



Bureau of Justice Statistics Bulletin

July 1999, NCJ 175045

Felony Sentences in the United States, 1996

By Jodi M. Brown
and Patrick A. Langan, Ph.D.
BJS Statisticians

In 1996 Federal courts convicted 43,839 persons of violent, property, drug, and other felonies. State courts convicted 997,970, bringing the combined U.S. total to 1,041,809 felons convicted.

Felony convictions, 1990-96

The 1,041,809 felony convictions in State and Federal courts in 1996 were 20% greater than the 866,028 in 1990 (table 1). That 20% percent growth represents an average annual growth of 3%.

Between 1992 and 1996 the total number of felony convictions increased 11% (or 3% annually).

Between 1994 and 1996 the total number of felony convictions increased 14% (or 7% annually). This increase is

a result of an almost 11% growth in felony convictions in Federal courts and 14% in State courts.

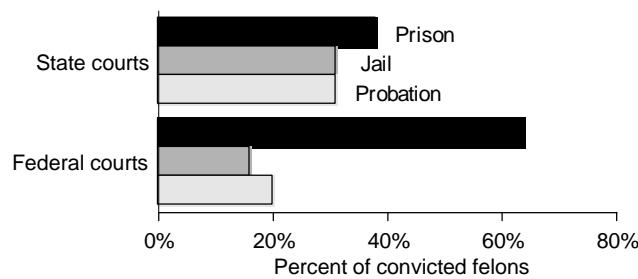
Highlights

- 1996 was the first year State and Federal courts convicted a combined total of over 1 million adults of felonies.
- In 1996 Federal courts convicted 43,839 persons of violent, property, drug, and other felonies. State courts convicted 997,970, bringing the combined U.S. total to 1,041,809 felony convictions. Federal courts accounted for 4% of the national total.
- Between 1994 and 1996 the number of felony convictions increased 14% in State courts and 11% in Federal courts.
- In 1996 State and Federal courts together imposed a prison sentence on 39% of all persons convicted of a felony. Federal courts sentenced 64% of felons to prison, and State courts, 38%.
- State and Federal courts together sentenced to prison 57% of the 170,400 felons convicted of a violent crime in 1996.
- In 1996 the average prison sentence imposed was about 5 years in State courts and 6½ years in Federal courts.

Table 1. Convictions in State and Federal courts, 1990, 1992, 1994, and 1996

	Number of convictions		
	Total	State	Federal
1996	1,041,809	997,970	43,839
1994	911,842	872,218	39,624
1992	935,303	893,630	41,673
1990	866,028	829,344	36,684
Overall percent change			
1990-96	20.3%	20.3%	19.5%
Annual percent change			
1990-96	3.1%	3.1%	3.0%
1994-96	6.9	7.0	5.2
1992-94	-1.3	-1.2	-2.5
1990-92	3.9	3.8	6.6

In 1996, 38% of felons convicted in State courts, compared to 64% of felons convicted in Federal courts, were sentenced to prison



Combined volume of State and Federal felony convictions

Of the 1,041,809 total felony convictions in 1996, State courts accounted for about 96% and Federal courts accounted for about 4% (table 2). Federal courts accounted for few of the Nation's violent felony convictions (1.5%) but a relatively large fraction of convictions for fraud and embezzlement (16%), weapons offenses (9%), and drug trafficking (7.5%).

State and Federal courts together convicted 170,361 persons of a violent felony and more than twice that number, 365,819, of a drug felony. Convictions for drug offenses comprised 35% of the national total, while convictions for violent crime comprised 16% (see page 3). The most frequent violent offense, aggravated assault, comprised 7%.

Comparison of State and Federal sentences for felonies

Three types of sentences — prison confinement (usually for a year or more), jail confinement (usually for under a year), and probation — account for virtually all of the sentences that State and Federal courts impose as punishment for a felony conviction. Probation is a sentence involving supervised release under conditions specified by the court and takes two forms: straight probation and a split sentence. Straight probation is probation with no confinement, and a split sentence is probation combined with confinement (usually short-term).

Table 2. Number of felony convictions in State and Federal courts, 1996

Most serious conviction offense	Felony convictions			Federal felony convictions as percent of total
	Total	State	Federal	
All offenses	1,041,809	997,970	43,839	4.2%
Violent offenses	170,361	167,824	2,537	1.5%
Murder ^a	11,766	11,430	336	2.9
Sexual assault ^b	30,266	30,057	209	0.7
Robbery	44,388	42,831	1,557	3.5
Aggravated assault	69,808	69,522	286	0.4
Other violent ^c	14,133	13,984	149	1.1
Property offenses	309,289	298,631	10,658	3.4%
Burglary	93,268	93,197	71	0.1
Larceny ^d	124,658	123,201	1,457	1.2
Motor vehicle theft	17,921	17,794	127	0.7
Other theft	106,736	105,406	1,330	1.2
Fraud/forgery ^e	91,363	82,233	9,130	10.0
Fraud ^f	49,553	41,480	8,073	16.3
Forgery	41,810	40,753	1,057	2.5
Drug offenses	365,819	347,774	18,045	4.9%
Possession	136,016	135,270	746	0.5
Trafficking	229,803	212,504	17,299	7.5
Weapons offenses	36,647	33,337	3,310	9.0%
Other offenses^f	159,693	150,404	9,289	5.8%

^aDoes not include negligent manslaughter.

^bIncludes rape.

^cIncludes offenses such as negligent manslaughter and kidnaping.

^dIncludes motor vehicle theft.

^eIncludes embezzlement.

^fComposed of nonviolent offenses such as receiving stolen property and immigration offenses.

Most serious conviction offenses	Percent of convicted felony defendants in 1996											
	Felony convictions			Prison sentences			Jail sentences			Probation sentences		
	Total	State	Federal	Total	State	Federal	Total	State	Federal	Total	State	Federal
All offenses	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Violent offenses	16.4%	16.8%	5.8%	23.9%	25.1%	7.7%	11.9%	12.1%	2.6%	11.2%	11.4%	2.4%
Murder ^a	1.1	1.1	0.8	2.6	2.8	0.9	0.1	0.1	0.6	0.2	0.2	0.4
Sexual assault ^b	2.9	3.0	0.5	4.7	5.0	0.6	1.6	1.6	0.2	2.0	2.0	0.3
Robbery	4.3	4.3	3.6	8.0	8.2	5.2	2.0	2.0	0.7	1.7	1.7	0.6
Aggravated assault	6.7	7.0	0.7	7.2	7.7	0.5	6.7	6.8	0.9	6.1	6.3	0.9
Other violent ^c	1.4	1.4	0.3	1.3	1.4	0.4	1.6	1.6	0.2	1.2	1.2	0.1
Property offenses	29.7%	29.9%	24.3%	25.7%	26.8%	10.9%	27.8%	27.5%	43.6%	36.5%	36.1%	51.3%
Burglary	9.0	9.3	0.2	10.4	11.1	0.1	7.7	7.8	0.2	8.4	8.6	0.2
Larceny ^d	12.0	12.3	3.3	9.5	10.1	1.4	12.9	13.0	5.2	14.1	14.3	7.8
Motor vehicle theft	1.7	1.8	0.3	1.5	1.6	0.3	2.4	2.4	0.4	1.4	1.5	0.3
Other theft	10.2	10.6	3.0	8.1	8.6	1.2	10.5	10.6	4.8	12.7	12.9	7.5
Fraud/forgery ^e	8.8	8.2	20.8	5.8	5.5	9.4	7.3	6.6	38.2	13.9	13.1	43.2
Fraud ^f	4.8	4.2	18.4	2.6	2.2	8.3	4.0	3.4	33.6	8.1	7.3	38.4
Forgery	4.0	4.1	2.4	3.2	3.3	1.1	3.3	3.2	4.6	5.8	5.8	4.8
Drug offenses	35.1%	34.8%	41.2%	33.9%	32.4%	54.4%	41.2%	41.7%	18.8%	30.8%	31.2%	17.2%
Possession	13.1	13.6	1.7	9.7	10.3	2.1	18.0	18.4	0.7	12.5	12.9	1.2
Trafficking	22.1	21.3	39.5	24.2	22.1	52.2	23.2	23.3	18.1	18.3	18.3	16.0
Weapons offenses	3.5%	3.3%	7.6%	4.0%	3.5%	10.1%	3.0%	3.0%	3.1%	3.5%	3.5%	3.2%
Other offenses^f	15.3%	15.1%	21.2%	12.6%	12.2%	17.0%	16.1%	15.7%	31.9%	18.1%	17.9%	26.0%

^aDoes not include negligent manslaughter.
^bIncludes rape.
^cIncludes offenses such as negligent manslaughter and kidnaping.
^dIncludes motor vehicle theft.
^eIncludes embezzlement.
^fComposed of nonviolent offenses such as receiving stolen property and immigration offenses.

Comparison of State and Federal offenses

Violent crimes comprised 17% of felony convictions in State courts, but only 6% of those in Federal courts. Similarly, violent crimes comprised 25% of State prison sentences but 8% of Federal prison sentences.

Drug offenses comprised 35% of felony convictions in State courts but 41% of those in Federal courts. Similarly, drug crimes comprised 32% of State prison sentences but 54% of Federal prison sentences.

Within offense groupings, the offense composition is not similar between State and Federal courts. For example, robbery comprised 61% of violent Federal convictions but 26% of violent State convictions. Similarly, forgery, fraud, and embezzlement comprised about 86% of Federal convictions for property crimes but about 28% of State convictions for property crimes.

Individual offense categories also differ. For example, Federal offenses labeled robbery are almost exclusively bank robberies (over 95%), while State robbery offenses seldom include those of banks.

Federal weapons offenses may entail importation or manufacture of prohibited or large quantities of weapons. However, like State weapons offenses, Federal weapons offenses typically involve a single firearm.

Felony sentences in the Nation's combined State and Federal courts

State and Federal courts imposed the most severe sentence, prison, on 39% of convicted felons nationwide in 1996 (table 3). Another 30% of convicted felons received a jail sentence. The remaining 31% received straight probation.

In 1996, 38% of felons convicted in State courts were sentenced to prison, down from the 46% in 1990, the 44% in 1992, and the 45% in 1994. By comparison, 64% of felons convicted in Federal courts were sentenced to prison, up from 54% in 1990, 59% in 1992, and 62% in 1994.

Table 3. Types of felony sentences imposed by State and Federal courts, by offense category, 1996

Most serious conviction offense	Total	Percent of felons sentenced to—			
		Total	Incarceration	Jail	Straight probation
All offenses					
State and Federal	100%	69%	39%	30%	31%
State	100	69	38	31	31
Federal	100	80	64	16	20
Violent offenses^a					
State and Federal	100%	79%	57%	22%	21%
State	100	79	57	22	21
Federal	100	92	85	7	8
Property offenses^b					
State and Federal	100%	62%	34%	28%	38%
State	100	62	34	28	38
Federal	100	58	29	29	42
Drug offenses^c					
State and Federal	100%	73%	38%	35%	27%
State	100	72	35	37	28
Federal	100	92	84	7	8
Weapons offenses					
State and Federal	100%	69%	44%	25%	31%
State	100	67	40	27	33
Federal	100	92	85	7	8
Other offenses^d					
State and Federal	100%	63%	32%	31%	37%
State	100	63	31	32	37
Federal	100	75	51	24	25

Note: For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed — prison being the most severe, followed by jail, then probation. Both State and Federal sentences included a small number not designated as prison, jail, or probation. The table classifies them under probation.

^aIncludes murder, sexual assault, robbery, aggravated assault, and other violent.

^bIncludes burglary, larceny, motor vehicle theft, forgery, fraud, and embezzlement.

^cIncludes drug trafficking and drug possession.

^dComposed of nonviolent offenses such as receiving stolen property and immigration offenses.

Overall, prison was the sentence imposed on more than half of the felons convicted of these offenses:

murder/manslaughter (91%), sexual assault (63%), and robbery (74%) (tables 4-6). Forgery, fraud, and embezzle

ment were the offenses most likely to receive straight probation (49%), the least severe penalty.

Table 4. Type of State and Federal felony sentences, by violent offenses, 1996

Most serious violent offense	Percent of felons sentenced to —				
	Total	Incarceration		Straight probation	
	Total	Prison	Jail		
Murder/manslaughter^a					
State and Federal	100%	95%	91%	3%	5%
State	100	95	92	3	5
Federal	100	89	76	13	11
Sexual assault^b					
State and Federal	100%	79%	63%	16%	21%
State	100	79	63	16	21
Federal	100	88	81	7	12
Robbery					
State and Federal	100%	88%	74%	14%	12%
State	100	87	73	14	13
Federal	100	96	93	3	4
Aggravated assault					
State and Federal	100%	72%	42%	30%	28%
State	100	72	42	30	28
Federal	100	72	50	22	28
Other violent^c					
State and Federal	100%	73%	39%	34%	27%
State	100	73	38	34	27
Federal	100	93	83	11	7

Note: For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed — prison being the most severe, followed by jail, then probation. Both State and Federal sentences included a small number not designated as prison, jail, or probation. The table classifies them under probation.

^aIncludes nonnegligent manslaughter.

^bIncludes rape.

^cIncludes offenses such as negligent manslaughter, and kidnaping.

Table 5. Type of State and Federal felony sentences, by property offenses, 1996

Most serious property offense	Percent of felons sentenced to —				
	Total	Incarceration		Straight probation	
	Total	Prison	Jail		
Burglary					
State and Federal	100%	71%	45%	26%	29%
State	100	71	45	26	29
Federal	100	75	56	18	25
Larceny					
State and Federal	100%	63%	31%	32%	37%
State	100	63	31	32	37
Federal	100	53	27	25	47
Motor vehicle theft					
State and Federal	100%	74%	33%	41%	26%
State	100	74	33	41	26
Federal	100	76	56	20	24
Other theft					
State and Federal	100%	62%	31%	31%	38%
State	100	62	31	31	38
Federal	100	50	25	26	50
Fraud/forgery*					
State and Federal	100%	51%	26%	25%	49%
State	100	50	26	24	50
Federal	100	58	29	30	42
Fraud*					
State and Federal	100%	47%	22%	25%	53%
State	100	45	20	25	55
Federal	100	58	29	29	42
Forgery					
State and Federal	100%	55%	31%	24%	45%
State	100	55	31	24	45
Federal	100	60	29	30	40

Note: For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed — prison being the most severe, followed by jail, then probation. Both State and Federal sentences included a small number not designated as prison, jail, or probation. The table classifies them under probation.

*Includes embezzlement.

Table 6. Type of State and Federal felony sentences, by drug offenses, 1996

Most serious drug offense	Percent of felons sentenced to —				
	Total	Incarceration		Straight probation	
	Total	Prison	Jail		
Possession					
State and Federal	100%	70%	29%	41%	30%
State	100	70	29	41	30
Federal	100	86	79	7	14
Trafficking					
State and Federal	100%	74%	43%	31%	26%
State	100	73	39	33	27
Federal	100	92	84	7	8

Note: For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed — prison being the most severe, followed by jail, then probation. Both State and Federal sentences included a small number not designated as prison, jail, or probation. The table classifies them under probation.

Drug traffickers and violent offenders: 1996 felony sentences compared

Federal courts sentenced convicted drug traffickers almost as severely as convicted violent offenders:

- 84% of drug traffickers and 85% of violent offenders received a prison sentence (tables 3 and 6).
- Average prison sentences were about a year and a half longer for violent offenders than drug traffickers (tables 7 and 10).

Felony drug traffickers and violent offenders in State and Federal courts

Percent sentenced to prison

	State	Federal
Drug traffickers	39%	84%
Violent offenders	57	85

Average prison sentence length

	State	Federal
Drug traffickers	55 mo	89 mo
Violent offenders	105	107

State courts nationwide sentenced convicted violent offenders more severely than convicted drug traffickers:

- 39% of drug traffickers and 57% of violent offenders received a prison sentence (tables 3 and 6).
- Average prison sentences were over 4 years longer for violent offenders than drug traffickers (tables 7 and 10).

Not all State courts in 1996 sentenced violent offenders more severely than drug traffickers. Among a sample of 162 State courts that had sizable number of both convicted violent offenders and convicted drug traffickers (at least 50 of each in 1996), 15% of the courts sentenced a larger fraction of drug traffickers than violent offenders to State prison. However, in only about 6% of the 162 courts were the prison sentences, on average, longer for drug traffickers than violent offenders.

Table 7. Length of felony sentences imposed by State and Federal courts, by offense category, 1996

Most serious conviction offense	Mean maximum sentence length in months for felons sentenced to —			
	Total	Incarceration	Jail	Straight probation
All offenses				
State and Federal	39 mo	63 mo	6 mo	41 mo
State	38	62	6	41
Federal	64	78	7	39
Violent offenses^a				
State and Federal	78 mo	105 mo	7 mo	48 mo
State	78	105	7	48
Federal	99	107	8	42
Property offenses^b				
State and Federal	29 mo	49 mo	6 mo	40 mo
State	30	49	6	40
Federal	21	35	7	39
Drug offenses^c				
State and Federal	32 mo	55 mo	6 mo	42 mo
State	28	51	6	42
Federal	83	89	9	42
Weapons offenses				
State and Federal	38 mo	56 mo	6 mo	35 mo
State	29	45	5	35
Federal	100	107	8	40
Other offenses^d				
State and Federal	25 mo	42 mo	6 mo	40 mo
State	24	42	6	40
Federal	31	42	6	36

Note: For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed — prison being the most severe, followed by jail, then probation. Both State and Federal sentences included a small number not designated as prison, jail, or probation. The table classifies them under probation.

^aIncludes murder, sexual assault, robbery, aggravated assault, and other violent.

^bIncludes burglary, larceny, motor vehicle theft, forgery, fraud, and embezzlement.

^cIncludes drug trafficking and drug possession.

^dComposed of nonviolent offenses such as receiving stolen property and immigration offenses.

Average sentence lengths

Felons sent to State and Federal prisons had an average imposed sentence length of just over 5 years (table 7). Those sent to jail had an average sentence of 6 months.

Straight probation sentences had an average length of about 3½ years.

In 1996 the average prison sentence imposed by State courts was just over 5 years; the average imposed by Federal courts was 6½ years. While these averages differ slightly from those in 1990, 1992, and 1994, the direction of the changes after 1990 were not consistently toward either longer or shorter sentences.

Unlike jail sentence lengths, which generally varied little from the 6-month overall national average, prison sentence lengths varied widely from offense to offense (tables 8-10). The

average prison sentence for murder was about 21 years; for sexual assault, 10 years; for robbery, about 8½ years; for motor vehicle theft, 3½ years; for drug possession, 3½ years.

Except for "other" violent offenses, the violent offense categories were the only categories that exceeded the average prison sentence of just over 5 years.

Table 8. Length of felony sentences imposed by State and Federal courts, by violent offenses, 1996

Most serious conviction offense	Mean maximum sentence length in months for felons sentenced to —			
	Incarceration		Straight probation	
Total	Prison	Jail		
Murder/manslaughter^a				
State and Federal	244 mo	253 mo	8 mo	71 mo
State	249	257	8	72
Federal	110	128	8	44
Sexual assault^b				
State and Federal	98 mo	119 mo	8 mo	66 mo
State	98	120	8	66
Federal	73	79	9	45
Robbery				
State and Federal	88 mo	101 mo	10 mo	52 mo
State	87	101	10	52
Federal	107	110	8	43
Aggravated assault				
State and Federal	43 mo	69 mo	6 mo	41 mo
State	43	69	6	41
Federal	34	46	7	40
Other violent^c				
State and Federal	35 mo	61 mo	6 mo	44 mo
State	34	59	6	44
Federal	124	141	6	40

Note: For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed — prison being the most severe, followed by jail, then probation. Mean sentence lengths exclude sentences to death or to life in prison.

^aIncludes nonnegligent manslaughter.

^bIncludes rape.

^cIncludes offenses such as negligent manslaughter and kidnaping.

Table 9. Length of felony sentences imposed by State and Federal courts, by property offenses, 1996

Most serious property offense	Mean maximum sentence length in months for felons sentenced to —			
	Incarceration		Straight probation	
Total	Prison	Jail		
Burglary				
State and Federal	41 mo	60 mo	6 mo	46 mo
State	41	60	6	46
Federal	27	34	7	38
Larceny				
State and Federal	22 mo	40 mo	6 mo	38 mo
State	22	40	6	38
Federal	24	40	7	38
Motor vehicle theft				
State and Federal	22 mo	42 mo	6 mo	36 mo
State	22	42	6	36
Federal	37	48	7	36
Other theft				
State and Federal	23 mo	39 mo	6 mo	38 mo
State	23	39	6	38
Federal	22	39	7	38
Fraud/forgery*				
State and Federal	24 mo	42 mo	5 mo	39 mo
State	24	43	5	39
Federal	20	35	7	40
Fraud*				
State and Federal	22 mo	42 mo	5 mo	38 mo
State	22	43	4	38
Federal	21	35	7	40
Forgery				
State and Federal	26 mo	42 mo	6 mo	41 mo
State	26	42	6	41
Federal	18	29	7	38

Note: For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed — prison being the most severe, followed by jail, then probation. Mean sentence lengths exclude sentences to death or to life in prison.

*Includes embezzlement.

Table 10. Length of felony sentences imposed by State and Federal courts, by drug offenses, 1996

Most serious drug offense	Mean maximum sentence length in months for felons sentenced to —			
	Incarceration		Straight probation	
Total	Prison	Jail		
Possession				
State and Federal	21 mo	42 mo	5 mo	37 mo
State	20	41	5	37
Federal	76	82	7	36
Trafficking				
State and Federal	38 mo	60 mo	7 mo	45 mo
State	34	55	7	45
Federal	83	89	9	43

Note: For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed — prison being the most severe, followed by jail, then probation. Mean sentence lengths exclude sentences to death or to life in prison.

Table 11. Corresponding time to be served in State and Federal prison, by offense, 1996

Most serious felony conviction offense	Mean prison sentences imposed in 1996 ^a			Percent of sentence expected to serve ^{a,b}			Corresponding time to be served in prison ^c		
	Total	State	Federal	Total	State	Federal	Total	State	Federal
All offenses	63 mo	62 mo	78 mo	48%	45%	85%	31 mo	28 mo	67 mo
Violent offenses	105 mo	105 mo	107 mo	52%	51%	85%	54 mo	53 mo	91 mo
Murder/manslaughter ^d	253	257	128	51	50	85	128	128	109
Sexual assault ^e	119	120	79	51	51	85	61	61	67
Robbery	101	101	110	49	47	85	49	48	94
Aggravated assault	69	69	46	54	54	85	37	38	39
Other violent ^f	61	59	141	52	51	85	32	30	120
Property offenses	49 mo	49 mo	35 mo	43%	42%	85%	21 mo	21 mo	30 mo
Burglary	60	60	34	42	42	85	25	25	28
Larceny	40	40	40	44	44	85	18	17	34
Motor vehicle theft	42	42	48	47	47	85	20	20	40
Other theft	39	39	39	43	43	85	17	17	33
Fraud/forgery ^g	42	43	35	44	39	85	18	17	30
Fraud ^h	42	43	35	49	39	85	20	17	30
Forgery	42	42	29	40	39	85	17	16	25
Drug offenses	55 mo	51 mo	89 mo	46%	41%	85%	27 mo	21 mo	76 mo
Possession	42	41	82	41	40	85	17	16	70
Trafficking	60	55	89	48	42	85	31	23	76
Weapons offenses	56 mo	45 mo	107 mo	61%	56%	85%	37 mo	25 mo	91 mo
Other offenses^h	42 mo	42 mo	42 mo	52%	49%	85%	22 mo	21 mo	36 mo

^aSentence length and percent of time served did not include life or death sentences in their calculation.

^bState estimates are derived from National Corrections Reporting Program data on first releases (sentences greater than a year) from State prisons in 1996. In calculating State estimates, allowance was made for jail time credited by the judge for time served prior to sentencing but no allowance could be made for post-sentencing time served in jail awaiting transfer to State prison.

^cCalculated by multiplying sentence length by percent of time to serve.

^dDoes not include negligent manslaughter.

^eIncludes rape.

^fIncludes offenses such as negligent manslaughter and kidnaping.

^gIncludes embezzlement. The combined category "fraud/forgery/embezzlement" was the basis for the 39% estimate for State offenders.

^hComposed of nonviolent offenses such as receiving stolen property and immigration offenses.

Sentence length versus time to serve

The amount of prison time a convicted offender receives at sentencing is almost always longer than the actual amount of time the offender will serve before release from prison. Two primary reasons explain this difference between sentence imposed and actual time to serve:

- Most States, but not the Federal system, have a parole board that decides when a prisoner is released. In those States, the sentence imposed equals the amount of time the offender serves before release only if the offender is never paroled. Because virtually all offenders in those States eventually are paroled (even including most of those with life sentences),

relatively few serve their entire sentence before release.

- In the Federal system and in all States (with or without a parole board), inmates can earn early release through time credits for good behavior or special achievements. In addition to earned good-time credits, automatic good-time credits are awarded in many States.

The length of time felons sentenced in 1996 might be expected to serve before being released is estimated from the length of their sentence and the percentage of their sentence they are expected to serve. Sentence length multiplied by percentage served gives time served before release. For example, the average Federal sentence in 1996 (about 6½ years) multiplied by 85% (the minimum percentage that, by Federal law, must

be served before release) gives an estimated time in confinement of approximately 5½ years (table 11).

All newly sentenced Federal prisoners (those whose crimes were committed after November 1987) are subject to the law setting the 85% minimum.¹ By contrast, State prisoners are subject to laws and policies that vary widely from State to State. There is no required minimum percentage of a sentence that must be served that is applicable to all felons sentenced to State prisons in 1996.² However, there are national statistics on persons released from

¹The one exception is those sentenced to life imprisonment. Federal life sentences must be served in full.

²More detailed discussions of time served in prison can be found in *Time Served in Prison by Federal Offenders, 1986-97*, BJS Special Report, NCJ 171682, forthcoming, and *Truth in Sentencing in State Prisons*, BJS Special Report, NCJ 170032, January 1999.

State prisons in 1996 that show what percentage of their sentence they had served. For example, released sex offenders had served 51% of their sentence; drug traffickers had served 42%. Assuming that felons sentenced in 1996 will serve about the same percentage of their sentence as prisoners released in 1996, felons sentenced in 1996 will serve about 2½ years (45% of a 62-month sentence is 2½ years).

In summary, the average Federal prison sentence (6½ years) is almost a year and a half longer than the average State sentence (5 years and 2 months). Newly sentenced Federal prisoners are expected to serve, on average, 3 years and 3 months longer than newly sentenced State prisoners (5½ years versus 2½ years). Major reasons for the difference are that, compared to drug offenders in State prisons, Federal drug traffickers ——receive longer sentences on average (7½ years versus 4½ years)
—make up a larger proportion of the prison population (52% of all sentences to prison versus 22%)
—serve a larger percentage of their sentence (85% versus 42%).

Time to serve for murder

The percentage of the sentence served among prisoners released in 1996 formed the basis for estimates of how much time newly sentenced State prisoners will serve. Applying these 1996 release percentages to 1996 State sentences gives generally reasonable estimates of how much time State prisoners serve before their release. The major exception is 1996 sentences for murder. Murderers released in 1996 had served an average of 50% of their sentence, but the 50% figure pertains only to those who had not received a sentence to life imprisonment. Life sentences are excluded from the calculation of the 50% figure because no agreed upon way exists for converting the number of years served on a life sentence into a percentage. This poses a problem particularly for estimating how much time murderers will serve because,

unlike other offenses, a substantial fraction of convicted murderers sent to prison have a life sentence (more than 1 in 4). The estimated time to serve of 128 months for murderers (obtained by taking 50% of the average non-life sentence of 257 months) therefore does not apply to the 1 in 4 with life sentences. On average, murderers with life sentence can be expected to serve longer than 128 months. How much longer is unknown. Murderers (including nonnegligent manslaughter) with life sentences released from State prisons in 1996 had served 146 months before their release, but the 146 months is probably not applicable to those with sentences of life without parole. Little is known about time served by persons with sentences of life without parole.

Methodology

State sentencing data are from the Bureau of Justice Statistics (BJS) National Judicial Reporting Program (NJRP), a biennial sample survey that collects detailed information on the sentences adult felons receive. Federal sentencing data are from the BJS Federal Justice Statistics Program, collecting annual comprehensive information about the district court processing of individuals and corporations.

Sentencing statistics given in this report pertain exclusively to offenses defined under State or Federal law as felonies. States vary in their definition of a felony, but in general, a felony is a crime that has the potential of being punished by more than 1 year in a State prison. Federal law also defines a felony as a crime that is punishable by imprisonment for a term exceeding 1 year.

Sentence length statistics presented in this report pertain to total sentence. For persons convicted of a single offense, total sentence is the sentence for that one offense. For persons convicted of a single offense and sentenced to a time range, such as 5-10 years, total sentence refers to the maximum. For persons convicted of multiple offenses to be served

concurrently (at the same time), total sentence is the same as the longest sentence. For persons convicted of multiple offenses to be served consecutively (one after the other), total sentence is the sum of sentence lengths.

State sentencing data were obtained from a sample of felony convictions in the State courts of 344 counties. The sample consisted of persons sentenced for a felony in 1996. Additional details are in *Felony Sentences in State Courts, 1996*, BJS, NCJ 173939, May 1999.

Federal sentencing data were based on defendants sentenced in Federal district courts in 1996. The data source was the case terminations file of the Administrative Office of the U.S. Courts. Additional details concerning methodology and definitions of offense categories are in the BJS publication, *Compendium of Federal Justice Statistics, 1996* (NCJ 172846). The Federal offense categories have been designed to be as compatible as possible with the definitions that follow.

Crime definitions for data collected from State courts

Murder and nonnegligent manslaughter:

Murder: Murder is (1) intentionally causing the death of another person without extreme provocation or legal justification or (2) causing the death of another while committing or attempting to commit another crime.

Nonnegligent (or voluntary) manslaughter: Nonnegligent (or voluntary) manslaughter is intentionally and without legal justification causing the death of another when acting under extreme provocation. The combined category of murder and nonnegligent manslaughter excludes involuntary or negligent manslaughter, conspiracies to commit murder, solicitation of murder, and attempted murder.

Rape/Sexual assault: Rape includes forcible intercourse (vaginal, anal, or oral) with a female or male. Includes forcible sodomy or penetration with a foreign object (sometimes called

"deviate sexual assault"); excludes statutory rape or any other nonforcible sexual acts with a minor or with someone unable to give legal or factual consent. Includes attempts.

Other sexual assault includes (1) forcible or violent sexual acts not involving intercourse with an adult or minor, (2) nonforcible sexual acts with a minor (such as statutory rape or incest with a minor), and (3) nonforcible sexual acts with someone unable to give legal or factual consent because of mental or physical defect or intoxication. Includes attempts.

Robbery: the unlawful taking of property that is in the immediate possession of another, by force or the threat of force. Includes forcible purse snatching, but excludes nonforcible purse snatching, which is classified as larceny/theft. Includes attempts.

Aggravated assault: (1) intentionally and without legal justification causing serious bodily injury, with or without a deadly weapon or (2) using a deadly or dangerous weapon to threaten, attempt, or cause bodily injury, regardless of the degree of injury, if any. Includes attempted murder, aggravated battery, felonious assault, and assault with a deadly weapon.

Other violent offenses: violent offenses excluded are murder and nonnegligent manslaughter, rape and sexual assault, robbery, and aggravated assault. Includes offenses such as kidnaping, extortion, and negligent manslaughter. Includes attempts.

Burglary: the unlawful entry of a fixed structure used for regular residence, industry, or business, with or without the use of force, to commit a felony or theft. Includes attempts.

Larceny: the unlawful taking of property other than a motor vehicle from the possession of another, by stealth, without force or deceit. Includes pocketpicking, nonforcible

purse snatching, shoplifting, and theft from motor vehicles. Excludes receiving and/or reselling stolen property (fencing), and thefts through fraud or deceit.

Includes attempts.

Motor vehicle theft: the unlawful taking of a self-propelled road vehicle owned by another. Includes the theft of automobiles, trucks, and motorcycles, but not the theft of boats, aircraft, or farm equipment (classified as larceny/theft). Also includes receiving, possessing, stripping, transporting, and reselling stolen vehicles, and unauthorized use of a vehicle (joyriding). Includes attempts.

Fraud, forgery, and embezzlement: using deceit or intentional misrepresentation to unlawfully deprive a persons of his or her property or legal rights. Includes offenses such as check fraud, confidence game, counterfeiting, and credit card fraud. Includes attempts.

Drug trafficking: includes manufacturing, distributing, selling, smuggling, and possession with intent to sell. Includes attempts.

Drug possession: includes possession of an illegal drug, but excludes possession with intent to sell. Includes attempts.

Weapons offenses: the unlawful sale, distribution, manufacture, alteration, transportation, possession, or use of a deadly or dangerous weapon or accessory.

Other felonies: all felony offenses not listed above. Includes receiving stolen property, driving while intoxicated or other traffic offenses, bribery, obstructing justice, escaping from custody, family offenses (such as child neglect, contributing to the delinquency of a minor, nonpayment of child support), and nonviolent sexual offenses (such as pornography offenses, pimping, and prostitution). Includes attempts.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

The BJS Bulletin publication series presents the first release of findings from permanent data collection programs.

This Bulletin was written by Jodi M. Brown and Patrick A. Langan of BJS. The Federal data presented are based on those collected as part of the Federal Justice Statistics Program. John Scalia, Jr., of BJS assisted with tabulating the Federal data. Douglas R. Hecox assisted with verification. Tom Hester and Ida Hines produced the report. Yvonne Boston and Jayne Robinson administered final report production.

July 1999, NCJ 175045

Data presented in this report may be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960, ICPSR# 2660.

The report and data are also available on the Internet:

<http://www.ojp.usdoj.gov/bjs/>