

Battling Reckless Driving in Milwaukee: Analysis of Court Watch MKE's Reckless Driving Case Observations in Milwaukee County Court

January 20, 2025

*Judges issued more lenient sentences than the State recommendation
69% of the time.*



Introduction

This report presents a comparative summary of the presiding judges behaviors and sentencing patterns observed in 109 Fleeing/Eluding and Reckless Driving cases, that were charged and heard in Milwaukee County Felony Court between June 24, 2024 and November 30, 2024. These cases were monitored and recorded by members of the “Enough is Enough Court Watch Program”. The Court Watch Program is staffed by 16 volunteer Court Watch members. An average of 3 Court Watch members are present to observe and record the various phases of each case.

The volunteers monitor and record case proceedings primarily for the plea/sentencing phase of reckless driving cases. As a matter of being present in the court, many other phases of cases are consumed. That can include arraignments through status appearances, jury trials and sentencings. Only cases that have proceeded to sentencing are included in this reporting. Data is collected and preserved on a spreadsheet. Defendant criminal history is researched via CCAP with recidivist criminal activity/convictions noted. Victims are offered support and individualized Community Impact Statements are written and submitted to the court for the judges’ consideration prior to sentencing. Court Watchers observe many aspects of the court environment and adjudication process. These observations, as members of the public with an interest in the outcomes of the process, are also summarized in this report.

Key Findings and Recommendations:

- ♥ **Tougher Sentencing:** Judges should use statutory guidelines and sentencing recommendations to impose penalties that act as both specific and general deterrents, signaling that reckless driving will no longer be tolerated in the community.
- ♥ **Reduce Dismissals:** The District Attorney’s office should stop dismissing fleeing and RES (Reckless Endangering Safety, often a companion) charges as part of plea negotiations with defendants.
- ♥ **Focus on Community Protection:** The ongoing safety of the community must remain central to sentencing decisions.

Sentencing Background

Per the Legislative Reference Bureau document “Felonies in the 2023–24 Wisconsin Statutes”,

*“In Wisconsin, there are two types of crimes: felonies and misdemeanors. **A felony is a crime punishable by imprisonment in a state prison, generally for a term of more than one year.** All other crimes are misdemeanors. Some misdemeanors are also punishable by imprisonment, but sentences for misdemeanors are served in a county jail, rather than a state prison, for a term of one year or less. Most felonies are punishable by a fine as well as imprisonment.*

With only a handful of exceptions, Wisconsin has organized its felonies into a uniform penalty scheme, which is set forth in Wis. Stat. § 939.50 (3). Each felony is assigned to one of nine classes, and that assignment determines the penalties that apply. For each class, a maximum term of imprisonment is specified, and for seven of the classes, a maximum fine is also specified.”

Per state statutes - the max sentence allowed for each felony class is shown below. Table derived from cited sources.

Felony Class	Maximum Imprisonment Term	Maximum Extended Supervision Term	Maximum Total Sentence	Maximum Fine
A	Life	n/a	Life	
B	40 years	20 years	60 years	
C	25 years	15 years	40 years	\$100,000
D	15 years	10 years	25 years	\$100,000
E	10 years	5 years	15 years	\$50,000
F	7.5 years	5 years	12.5 years	\$25,000
G	5 years	5 years	10 years	\$25,000
H	3 years	3 years	6 years	\$10,000
I	18 months	2 years	3.5 years	\$10,000

<https://www.stangllaw.com/blog/wisconsin-felony-classes-a-quick-guide>

<https://legis.wisconsin.gov/lrb/media/z5dh4yv1/statutory-felonies-94.pdf>

Senate Bill 514

Senate Bill 514, passed March 27th, 2024, increased the penalties for fleeing an officer.

Under the bill:

1. Fleeing an officer is increased from a Class I felony to a Class H felony.
2. Fleeing an officer and causing bodily harm to another or damage to the property of another is increased from a Class H to a Class G felony.
3. Fleeing an officer and causing **great** bodily harm to another is increased from a Class F to a Class E felony, **with a mandatory minimum of 1.5 years imprisonment.**
4. Fleeing an officer and causing death to another increased from a Class E to a Class D felony, **with a mandatory minimum of 2.5 years Imprisonment.**

Because cases take so long to pass through the court system, we have seen very few that have been impacted by this new law. Over time, there should be a shift and an increase in volume toward the higher felony classifications.

Dismissed but Read in for sentencing - an explanation:

Many charges are dismissed but “read in for sentencing” as part of plea bargaining (an offer usually made by the DA’s office but could come from the defense/defendant). We have heard judges explain that a dismissed count cannot be referred to or counted as convicted for future cases. It is not apparent to us how a judge incorporates the extra sentencing time for the dismissed but read in charges. **We strongly advocate for the District Attorney’s office to stop dismissing the flee/elude and reckless endangering safety (RES) charges as a part of their plea bargains, or find another way to keep a record and emphasis of the problem.**

Habitual criminality repeater is a type of modifier to a charge which can extend the sentence up to 4 years. This modifier is added when an offender has had multiple previous charges of the same nature, indicating recidivist behavior and ineffective previous penalties. Thirteen (13) of the 102 reported non-homicide cases had the Habitual Criminality Repeater modifier on one (1) or more charges.

Concurrent vs Consecutive Sentences

Sentences can be prescribed to run concurrently (in parallel or running at the same time as each other) or consecutively, one at a time - when one ends, the next begins, for charges in the same case or for separate cases.

STAYED sentences are situations where the judge will prescribe a sentence of incarceration and extended supervision as a “threat” and grant probation instead. Should the defendant violate his terms of probation, the department of corrections would need to ‘revoke’ or take away the probation and then the court would impose the sentence as prescribed. The time on probation is not credited.

Sentencing Patterns

Recorded cases for this report have been classified into the following categories for comparison purposes:

- Flee/elude only - **16 cases**
- Flee/elude and 1st/2nd degree Reckless Endangering Safety (Flee/RES) - **28 cases**
- Flee/elude+RES+Other (guns, drugs, auto theft/carjacking, armed robbery and others) - **58 cases**
- Homicide (vehicular) - **7 cases**; homicide cases for this report are reported separately, and are not included in any of the percentage totals.

Sentences for fleeing/eluding and reckless driving cases, typically felony classes F/G/H/I, carried maximum incarceration penalties of 1.5 to 7.5 years. However, many sentences fell short of these maximums:

- For **Flee/Elude Only** cases, penalties ranged from one year of probation to 1.5 years of incarceration with 2-3 years of extended supervision. Of the 16 cases, 11 (69%) resulted in probation.
- For **Flee/RES** cases, incarceration times varied between 1.5 and 5 years, while probation terms ranged from 1.5 to 3.5 years. Of 27 cases, **58% resulted in probation.**
- For **Flee/RES/Other** cases, penalties were more varied due to additional charges, with probation granted in 20% of cases, incarceration of 1-4.9 years in 54%, and sentences exceeding 5 years in 25%.
 - Approximately half of the cases included drugs and guns.
 - Almost one third of the cases included auto theft, resisting an officer and bail jumping.

Homicide cases were heard by judges Swanson and Wagner. These 7 cases collectively involved 11 lives and as many injured people. Deceased victims and their ages are:

- Erin Mogensen, 32 and her unborn baby (wife, daughter, mother-to-be)
- Latasha Dyson, 28, Ebony Johnson, 28 Lashonda Jackson, 31 (cousins)
- Amari Smith, 30 (son & barber)
- Jamillian Brown, 17 (artist); 7 teens ages 15-18 injured along with a 25 and 42 yr old in another car
- John S Zablocki, 69 and Barbara Zablocki, 65 (business owner, grandparents)
- Dinari Peer, 20 (son)
- R'eay Reign, 29 (friend)

All but one of the defendants in these cases **had prior convictions**, many open at the time of their crash. Sentences ranged 14 years - 40 years incarceration. Four (4) of the 7 defendants **did not have a valid driver's license** when driving the vehicle that killed others. Many of the vehicles involved in the cases were stolen.

Sentencing Patterns as compared to the State's Recommendation:

- **Cases recorded showed more lenient sentences than the State recommendation in 69% of cases.**
- There were tougher sentences than the State recommendation in 8% of cases.
- Sentences aligning with the State recommendation were recorded in 23% of cases.

Probation was issued in 35% of cases, even when defendants had prior convictions in 61% of those instances. Concurrent sentencing was applied more often than consecutive, significantly reducing the effective length of sentences. An example of the difference in the outcome follows:

In case 2024CF004075 there were two charges Count 1 Fleeing, and Count 2 RES (reckless endangering safety). Both charges carried a felony class G with a maximum penalty of 5 years incarceration. Judge Richards imposed a sentence of 5 years incarceration ‘concurrent’ on both counts and to other sentences. A consecutive sentence would have resulted in 10 years incarceration. This case also had a “habitual criminality repeater” which allows for an additional 4 years of penalty. The repeater is an indication that this offender has had previous convictions for the same behavior. This concurrent sentence also runs parallel to any unserved time remaining on any other cases.

The incidences of *Dismissed but Read in for Sentencing* charges recorded can be categorized as follows:

- flee/elude wouldn't have any as it was the only charge
- flee/elude + RES - of the 27 cases:
 - 8 cases had dismissed but read in fleeing charges,
 - 4 cases had dismissed but read in RES charges
- Flee/RES/Other of the 58 cases
 - 21 cases (36%) and 27 counts of fleeing were dismissed but read in for sentencing
 - 15 cases (26%) and 22 counts of RES were dismissed but read in for sentencing
 - 7 cases had both fleeing and RES charges dismissed; 10 counts of fleeing and 8 counts of RES between them.

In order to emphasize the seriousness of the reckless driving problem, fleeing and RES charges should not be dismissed as part of negotiations with defendants

Sentencing Patterns: (By individual Judge)

Sentencing data for each of the 102 Flee/RES/other cases is compared to the State's recommended sentence in the following table. Judges with less than 5 sentencing cases are grouped together (subtotal) as part of the overall trend of the felony courts.

(K. Ashley, Gansner, Havas, Yang, Kiefer, Yamahiro)

Sentencing Patterns: (By individual Judge)

Judge	agree with the state	tougher than the state	more lenient than the state	total	%agree	%tougher	% more lenient
Childs	0	0	5	5	0%	0%	100%
Shelton	0	2	20	22	0%	9%	91%
Ramos	1	0	7	8	13%	0%	88%
Davila	1	1	13	15	7%	7%	87%
Kegel	3	0	4	7	43%	0%	57%
Van Grunsven	4	2	8	14	29%	14%	57%
Richards	7	0	7	14	50%	0%	50%
Fragoso	3	2	2	7	43%	29%	29%
Subtotal	19	7	66	92	21%	8%	72%
Judges with < 5 cases *	4	2	4	10	40%	20%	40%
Total	23	9	70	102	23%	9%	69%

*Judges issued more lenient sentences than the State recommendation **69%** of the time.*

In our court watchers words - following are observations about the judges:

~Judges are only one part of sentencing. Both prosecutors and defense attorneys see both sides of the case; both recommend too lenient of sentences, which the judge then splits in the middle for sentencing. No sentences are ever near the maximum for the felony level, or even to half of the maximum.

~Many judges have been welcoming toward Court Watch and have made it a point to meet some of us. Others appear neutral and are silent about how they may feel about Court Watch.

~Many judges have reasonably orderly courts. Others could use improvement.

General observations about the courts

- Courthouse staff (security intake, clerks, sheriffs) are **extremely** friendly and helpful.
- Judges had been generally welcoming, some inviting us into their chambers, relative to our announcement to observe and submit community impact statements.
- There is a lack of acknowledgement of victims, property damage, the “cost” of crimes to the community; subsequently there is a lack of accountability, connection or consequence to the defendant for his/her part of these results.
- Access issues - for handicapped people, working people, victims and witnesses, etc., closed entrances to the safety building; the impact that the large volume of reschedules has on these people.
- **Cases take so long to get resolved**, hence, there is diminished protection of the community- especially for repeat offenders who are granted additional probation or bail; **this may also negatively impact a defendant who cannot afford bail.**
- Inefficient/Ineffective court practices
 - Most cases are scheduled at 8:30/1:30; cases are frequently rescheduled, and the general aging of cases could be from several years ago.
 - One judge is routinely late; then reschedules cases citing “court congestion” in ccap
 - Procedural inefficiencies including: Inability to locate a defendant while in custody, defendant is a ‘no show’, failure to notify victim(s), ‘lost’ witnesses caused by delays in adjudicating cases.
 - These practices exacerbate the access issues and compromise the continued involvement of victims, witnesses, family/support (AND COURT WATCH!)/public involvement in the proceedings.
- We experienced a “Judge Rotation” shortly after we began watching, in August 2024. Each August one third of the judges rotate to new courts. A judge will typically serve 3-4 years in a division (Civil, Felony, Misdemeanor, Children’s). Our data and observations were impacted by this rotation as the first 6 weeks we saw certain judges, then, after that we had a number of new judges.

In our court watchers words - observations about the courts:

~Every court suffers from extreme inefficiencies, such as missing defendants, victim notifications not made, documents not shared or shared at the last minute, lateness of various parties, including a judge or two, lack of an interpreter, and just about every other aspect of the process. (Keeping in mind there may be valid reasons for some instances.)

~court inefficiency - there is way too much downtime, latency of case resolution, defendants rack up more crimes while waiting for a sentence, losing defendants, no victim notification, little restitution or victim representation due to length of time it takes for a case to be resolved, access issues for victims, defendants, court watchers. There is positive regard in courts, judges have been mostly receptive to us.

Goals:

♥ We would like to see a **reduction in the 69%** of cases ruling less than the state to be the same as or closer to the state's recommendation.

♥ We would like to see a **more efficient and effective court system** that benefits all parties; one that elevates and enhances public safety through accountability and rehabilitation for those who threaten it.

♥ In order to provide a more efficient resolution to cases and provide effective outcomes toward public safety, a **comprehensive examination of the day to day operations of the courts** is urgently needed.

Closing

Court Watch MKE is dedicated to enhancing public safety through judicial accountability. By addressing sentencing inconsistencies, operational inefficiencies, and fostering community engagement, Milwaukee's courts can take a stand against reckless driving.

The judges and DAs welcome community involvement. [Join](#) us as we witness the judicial activities tasked with supporting the safety of our community. **Be** a court watcher. **Refer** another court watcher. If you cannot join us, **consider a donation to sponsor** court watchers. Refer to our website for more information.

Enough is Enough ~ A Legacy for Erin is a 501(c)(3) founded by the family and friends of Erin Mogensen, who, along with her unborn child, was tragically killed on November 2, 2023, by a serial felon fleeing police. Our mission is to eliminate reckless driving that results in injury and loss of innocent life throughout the State of Wisconsin.

ene4erin.org

ene4erin@gmail.com

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