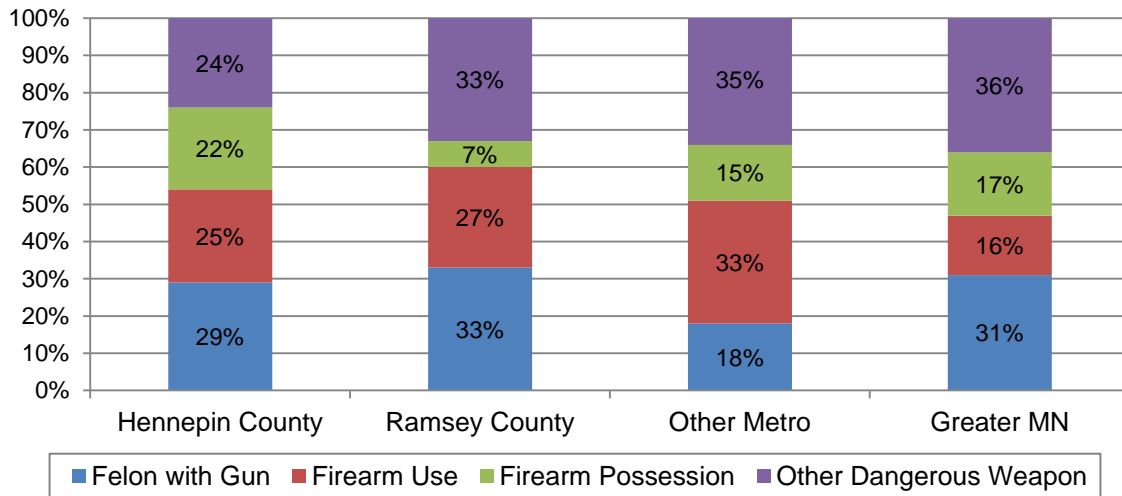
Figure 3. Distribution of Offenders by Race



Approximately one-half of the weapons cases examined in this report occurred in Hennepin County and Ramsey County (38% and 14%, respectively). The other metro counties accounted for roughly ten percent and Greater MN counties had 38 percent of the cases.

Figure 4 displays weapon type used or possessed by region. Compared to the statewide figures, Greater MN had a higher proportion of cases involving a weapon other than a firearm. Hennepin and the Other Metro counties had a higher proportion of cases involving a firearm.

Figure 4. Geographic Distribution by Weapon Type

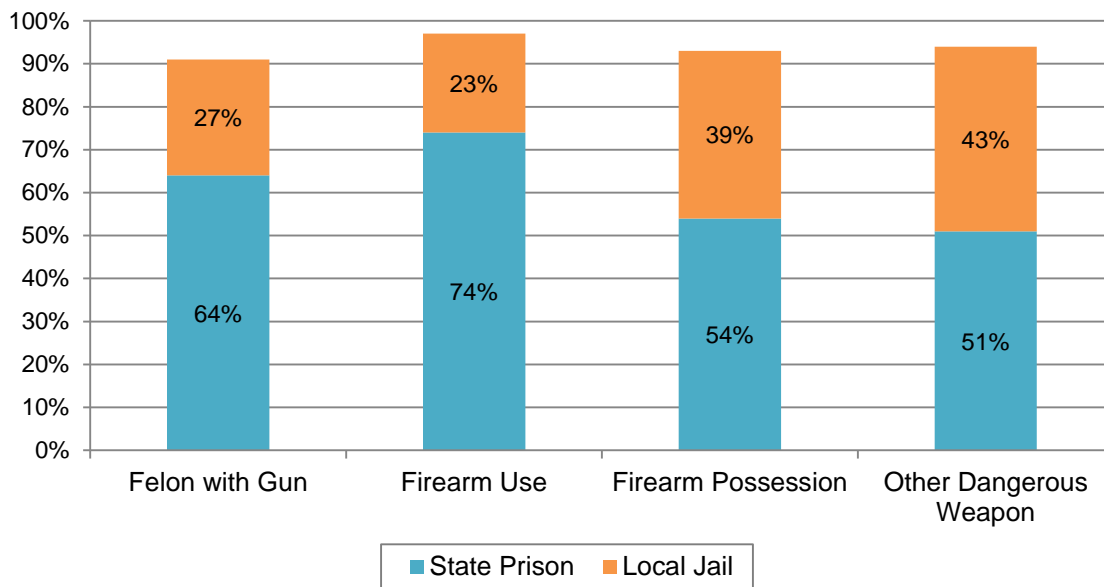


Sentencing Practices

Incarceration Rates

Ninety-three percent of cases resulted in a sentence that included incarceration in either a state or local facility (60% received a prison sentence; 33% received time in a local facility as a condition of probation). The imprisonment rate is the same as in 2009. Figure 5 shows the breakdown by weapon type and type of use.

Figure 5. Incarceration Rates by Weapon Type



There was a large variation in imprisonment rate, depending on the offense. For example, the imprisonment rate was 100 percent for first- and second-degree murder and manslaughter, but was only 30 percent for controlled substance offenses.

Of the 318 weapon offenders who did not receive a prison sentence, 83 percent served time in a local facility as a condition of probation.

Average Durations

The average pronounced prison sentence was 71 months (excluding offenders receiving life sentences), an increase from 61 months in 2009. This average varied greatly by weapon type, averaging 108 months for use of a firearm, 64 months for possession of a firearm, 58 months for use of another dangerous weapon, and 54 months for possession of a firearm by a felon. The average pronounced prison sentence also varied by offense, ranging from 23 months for third-degree assault to 267 months for second-degree murder.

The average pronounced period of conditional confinement was 215 days. Again, this average varied by weapon type: 261 days for use of a firearm, 230 days for possession of a firearm, 178 days for use of another dangerous weapon, and 237 days for possession of a firearm by a felon. Average conditional confinement also varied by offense. For example, the average was 47 days for stalking and 272 days for aggravated robbery.

Second-Degree Assault

Second-degree assault, by statutory definition, involves the use of a dangerous weapon. Minn. Stat. § 609.222. However, the weapon may simply be “displayed” or actually “employed,” injury to the victim may or may not occur, and the type of weapon involved can vary widely (i.e., from a pool cue, to a knife, to a firearm). Circumstances surrounding the offense can also vary, from barroom brawls to unprovoked confrontations.

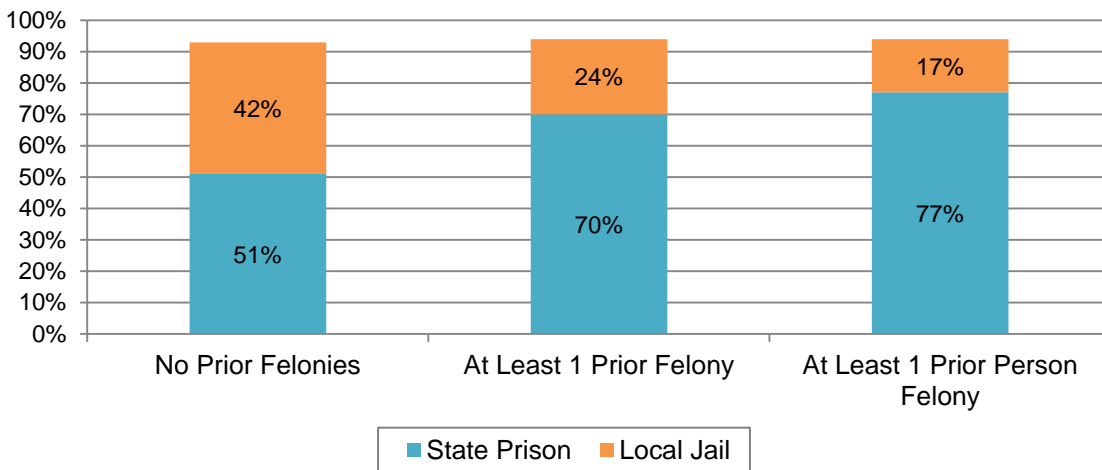
The imprisonment rate for second-degree assault involving the use of a gun was 53 percent; the rate was 52 percent for possession of a firearm; and 46 percent for use of another dangerous weapon.

Criminal History

Slightly less than half of offenders had no prior² felony offenses listed on their sentencing worksheet; 75 percent had no prior felony person offenses.

Imprisonment rates were significantly higher for offenders who had prior felony offenses (Figure 6). The rate for offenders with no prior felony offenses was 51 percent, compared to 70 percent for those with at least one prior felony offense. This rate was higher, 77 percent, for offenders who had at least one prior felony level person offense.

Figure 6. Incarceration Rates by Criminal History



² For these purposes, “prior” means a disposition before the current offense of conviction. This is in contrast to current multiple offenses that are sentenced on the same day.

Departure Rates

As used in this section, the following terms are defined as indicated.

Disposition refers to the decision to send an offender to state prison or to place the offender on probation (usually with some time in a local jail pronounced as a condition of that probation).

Aggravated dispositional departures occur when the guidelines recommend a stayed (probationary) sentence and the judge decides to sentence the offender to prison. Because of the mandatory minimum for weapons offenses, the presumptive sentence under the guidelines is always prison and aggravated dispositional departures are not applicable.

Mitigated dispositional departures occur when the guidelines recommend prison and the judge decides not to sentence the person to prison, but instead imposes other sanctions (probation, local incarceration, community work, treatment, financial sanctions, etc).

Duration refers to the length of sentence imposed. The guidelines recommend a range of months the typical offender should receive. If the judge pronounces a prison sentence that is greater than the upper end of the range, an **aggravated durational departure** results; a sentence less than the lower end of the range results in a **mitigated durational departure**.

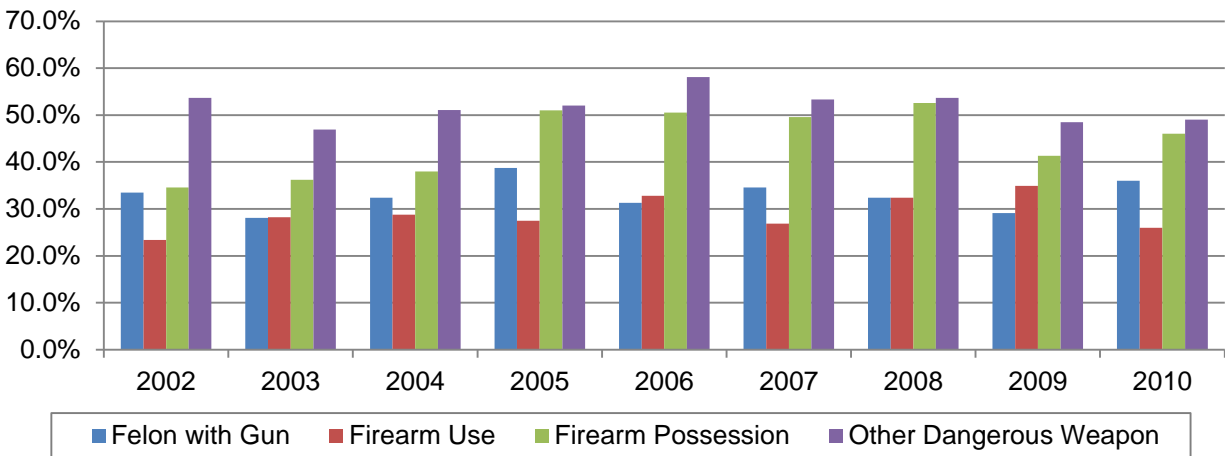
As noted above, the mandatory minimum statute permits the court to sentence apart from the mandatory minimum under certain circumstances. Such a sentence, however, is still considered a departure from the sentencing guidelines.

Dispositional Departures

Mitigated dispositional departures occurred in 40 percent of the cases. As Figure 7 shows, the departure rate was higher when the weapon used was something other than a firearm (49%). The departure rate for possession of a firearm (46% in 2010) has consistently been higher than the departure rate for use of a firearm (26% in 2010), even though the mandatory minimums for the offenses have been the same since 1999.

Frequently cited reasons for departure included: the offender's amenability to probation or treatment, the offender's willingness to accept responsibility, and probation recommendations. In 61 percent of the mitigated dispositions, the court indicated that there was a plea agreement, the prosecution recommended the departure, or the prosecution did not object to the departure.

**Figure 7. Mitigated Dispositional Departure Rates by Weapon Type:
2002-2010**



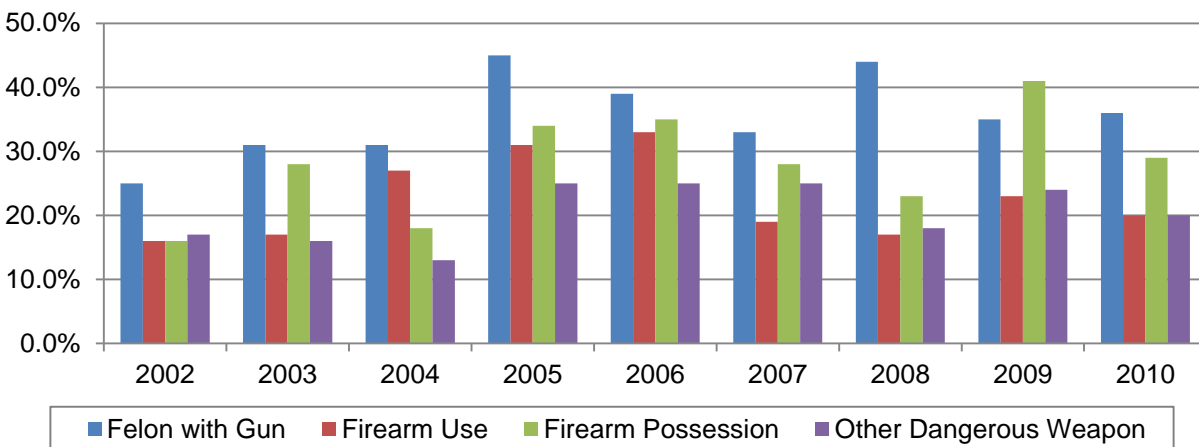
Durational Departures

Of the 481 weapons cases sentenced to prison (excluding life sentences), 331 (69%) received the presumptive sentence; 23 cases (5%) received longer durations; and 127 cases (26%) received shorter durations. In 68 percent of the mitigated durations, and 83 percent of the aggravated durations, the court indicated that there was a plea agreement, the prosecution recommended the departure, or the prosecution did not object to the departure.

Mitigated durational departure rates were highest for felon in possession of a firearm (36%); almost the same as the 2009 rate of 35 percent, but lower than the 2008 rate of 44 percent (Figure 8). Cases involving possession of a firearm had a mitigated durational departure rate of 29 percent. For cases involving possession of a firearm and use of another dangerous weapon, the mitigated durational departure rates were lowest, at 20 percent.

In the case of second-degree assault, 21 percent received mitigated durational departures, while eight percent were given aggravated durations. Other than felon with a firearm cases, aggravated robbery offenses had the highest mitigated durational departure rates at 32 percent. First-degree assault offenses had the highest rate of aggravated durational departures at 17 percent (4 cases).

**Figure 8. Mitigated Durational Departure Rates by Weapon Type:
2002-2010**



Data Sources and Limitations

MSGC Monitoring System

Most of the data examined in this summary are from the MSGC Monitoring System which contains cases sentenced in 2010. One of the primary functions of the Sentencing Guidelines Commission is to monitor sentencing practices. The monitoring system is designed to maintain data on all offenders convicted of a felony and sentenced under the guidelines. A case is defined when conviction data are received from the probation officer and matched with sentencing data from State Court Administration. Cases generally represent offenders; an offender sentenced in the same county on more than one offense within a thirty-day period is counted as one case.

Sentencing Guidelines Worksheets, submitted by probation officers to the court and to the commission, contain information about the offender (e.g., date of birth, gender, race), the offenses for which the offender was convicted, the offender's criminal history and the presumptive guidelines sentence. The worksheet also contains a section in which the probation officer indicates if a weapon was involved in the current offense under Minn. Stat. § 609.11 and, if so, whether the offense involved the use of a firearm, possession of a firearm, or use of another type of dangerous weapon. As a result, identification as a weapon offense in the MSGC Monitoring System is dependent on the Worksheet.

Minnesota Offense Codes

Some additional information on weapon use is available using the Minnesota Offense Codes (MOCs). The MOC data indicate that it is likely, in some cases, that weapon information was inadvertently omitted from the worksheet, particularly in cases where the presumptive disposition, according to the guidelines, is commitment to prison, regardless of the dangerous weapon (i.e., offenses outside the shaded area of the grid). For most of these offenses, the

presumptive duration exceeds the mandatory minimum. If the MOCs are used to identify such cases, it appeared that there could be as many as 140 additional cases (102 of which received a prison sentence).

There were also cases in which the MOCs indicated weapon use or possession for an offense covered by Minn. Stat. § 609.11, but the worksheet indicated a presumptive stayed sentence (probation). In 2010, there were 128 such cases. Burglary was the most prevalent offense (54%), followed by simple robbery (15%) and controlled substance offenses (14%). Information from the MOCs indicated that, in more than half of these cases (60%), the weapon used was a dangerous weapon other than a firearm.

It is important to note that the information contained in the MOCs used to identify the cases listed is very limited. The codes do not provide the necessary information to determine whether the worksheet was in error or whether weapon involvement was actually determined, even though the weapon was alleged in the complaint and carried through to the offense codes.

Data Summary Tables

Table 2. Distribution of Weapons Cases by Weapon Type/Type of Use

Weapon Type/Type of Use	Number	Percent
Use of a Firearm	181	23%
Possession of a Firearm	140	17%
Use of Another Dangerous Weapon	249	31%
Possession of Firearm by Ineligible Felon	234	29%
Total	804	100%

Table 3. Distribution of Weapons Cases by Offense

Offense	Number	Percent
Murder 1	11	1.4%
Murder 2	34	4.2%
Manslaughter	2	0.2%
Assault 1	27	3.4%
Assault 2	267	33.2%
Assault 3	5	0.6%
Aggravated Robbery	121	15%
Criminal Sexual Conduct	4	0.5%
Burglary	36	4.5%
Controlled Substances	40	5%
Drive-by Shooting	18	2.2%
Possession of Firearm by Ineligible Felon	234	29.1%
Stalking	5	0.6%
Total	804	100%

Table 4. Incarceration Rates by Weapon Type/Type of Use

Weapon Type/Type of Use	Total Number of Cases	State Prison	Local Confinement (as a Condition of Probation)	Total Incarceration
Use of a Firearm	181	134 (74%)	41 (23%)	175 (97%)
Possession of a Firearm	140	76 (54%)	55 (39%)	131 (94%)
Use of Another Dangerous Weapon	249	127 (51%)	106 (43%)	233 (94%)
Possession of Firearm by Ineligible Felon	234	149 (64%)	62 (27%)	211 (90%)
Total	804	486 (60%)	264 (33%)	750 (94%)

Table 5. Average Pronounced Prison Sentence and Local Incarceration

Weapon Type/Type of Use	Number of Cases ³ (Prison)	Average Pronounced Prison Sentence (Months)	Number of Cases (Stayed with Jail Time)	Average Pronounced Local Confinement (Days)
Use of a Firearm	130	108	41	261
Possession of a Firearm	75	64	55	229
Use of Other Dangerous Weapon	127	59	106	178
Poss. of Firearm by Ineligible Felon	149	54	62	237
Total	481	71	264	215

³ Excludes life sentences

Table 6. Incarceration Rates by Offense Categories

Offense Type	Total Number of Cases	State Prison	Local Confinement (as a Condition of Probation)	Total Incarceration
Murder 1	11	11 (100%)	----	11 (100%)
Murder 2	34	34 (100%)	----	34 (100%)
Manslaughter	2	2 (100%)	----	2 (100%)
Assault 1	27	23 (85%)	4 (15%)	27 (100%)
Assault 2	267	128 (48%)	118 (44%)	246 (92%)
Assault 3	5	2 (40%)	3 (60%)	5 (100%)
Aggravated Robbery	121	85 (70%)	32 (26%)	117 (97%)
Criminal Sexual Conduct	4	4 (100%)	---	4 (100%)
Burglary	36	22 (61%)	12 (33%)	34 (94%)
Controlled Substances	40	12 (30%)	24 (60%)	36 (90%)
Drive-by Shooting	18	12 (67%)	6 (33%)	18 (100%)
Possession of Firearm by Ineligible Felon	234	149 (64%)	62 (27%)	211 (90%)
Stalking	5	2 (40%)	3 (60%)	5 (100%)
Total	804	486 (60%)	264 (33%)	750 (93%)

Table 7. Average Pronounced Prison Sentence and Local Confinement by Offense Categories

Offense Type	Number of Cases (Prison)	Average Pronounced Prison Sentence (Months)	Number of Cases (Stayed with Jail Time)	Average Pronounced Local Confinement (Days)
Murder 1 (Attempts) *	6	218	0	----
Murder 2	34	267	0	----
Manslaughter	2	69	0	---
Assault 1	23	104	4	236
Assault 2	128	38	118	187
Assault 3	2	23	3	211
Aggravated Robbery	85	59	32	272
Criminal Sexual Conduct	4	126	0	----
Burglary	22	61	12	253
Controlled Substances	12	52	24	220
Drive-by Shooting	12	77	6	232
Possession of Firearm by Ineligible Felon	149	54	62	237
Stalking	2	20	3	47
Total	481	71	264	215

* Excludes life sentences for completed Murder 1

Table 8. Departure Rates by Weapon Type/Type of Use

Weapon Type/Type of Use	Mitigated Dispositional Departures		Durational Departures (Executed Sentences)		
	Total Number of Cases	Number Receiving Probation	Number Executed Sentences	Aggravated Durations	Mitigated Durations
Use of a Firearm	181	47 (26%)	130	4 (3%)	26 (20%)
Possession of a Firearm	140	64 (46%)	75	2 (3%)	22 (29%)
Use of Another Dangerous Weapon	249	122 (49%)	127	13 (10%)	25 (20%)
Possession of Firearm by Ineligible Felon	234	85 (36%)	149	4 (3%)	54 (36%)
Total	804	318 (40%)	481	23 (5%)	127 (26%)

Table 9. Departure Rates by Offense Categories

Offense Type	Mitigated Dispositional Departures		Durational Departures (Executed Sentences)		
	Total Number of Cases	Number Receiving Probation	Number Executed Sentences	Aggravated Durations	Mitigated Durations
Murder 1 (Attempts) *	11	0 (0%)	6	0 (0%)	1 (17%)
Murder 2	34	0 (0%)	34	3 (9%)	6 (18%)
Manslaughter	2	0 (0%)	2	0 (0%)	0 (0%)
Assault 1	27	4 (15%)	23	4 (17%)	5 (22%)
Assault 2	267	139 (52%)	128	10 (8%)	27 (21%)
Assault 3	5	3 (60%)	2	0 (0%)	0 (0%)
Aggravated Robbery	121	36 (30%)	85	2 (2%)	27 (32%)
Criminal Sexual Conduct	4	0 (0%)	4	0 (0%)	0 (0%)
Burglary	36	14 (39%)	22	0 (0%)	4 (18%)
Controlled Substances	40	28 (70%)	12	0 (0%)	3 (25%)
Drive-by Shooting	18	6 (33%)	12	0 (0%)	0 (0%)
Possession of Firearm by Ineligible Felon	234	85 (36%)	149	4 (3%)	54 (36%)
Stalking	5	3 (60%)	2	0 (0%)	0 (0%)
Total	804	318 (40%)	481	23 (5%)	127 (26%)

* Excludes life sentences for completed Murder 1

How the Guidelines Work

Minnesota's sentencing guidelines are based on a grid structure. The vertical axis of the grid represents the severity of the offense of conviction and the horizontal axis represents a measure of the offender's criminal history.

Conviction offenses are ranked according to their severity on a scale. The criminal history score represents a weighted measure of the offender's prior felony record; a limited measure of the offender's prior misdemeanor, gross misdemeanor and juvenile record; and a measure of whether the offender was under some type of custody or supervision at the time the offense was committed (e.g., on probation, confined, etc.).

The recommended (presumptive) guideline sentence is generally found by locating the cell of the sentencing grid where the offender's criminal history score and severity level intersect. For cells in the shaded areas of the grids, the guidelines generally recommend a stayed sentence. When a sentence is stayed, the court places the offender on probation and may require up to a year of conditional confinement in a local jail. Other conditions – such as fines, restitution, community work service, treatment, house arrest, etc. – may also be placed on the offender.

For cells outside the shaded areas of the grids, the guidelines recommend imprisonment in a state prison. There are, however, a number of offenses that carry a presumptive prison sentence regardless of where an offender falls on one of the grids, including any offense carrying a mandatory minimum prison term pursuant to Minn. Stat. § 609.11.

The numbers in the cells of the grids are the recommended prison sentence in months. For cases in which a mandatory minimum prison term applies, the presumptive duration under the guidelines is the mandatory minimum or the cell time, whichever is greater.

A judge may depart from the presumptive sentence if there are substantial and compelling circumstances. The judge must state the reason(s) for departure on the record and either the prosecution or the defense may appeal any pronounced sentence.

Regardless of where an offender falls on one of the sentencing guidelines grids, if the conviction offense is covered by Minn. Stat. § 609.11, and a finding was made that a firearm was used or possessed, or a weapon other than a firearm was used, the presumptive sentence under the guidelines is prison. When the prosecutor or the judge makes a motion to sentence apart from the mandatory minimum, it becomes legal to stay imposition or execution of sentence, or to impose a lesser sentence than the mandatory minimum. However, the presumptive disposition for the case is still imprisonment; the presumptive duration is the mandatory minimum sentence prescribed for the conviction offense or the cell time, whichever is greater.


It is important to note that confusion sometimes arises in the interpretation of how the mandatory minimum statute and the guidelines policy interact. Practitioners differ in their interpretation of when the mandatory minimum applies. In addition, offenders can fall within the shaded area of the grid, but the presumptive disposition is prison if the mandatory minimum applies, even though the statute and case law permits the judge to sentence without regard to the mandatory minimum.


SENTENCING GUIDELINES GRID

Presumptive Sentence Length in Months

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

SEVERITY LEVEL OF CONVICTION OFFENSE (Common offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by-shootings)	XI	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ³	426 363-480 ³
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> (unintentional murder)	X	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
<i>Assault, 1st Degree</i> <i>Controlled Substance Crime, 1st Degree</i>	IX	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
<i>Aggravated Robbery 1st Degree</i> <i>Controlled Substance Crime, 2nd Degree</i>	VIII	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
<i>Felony DWI</i>	VII	36	42	48	54 46-64	60 51-72	66 57-79	72 62-86
<i>Assault, 2nd Degree</i> <i>Felon in Possession of a Firearm</i>	VI	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	V	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	IV	12 ¹	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$2,500)</i>	III	12 ¹	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$2,500 or less)</i> <i>Check Forgery (\$200-\$2,500)</i>	II	12 ¹	12 ¹	13	15	17	19	21 18-25
<i>Sale of Simulated</i> <i>Controlled Substance</i>	I	12 ¹	12 ¹	12 ¹	13	15	17	19 17-22

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

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

¹ One year and one day

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

SEX OFFENDER GRID
Presumptive Sentence Length in Months

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

SEVERITY LEVEL OF CONVICTION OFFENSE		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
CSC 1 st Degree	A	144 <i>144-173</i>	156 <i>144-187</i>	168 <i>144-202</i>	180 <i>153-216</i>	234 <i>199-281</i>	306 <i>260-360</i>	360 <i>306-360</i>
CSC 2 nd Degree – (c),(d), (e), (f), (h)	B	90 <i>90-108</i>	110 <i>94-132</i>	130 <i>111-156</i>	150 <i>128-180</i>	195 <i>166-234</i>	255 <i>217-300</i>	300 <i>255-300</i>
CSC 3 rd Degree – (c),(d), (g), (h), (i), (j), (k), (l), (m), & (n)	C	48 <i>41-58</i>	62 <i>53-74</i>	76 <i>65-91</i>	90 <i>77-108</i>	117 <i>99-140</i>	153 <i>130-180</i>	180 <i>153-180</i>
CSC 2 nd Degree – (a), (b), (g) CSC 3 rd Degree – (a), (b), (e), (f) Dissemination of Child Pornography: Subsequent or by Predatory Offender	D	36	48	60 <i>51-72</i>	70 <i>60-84</i>	91 <i>77-109</i>	119 <i>101-143</i>	140 <i>119-168</i>
CSC 4 th Degree – (c),(d), (g), (h), (i), (j), (k), (l), (m), & (n) Use Minors in Sexual Performance Dissemination of Child Pornography	E	24	36	48	60 <i>51-72</i>	78 <i>66-94</i>	102 <i>87-120</i>	120 <i>102-120</i>
CSC 4 th Degree – (a), (b), (e), (f) Possession of Child Pornography: Subsequent or by Predatory Offender	F	18	27	36	45 <i>38-54</i>	59 <i>50-71</i>	77 <i>65-92</i>	84 <i>71-101</i>
CSC 5 th Degree Indecent Exposure Possession of Child Pornography Solicit Children for Sexual Conduct	G	15	20	25	30	39 <i>33-47</i>	51 <i>43-60</i>	60 <i>51-60</i>
Registration Of Predatory Offenders	H	12 ¹ <i>12¹-14</i>	14 <i>12¹-17</i>	16 <i>14-19</i>	18 <i>15-22</i>	24 <i>20-29</i>	30 <i>26-36</i>	36 <i>31-43</i>



Presumptive commitment to state imprisonment. See section [II.E. Mandatory Sentences](#) for policy regarding those sentences controlled by law, including minimum periods of supervision for sex offenders released from prison.



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

¹ One year and one day