

# Sentencing Guidelines: Drug Offender Sentencing Data



**SEPTEMBER 29, 2010**

**LEGISLATIVE DAYS ON DRUG POLICY**

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**MINNESOTA SENTENCING GUIDELINES  
COMMISSION**

## What are the Sentencing Guidelines?



- A rational structure promoting uniform and proportional sentencing, helping to ensure sentencing decisions are not influenced by factors such as race, gender, or the exercise of constitutional rights;
- A standard to measure how well the system is working by comparing typical vs. departure cases;
- A neutral sentencing structure (the system is balanced between prosecution and defense);
- A determinate sentencing system.

# Sentencing Guidelines Goals and Purposes



- Public Safety - Ensure violent offenders are incarcerated.
- Uniformity – Similar crime and similar history = similar sentence.
- Proportionality – Severity of offense and criminal history.
- Truth and Certainty in Sentencing – Fixed sentence is known up front; no parole.
- Coordinate Policy w/ Correctional Resources – Predictability in prison population.

# Components of the Sentencing Guidelines



- Legislature sets offense definitions and penalty ranges in statute.
- Minnesota Sentencing Guidelines recommends:
  - Prison or Probation;
  - Length of Prison Sentence;
- Recommended sentence based on:
  - Offender's conviction offense (Severity Level I – XI or Severity Level A – H);
  - Offender's prior applicable criminal record (Scored from 0 to 6+);
- Determinate prison sentence:
  - Serve at least 2/3 of sentence in prison (more for facility violations);
  - Serve no more than 1/3 of sentence on supervised release, with additional periods of conditional release for certain offenses;
  - No Parole Board.

# Components of the Sentencing Guidelines

(continued)



- Judge decides community sanctions for stayed sentences:
  - Probation up to statutory maximum sentence;
  - Local jail time up to one year;
  - Financial penalties (fine, restitution, etc.)
  - Community work;
  - Treatment;
  - Other available sanctions.
- Judge may depart from recommended sentence:
  - Presumptive sentence is based on a typical offense: in order to ensure proportionality, departures are appropriate in atypical cases;
  - “Substantial and compelling reasons” necessary to justify the departure;
  - Judge required to state reasons on record for departure.
- Defense or prosecution may appeal pronounced sentence.

# The Sentencing Guidelines Grid



The horizontal axis represents the offenders total criminal history score.

Vertical axis represents the severity of the current offense. Felonies are ranked from 1-11.

Each individual cell on the grid contains the *presumptive duration* of a sentence in months. For cells above the disposition line, a range is also given. It is important to use the grid in effect when the current offense is committed so that the correct range is used.

	0	1	2	3	4	5	6
11							
10	"Commit to the Commissioner of						
9		Corrections"					
8							
7							
6							
5							
4							
3		Stay of					
2		Execution					
1							

Coordinates on the grid indicate two things:

- The *presumptive disposition* of the sentence
- The *presumptive duration* of the sentence

# Drug Offenses on the Sentencing Grid



The selected rows of the grid on the right illustrate where first- through fifth-degree drug offenses are currently ranked on the Sentencing Guidelines Grid.

The number inside each box reflects the presumptive sentence, in months, at that severity level/criminal history score. (Shaded boxes are presumptive stayed sentences.)

First-Degree:                      Severity Level 9  
 Second-Degree:                   Severity Level 8  
 Third-Degree:                     Severity Level 6  
 Fourth-Degree:                   Severity Level 4  
 Fifth-Degree:                      Severity Level 2

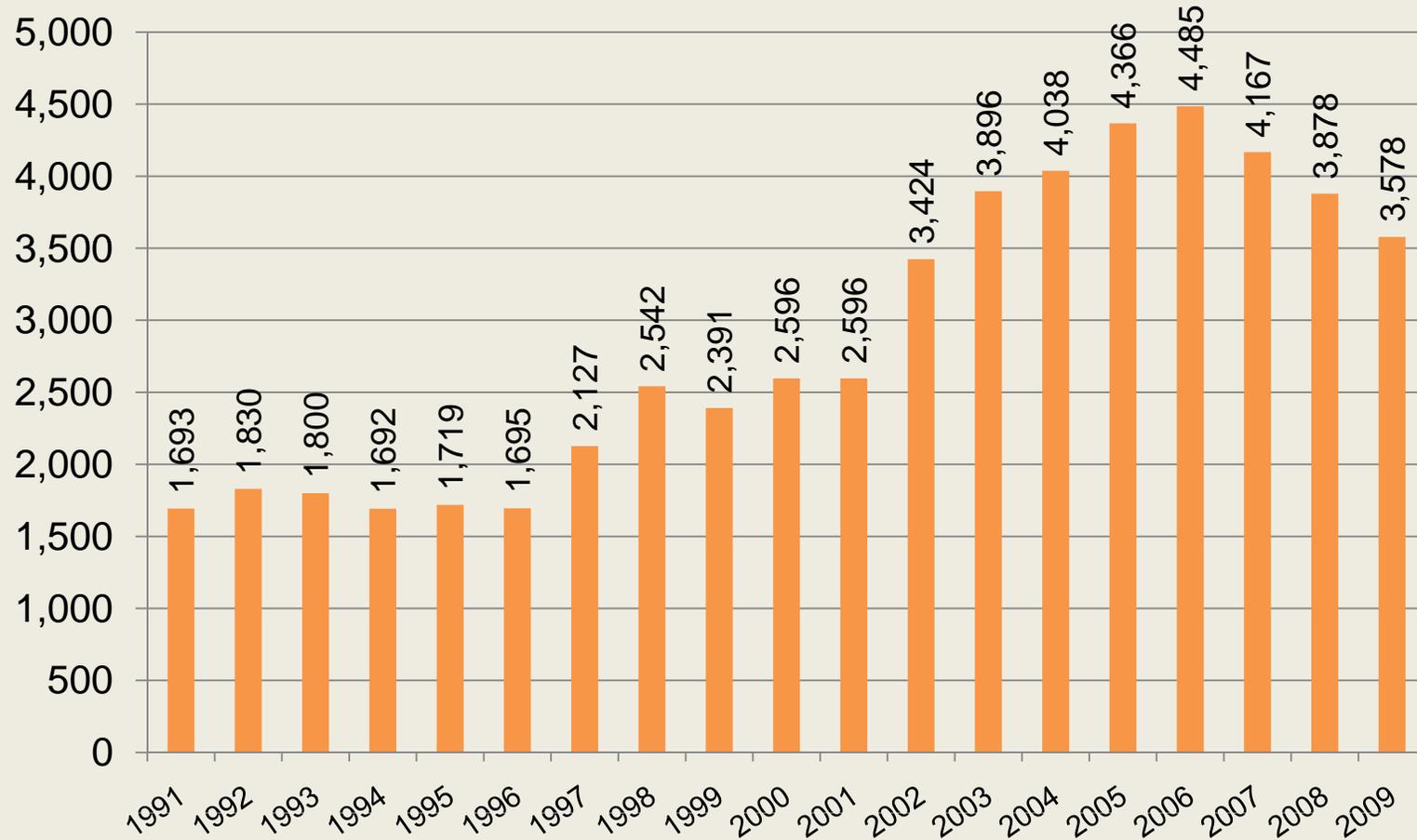
	0	1	2	3	4	5	6
9	86	98	110	122	134	146	158
8	48	58	68	78	88	98	108
6	21	27	33	39	45	51	57
4	12+	15	18	21	24	27	30
2	12+	12+	13	15	17	19	21

# Mandatory Minimum Provisions for Subsequent Controlled Substance Offenses

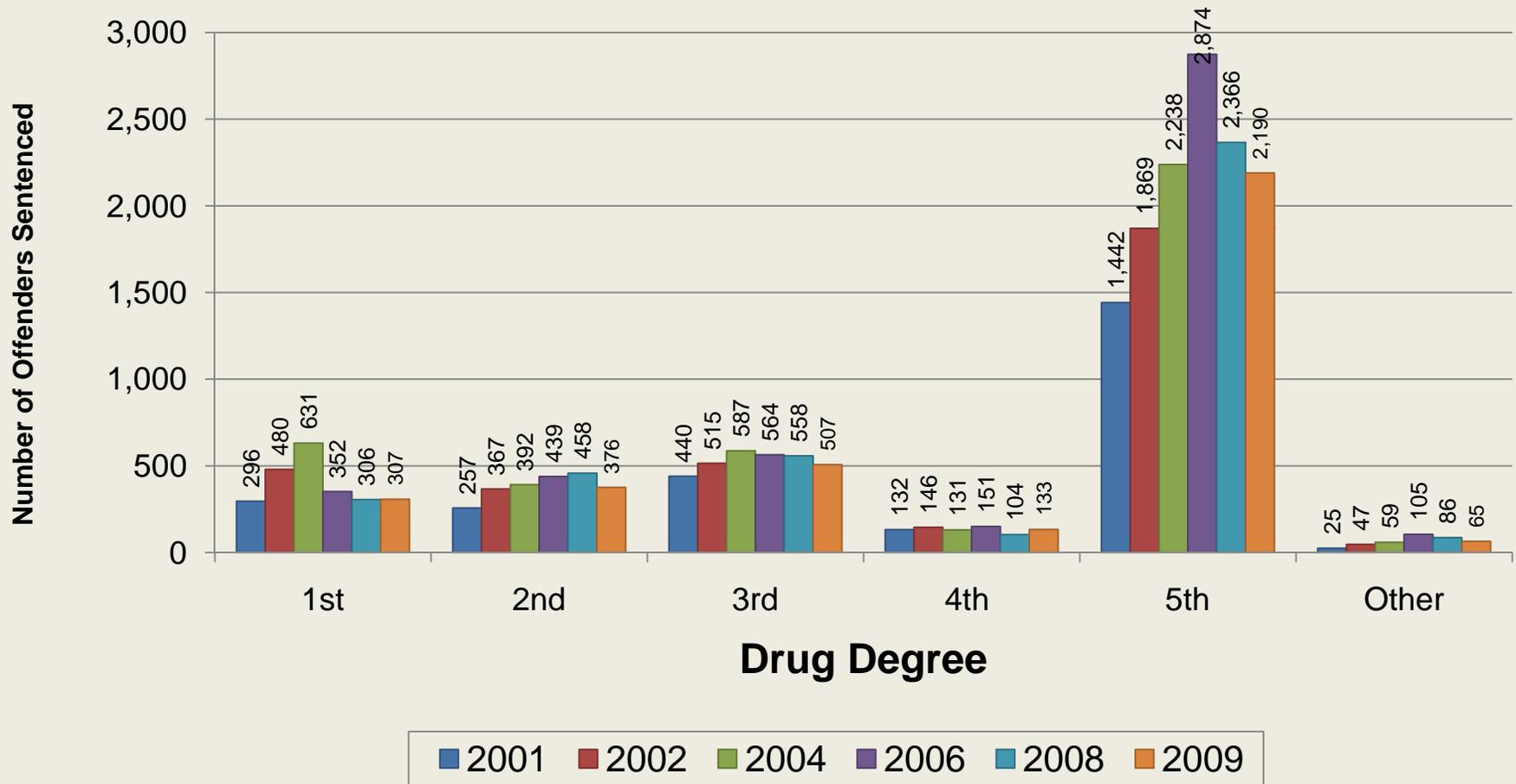


Offense Degree	Mandatory Minimum	When is the Grid Time Greater?
First Degree	Commit for 48 mos.	At <u>any</u> criminal history score
Second Degree	Commit for 36 mos.	At <u>any</u> criminal history score
Third Degree	Commit for 24 mos.	At criminal history score of 1
Fourth Degree	Local time for 12 mos.	At <u>any</u> criminal history score
Fifth Degree	Local time for 6 mos.	At <u>any</u> criminal history score

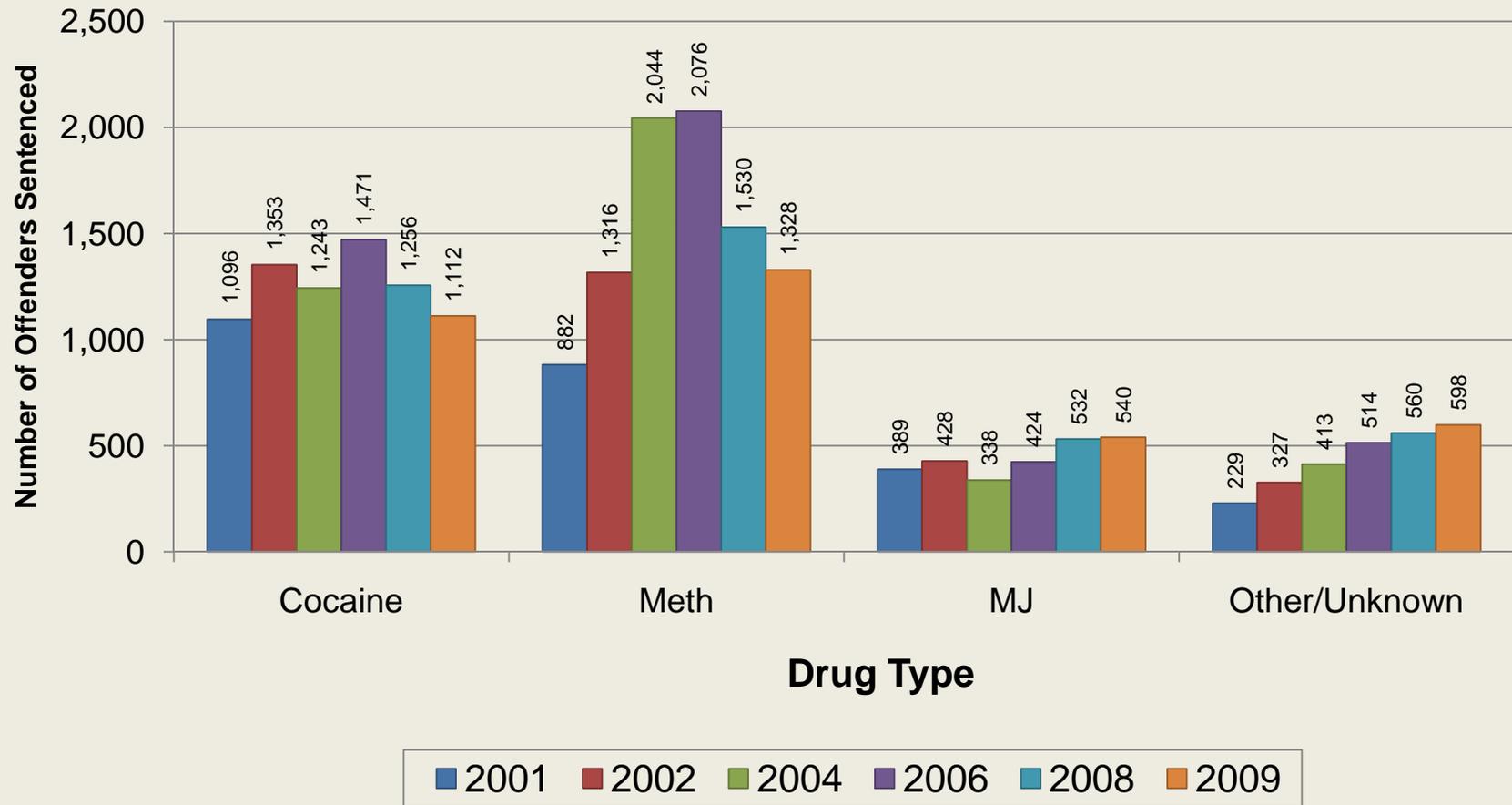
# Number of Offenders Sentenced for Felony Drug Convictions: 1991-2009



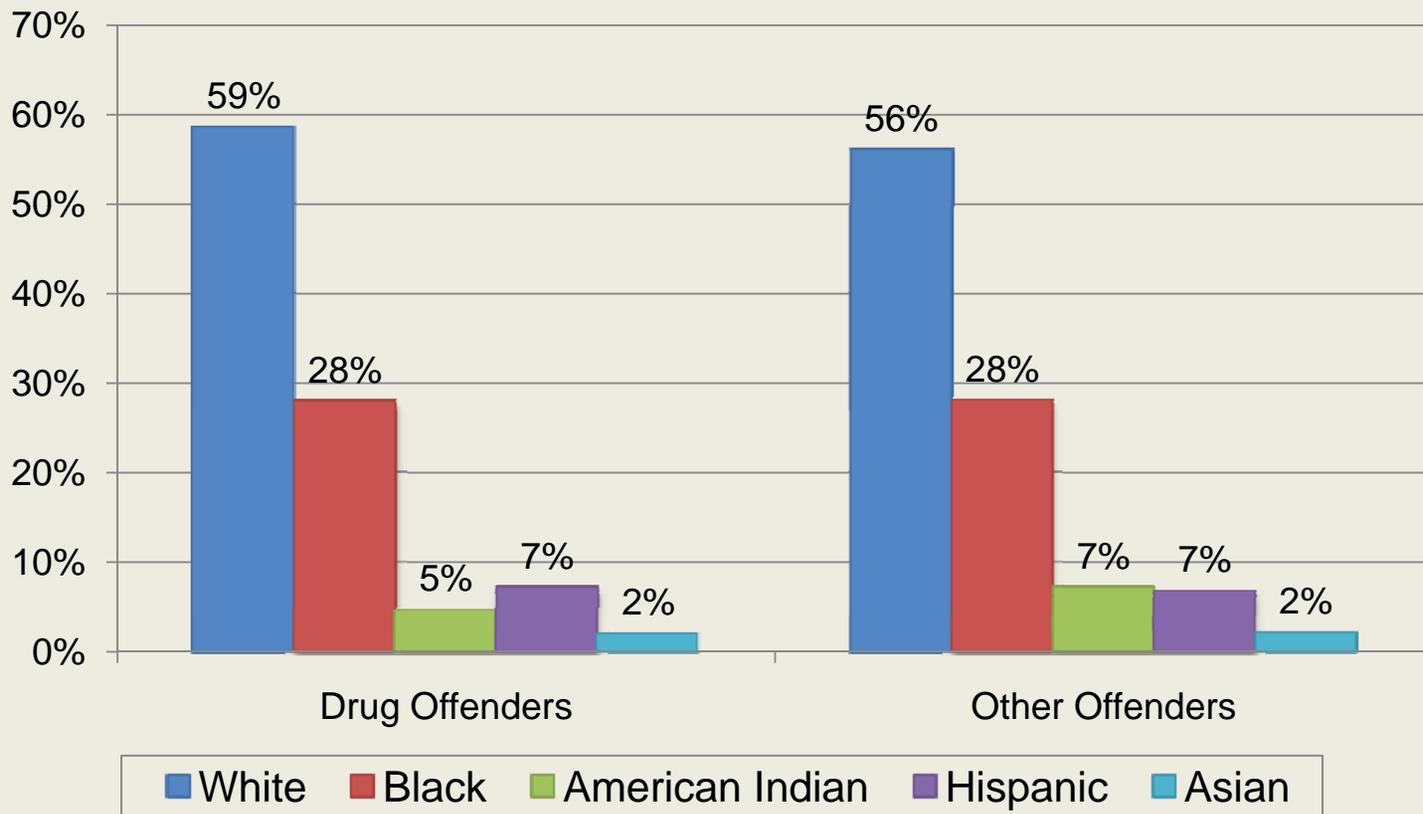
# Distribution of Drug Offenders by Drug Degree: 2001-2009



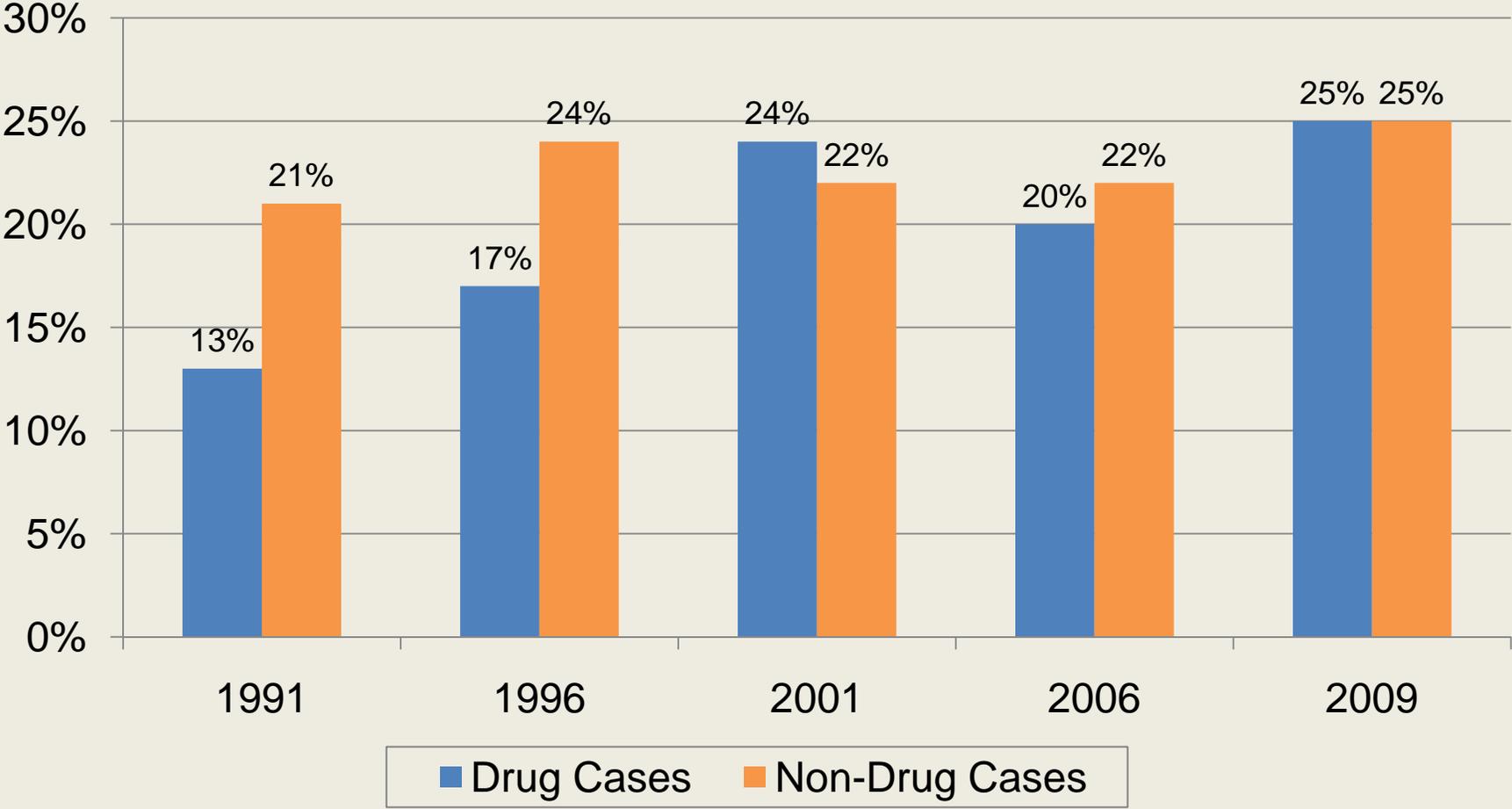
# Distribution of Drug Offenders by Drug Type: 2001-2009



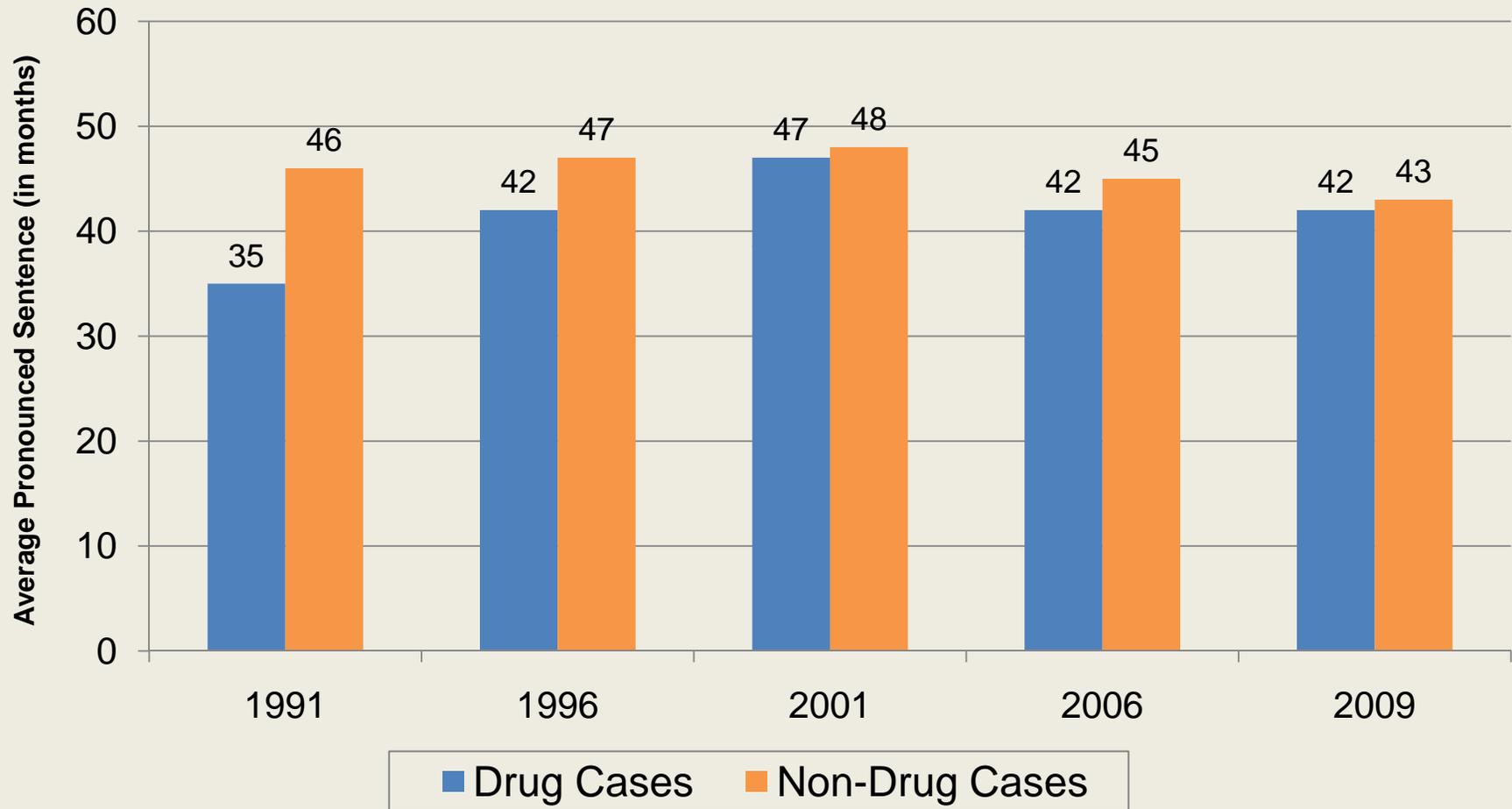
## Distribution of Offenders' Race: Drug Offenders vs. Other Offenders (2009)



# Imprisonment Rates over Time: Drug Offenders vs. Other Offenders



## Average Pronounced Durations over Time: Drug Offenders vs. Other Offenders



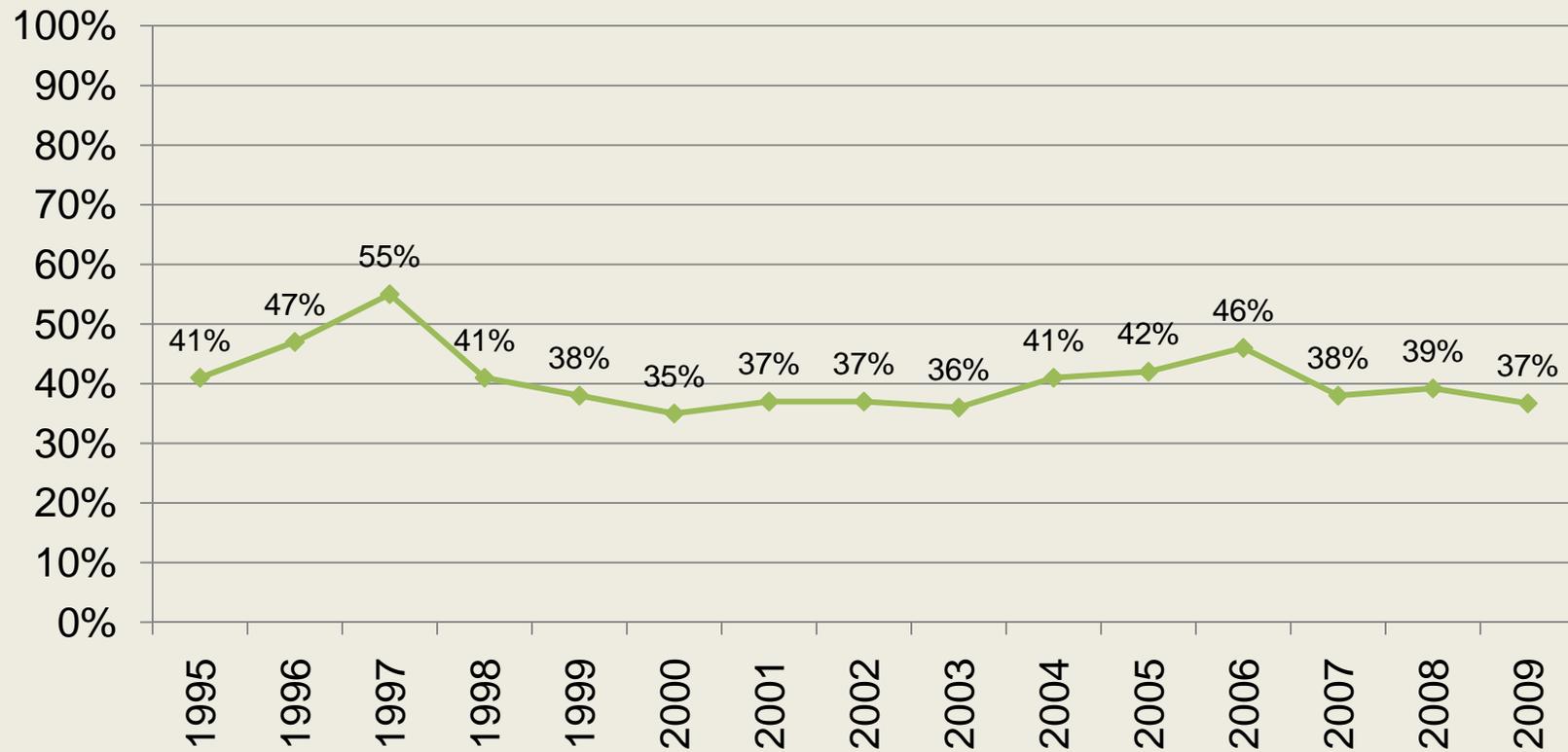
## MSGC Departure Data



- MSGC 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 only once, based on their most serious offense.
- Dispositional departure rates are provided for offenders whose presumptive disposition was commitment to prison.
- Durational departure rates are provided for offenders who received an executed prison sentence (regardless of the presumptive disposition).
- There were 3,578 felony offenders sentenced for drug offenses in 2009. Of those, 1,090 had presumptive prison sentences; 882 received executed prison sentences.

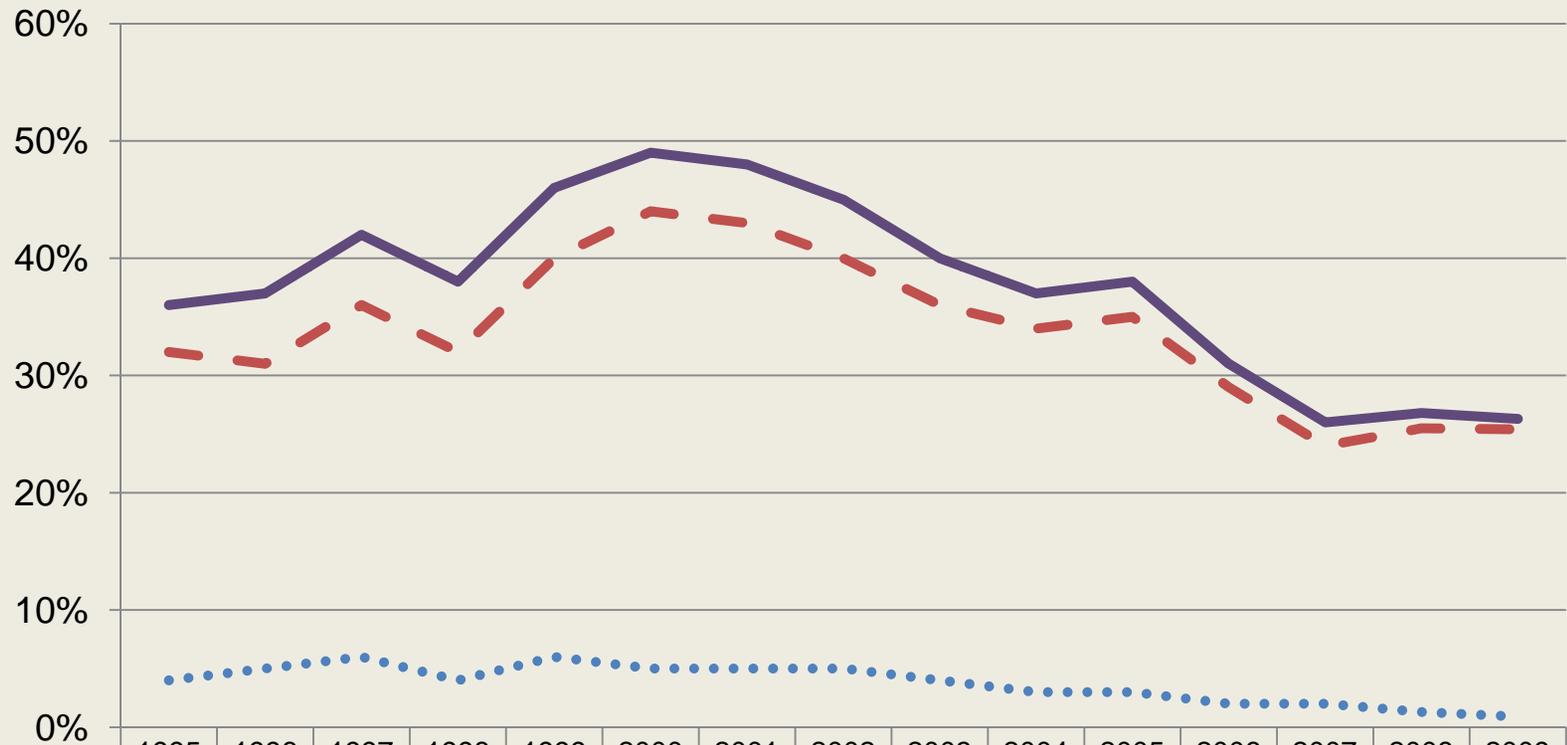
# Mitigated Dispositional Departure Rates: 1995-2009

## Presumptive Commits Only



# Durational Departure Rates: 1995-2009

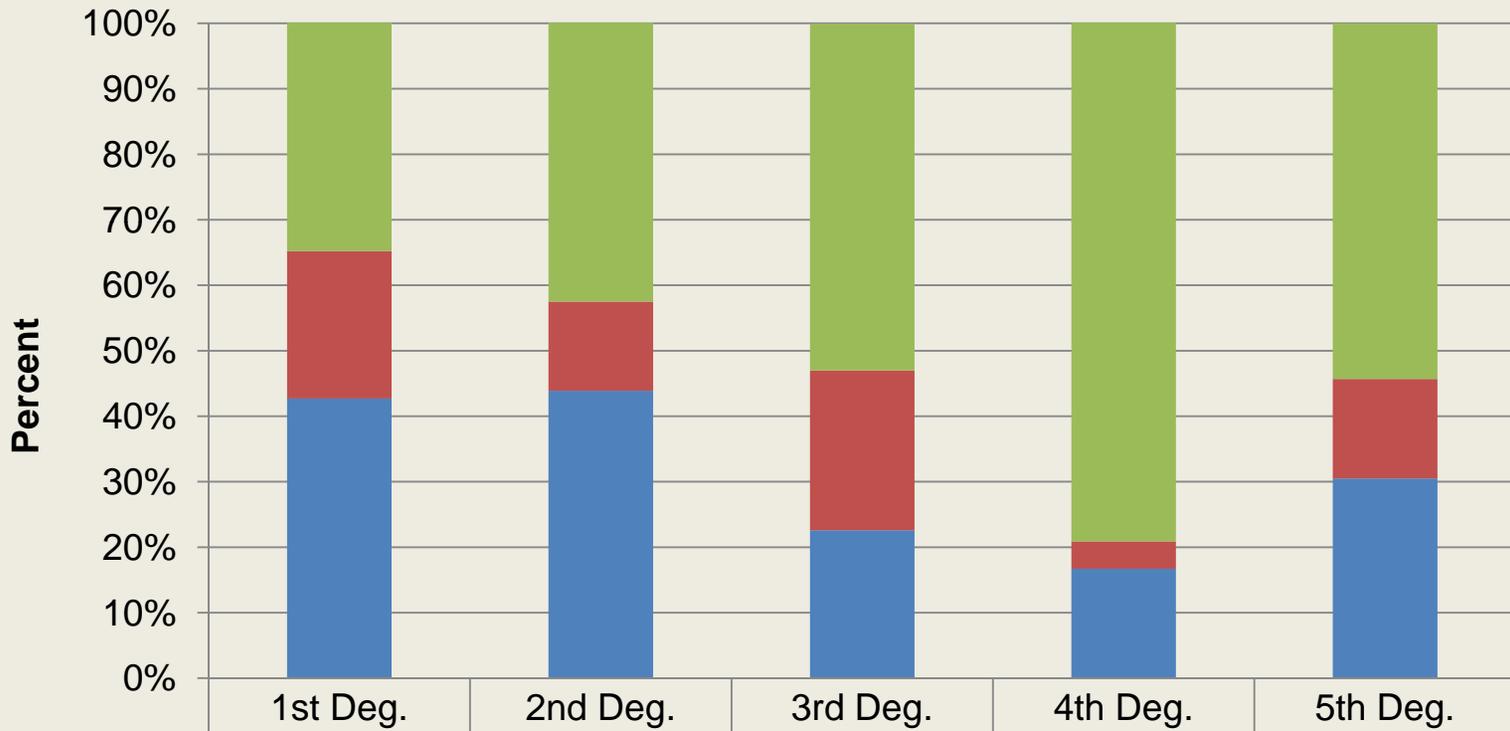
## For Cases Receiving Prison Sentences



	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
More Time	4%	5%	6%	4%	6%	5%	5%	5%	4%	3%	3%	2%	2%	1%	1%
Less Time	32%	31%	36%	32%	40%	44%	43%	40%	36%	34%	35%	29%	24%	26%	25%
Overall	36%	37%	42%	38%	46%	49%	48%	45%	40%	37%	38%	31%	26%	27%	26%

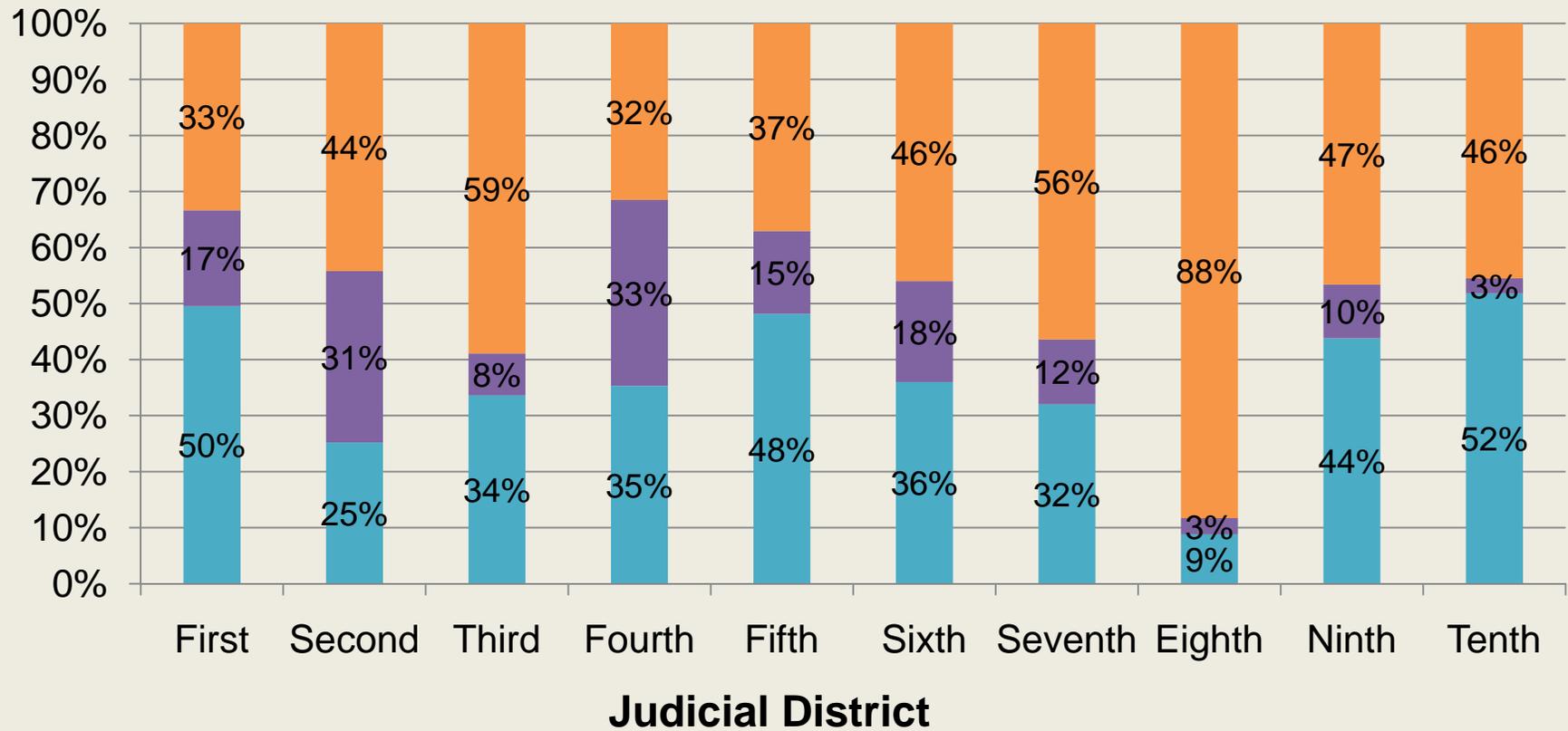
# Sentence Imposed by Drug Degree (2009)

## Presumptive Commits Only



■ Presumptive	35%	43%	53%	79%	54%
■ Prison - Less Time	23%	14%	24%	4%	15%
■ Probation	43%	44%	23%	17%	31%

# Type of Sentence Pronounced for Presumptive Commits by Judicial District (2009)



## Additional Information



- For Minnesota Sentencing Guidelines' Sentencing Practices Data Reports, Reports to the Legislature and Special Reports, please visit our website:  
<http://www.msgc.state.mn.us>