

# Introduction of the Drug Sentencing Grid

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## Research Questions

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Effect of 2016 introduction of sentencing guidelines for drug offenses on:

- Prison time
- Overall sentence length
- Judicial departures

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# Background: Grid Changes

For those with Criminal History scores 0 or 1, controlled substance crime, 2nd Degree goes from being a **presumptive commitment on the standard grid** to a **presumptive stay on the drug offender grid**

## 4.A. Sentencing Guidelines Grid

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
Murder, 2nd Degree (intentional murder; drive-by shooting)	11	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 349-480 <sup>1</sup>	426 363-480 <sup>1</sup>
Murder, 3rd Degree (unintentional murder)	10	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
Assault, 1st Degree Controlled Substance Crime, 1st Degree	9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
Assaulted Robbery, 1st Degree Controlled Substance Crime, 2nd Degree	8	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
Felony DWI, Financial Exploitation of a Vulnerable Adult	7	36 41-57	48 50-69	60 58-81	72 67-93	84 75-105	96 84-117	108 92-129
Controlled Substance Crime, 3rd Degree	6	21 21-27	27 27-33	33 33-39	39 34-45	45 39-54	51 44-61	57 49-68
Residential Burglary Simple Robbery	5	18 18-23	23 23-28	28 28-33	33 29-39	38 33-45	43 37-51	48 41-57
Nonresidential Burglary	4	12 <sup>1</sup>	15	18	21	24 22-28	27 23-32	30 26-36
Theft Crimes (Over \$5,000)	3	12 <sup>1</sup>	13	15	17	19 17-22	21 18-25	23 20-27
Theft Crimes (\$5,000 or less) Check Forgery (\$251-\$2,500)	2	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21 18-25
Sale of Simulated Controlled Substance	1	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19 17-22

<sup>1</sup> 12<sup>1</sup>—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.

<sup>2</sup> Minn. Stat. § 134.09 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.

<sup>3</sup> 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.)

## 4.C. Drug Offender Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denotes 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
Aggravated Controlled Substance Crime, 1st Degree Manufacture of Any Am. Meth	D9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
Controlled Substance Crime, 1st Degree	D8	65 56-78	75 64-90	85 73-102	95 81-114	105 90-126	115 98-138	125 107-150
Controlled Substance Crime, 2nd Degree	D7	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
Controlled Substance Crime, 3rd Degree Failure to Affix Stamp	D6	21 21-27	27 27-33	33 34-45	39 34-45	45 39-54	51 44-61	57 49-68
Possess Substances with Intent to Manufacture Meth	D5	18 18-23	23 23-28	28 28-33	33 29-39	38 33-45	43 37-51	48 41-57
Controlled Substance Crime, 4th Degree	D4	12 <sup>1</sup>	15	18	21	24 21-28	27 23-32	30 26-36
Meth Crimes Involving Children and Vulnerable Adults	D3	12 <sup>1</sup>	13	15	17	19 17-22	21 18-25	23 20-27
Controlled Substance Crime, 5th Degree	D2	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21 18-25
Sale of Simulated Controlled Substance	D1	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19 17-22

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

<sup>2</sup> 12<sup>1</sup>—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.

# Background: Key Definitions

**Presumptive Duration** := sentencing grid recommended length of sentence for given offense severity and criminal history (*months*)

**Pronounced Duration** := pronounced length of sentence (*months*)

**Presumptive Disposition** := sentencing grid recommended disposition for given offense severity and criminal history (*commit or stay*)

**Pronounced Disposition** := pronounced disposition (*commit or stay*)

**Presumptive Commitment** := 
$$\begin{cases} \text{presumptive duration} & \text{if presumptive disposition is commit} \\ 0 & \text{if presumptive disposition is stay} \end{cases}$$

**Pronounced Commitment** := 
$$\begin{cases} \text{pronounced duration} & \text{if pronounced disposition is commit} \\ 0 & \text{if pronounced disposition is stay} \end{cases}$$

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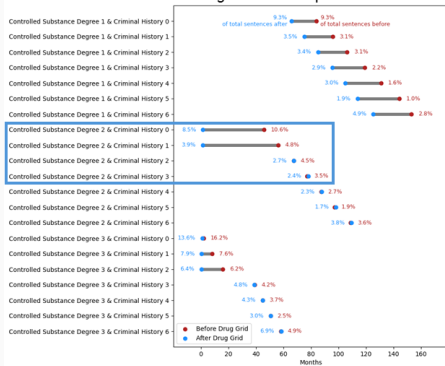
**Pronounced Disposition** := pronounced disposition (*commit or stay*)

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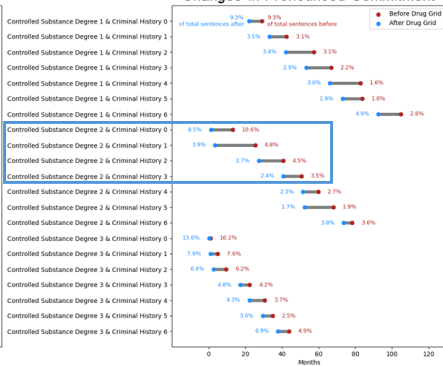
# Background: Presumptive v. Pronounced

## Changes in Presumptive Commitment



Note: Controlled substance 4th and 5th degree offenses and other drug offenses have before and after differences in average presumptive commitment less than 10 months and are not shown here.

## Changes in Pronounced Commitment



Note: Controlled substance 4th and 5th degree offenses and other drug offenses have before and after differences in average pronounced commitment less than 10 months and are not shown here.



## Methods

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# Methods: Model

$$Y_{it} = \beta_0 + \beta_1 \text{Treated}_i + \beta_2 \text{Post}_t + \beta_3 (\text{Treated}_i \times \text{Post}_t) + \sum_{k=1}^K \gamma_k X_{itk} + \epsilon_{it}$$

Our estimate of  $\beta_3$  will be the effect of the introduction of the drug grid on our outcome of interest

- $Y_{it}$  := outcome of interest
- $\text{Treated}_i := \begin{cases} 1 & \text{offense is Controlled Substance 2nd Degree and Criminal History Score is 0 or 1} \\ 0 & \text{otherwise (e.g. criminal history score is 2 or 3)} \end{cases}$
- $\text{Post}_t := \begin{cases} 1 & \text{offense committed on or after August 1, 2016} \\ 0 & \text{otherwise} \end{cases}$
- $X_{itk}$  := set of  $K$  controls including:
  - Defendant age at sentence
  - Defendant sex
  - Defendant race
  - Judicial District
  - Year of Sentence
- $i$  := charge ID
- $t$  := date of offense
- estimated using robust standard errors

## Methods: Sample

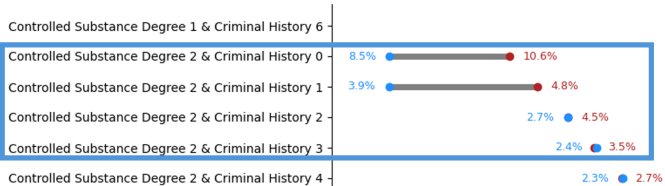
- Observations from 2011-2022
- Limited to drug offenses ('offtype' == 'drugs')
- Limited to Controlled Substance Crime, 2nd Degree
- Limited to cases where defendant had a Criminal History Score between 0 and 3, inclusive

## Results

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# Results: Presumptive Commitment

Outcome: Presumptive Commitment (months)					
Sample: Controlled Substance 2nd Degree Offenses with Criminal History Scores 0 to 3					
Variable	1	2	3	4	5
Treated	-22.645 (0.411)	-22.386 (0.415)	-22.152 (0.407)	-22.387 (0.421)	-22.167 (0.414)
Post	0.801 (0.44)	0.909 (0.449)	8.198 (1.356)	0.923 (0.448)	8.288 (1.36)
Treated x Post	-48.487 -0.612	-48.559 (0.613)	-48.840 (0.604)	-48.543 (0.618)	-48.819 (0.608)



# Results: Pronounced Commitment

Outcome: Pronounced Commitment (months)					
Sample: Controlled Substance 2nd Degree Offenses with Criminal History Scores 0 to 3					
Variable	1	2	3	4	5
Treated	-27.990 (1.326)	-27.828 (1.335)	-27.524 (1.327)	-27.372 (1.315)	-27.078 (1.307)
Post	-11.204 (2.214)	-11.055 (2.193)	-2.081 (2.765)	-12.083 (2.183)	-3.804 (2.737)
Treated x Post	-3.908 (2.334)	-3.505 (2.31)	-3.899 (2.304)	-3.655 (2.297)	-4.010 (2.289)

