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Federal Drug Offenders, 1999 with Trends 1984-99

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During 1999 U.S. attorneys evaluated for prosecution 38,288 persons referred by Federal law enforcement agencies and who were suspected of drug offenses. Thirty-one percent of these suspects were involved with marijuana; 28%, with cocaine powder; 15%, crack cocaine; 15%, methamphetamine; 7%, opiates; and 3%, other drugs.

About 84% of the suspects referred to U.S. attorneys for possible drug offenses were subsequently charged in U.S. district courts. Of those subsequently charged with a drug offense, 13% were also charged with a nondrug offense such as a firearm offense (8%), money laundering (3%), or racketeering (1%).

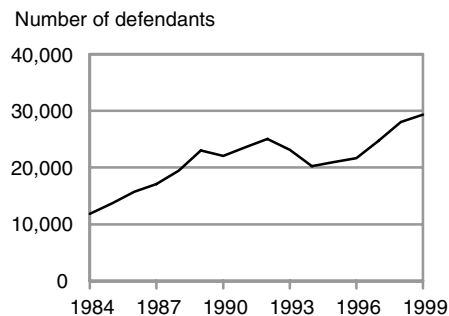
Between 1984 and 1999, the number of defendants annually charged with a drug offense in Federal courts increased from 11,854 to 29,306.¹ Additionally, between 1984 and 1999 drug offenses comprised an increased proportion of the Federal criminal caseload. During 1984, 18% of referrals to U.S. attorneys were drug-related compared to 32% during 1999.

Changes in Federal law during the 1980's and 1990's have had a substantial effect on the processing

¹The increase describes defendants for whom the drug offense was the most serious offense charged. For some defendants, the drug offense may have been a lesser included offense.

Highlights

Defendants charged with a drug offense in U.S. district courts, 1984-99



- Between 1984 and 1999, the number of defendants charged with a drug offense in the Federal courts increased from 11,854 to 29,306.
- Of the 38,288 suspects referred to U.S. attorneys during 1999, 31% were involved with marijuana; 28%, cocaine powder; 15%, crack cocaine; 15%, methamphetamine; 7%, opiates; and 3%, other drugs.
- 65% of those charged during 1999 had previously been arrested; 28% had 5 or more prior arrests. Half of those charged had previously been convicted; a third of a felony.
- 62% of convicted drug defendants were subject to a statutory minimum prison term: 29%, 60 months or less; 30%, 61 to 120 months; and 3%, 121 months or more (including life).
- Between 1986 and 1999, prison terms imposed increased from 62 months, on average, to 74 months. Time to be served in prison increased from 30 months to 66 months.
- Drug offenders involved with crack cocaine (114 months), possessing a firearm (133 months), or with extensive prior records (125 months) received the longest prison terms, on average, during 1999.
- 28% of convicted drug defendants received a reduced sentence for providing substantial assistance to prosecutors.
- 16% of incarcerated drug offenders reported being an importer, grower, or manufacturer of illicit drugs; 25% reported that they distributed drugs to street-level dealers.

of offenders convicted in Federal courts — particularly drug offenders. All Federal offenders sentenced to a term of imprisonment are required to serve at least 87% of the sentence imposed, and many drug offenders are subject to statutory minimum terms of imprisonment based on the type and quantity of the drug involved.

During this period of legislative change, the proportion of drug defendants sentenced to a term of imprisonment increased from 72% during 1984 to 89% during 1999. Nearly two-thirds of those sentenced during 1999 were subject to a statutory minimum prison term. Additionally, sentences imposed on drug offenders increased from 62 months, on average, during 1986 to 74 months during 1999. The proportion of the sentence that drug offenders entering Federal prison could expect to serve increased from 48% to 87%.

As part of the 1997 BJS Survey of Federal Prison Inmates, many drug offenders reported that they had had a substantial role in the drug conspiracy for which they were convicted. Of those incarcerated drug offenders, 16% reported that they were either an importer or a manufacturer of illicit drugs. An additional 25% reported that they were responsible for distributing drugs to street-level drug dealers. Inmates who reported being involved with opiates, cocaine, and marijuana were the most likely to be an importer

Suspects in matters involving drug offenses evaluated for prosecution by U.S. attorneys, by Federal judicial district, 1999

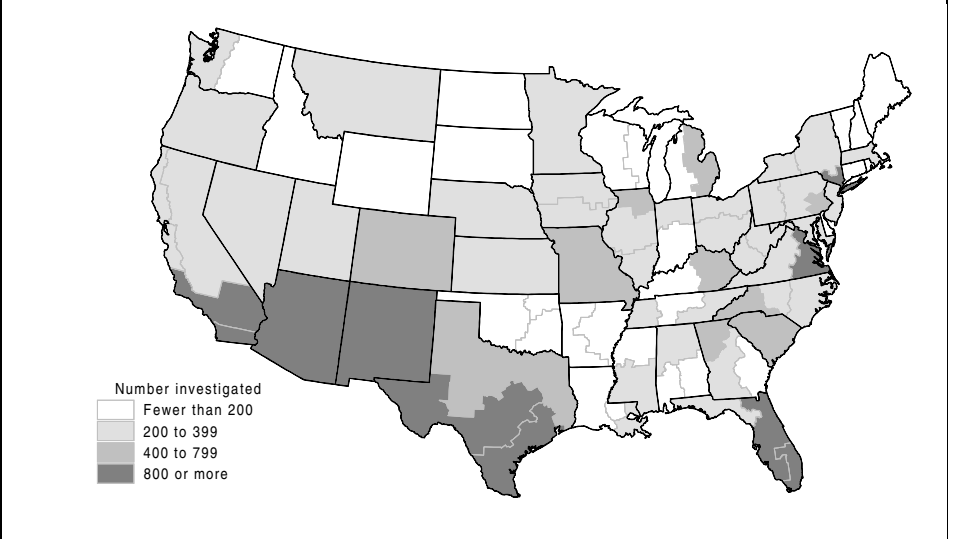


Figure 1

or manufacturer: those involved with methamphetamine, manufacturing; and those involved with crack cocaine, distributing to street-level drug dealers.

Referrals to U.S. attorneys

During 1999, 38,288 persons suspected of possible drug offenses were referred to U.S. attorneys by Federal law enforcement agencies for prosecution (table 1).² Most of these suspects were investigated for drug trafficking offenses, 2% for simple possession, and less than 1% for other drug offenses.

²For 36,765 suspects, the drug offense was the most serious offense investigated.

Of those investigated for drug trafficking offenses, 72% were investigated for a general drug trafficking or importation offense; 25%, for participating in a drug trafficking conspiracy; 1%, for establishing or operating a drug manufacturing operation; 1%, for trafficking drugs to persons under 21 or to pregnant women or near schools or playgrounds; and less than 1%, with a continuing criminal enterprise offense.

Seventy-two percent of drug-related referrals to U.S. attorneys involved just one suspect; 23% involved 2 to 4; and 5% involved 5 or more. Investigations involving continuing criminal enterprise and manufacturing offenses were the most likely to name multiple suspects. Almost three-quarters of continuing criminal enterprise investigations and 63% of manufacturing investigations named multiple suspects. Investigations involving simple possession offenses were the least likely to involve multiple suspects: 96% named just one person.

Referrals made to U.S. attorneys in 11 of the 94 Federal judicial districts during 1999 represented 43% of all drug-related referrals from Federal law enforcement agencies. In each of these 11 districts 800 or more suspects investigated were referred to U.S. attorneys (figure 1). The U.S. attorneys in the Western District of Texas (2,887) and Southern District of

Table 1. Suspects investigated in matters evaluated for prosecution by U.S. attorneys, by statutory offense, 1999

Most serious offense investigated	Suspects		Referrals evaluated for prosecution			
			Total number of referrals	Number of suspects in referrals (percent of referrals)		
	Number	Percent		1	2 to 4	5 or more
Total	38,288	100.0%	22,388	72.0%	23.0%	5.1%
Drug trafficking	37,318	97.5%	21,407	71.0%	23.8%	5.3%
Continuing criminal enterprise	214	0.6	92	27.2	23.9	48.9
Manufacturing	453	1.2	290	37.2	44.5	18.3
Protected locations	370	1.0	240	64.6	29.2	6.3
Drug trafficking, generally	26,838	70.1	17,297	72.9	23.0	4.1
Conspiracy only	9,443	24.7	3,488	66.0	25.3	8.7
Simple possession	785	2.1%	747	96.0%	4.0%	--
Other drug offense	185	0.5%	159	91.2%	8.8%	--

Note: Includes suspects in referrals concluded during fiscal year 1999.

-- No observations.

Data source: Executive Office for U.S. Attorneys, central system data file, fiscal year.

California (2,525) received the most referrals during 1999. By contrast, U.S. attorneys in 32 districts each received referrals on fewer than 200 suspects during 1999; referrals to these 32 districts represented 10% of all drug-related referrals.

Type of drug involved

Thirty-one percent of drug suspects investigated were involved with marijuana; 28%, with cocaine powder; 15%, crack cocaine; 15%, methamphetamine; 7%, opiates; and 3%, other drugs (table 2). Of those suspects investigated for a continuing criminal enterprise offense, most (60%) were involved with cocaine powder. Those investigated for a manufacturing offense were most likely to be involved

with methamphetamine (41%) or crack cocaine (23%); trafficking near protected locations, crack cocaine (43%); and simple possession, marijuana (60%).

Prosecutorial decisions

During 1999, U.S. attorneys chose to prosecute 84% of suspects referred for drug offenses.³ Few (1%) of those suspects investigated for operating a manufacturing operation or trafficking near protected locations were subsequently declined for prosecution by U.S. attorneys (figure 2). Matters involving suspects investigated solely

³Prosecution rate based on all persons referred for a drug offense (38,288). Suspects initially investigated for a drug offense may have been subsequently charged with a nondrug offense.

for being part of a drug conspiracy were among those most likely to be declined.

Prosecution rates also varied according to the type of drug involved in the offense. Suspects involved with opiates and marijuana were among those most likely to be charged. U.S. attorneys declined to prosecute less than 10% of suspects involved with opiates or marijuana (figure 3). Suspects involved with hallucinogens were among the least likely to be charged — more than 20% were declined for prosecution.

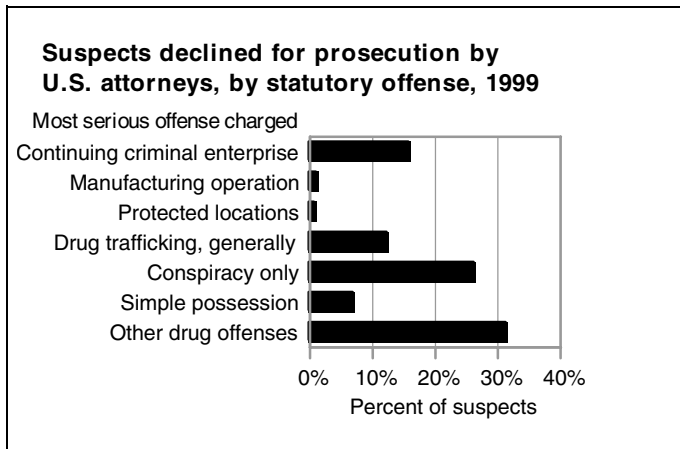


Figure 2

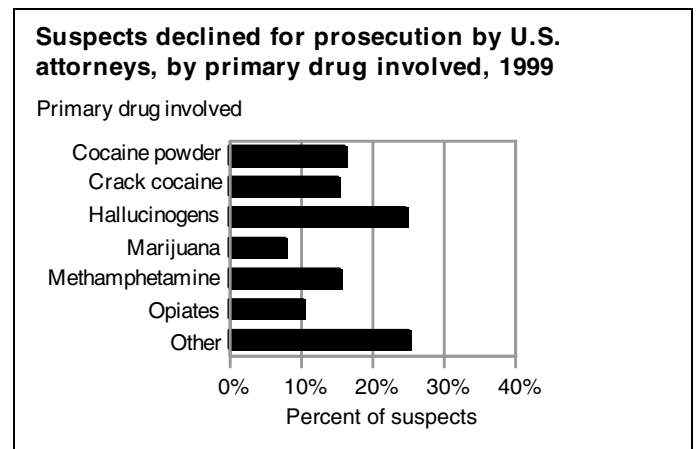


Figure 3

Table 2. Drug suspects evaluated for prosecution by U.S. attorneys, by statutory offense and drug type, 1999

Most serious offense investigated	Number of suspects*	Type of drug involved						
		Cocaine powder	Crack cocaine	Hallucino-gens	Marijuana	Metham-phetamine	Opiates	Other
Total	38,288	28.0%	15.4%	0.7%	31.0%	15.3%	6.8%	2.9%
Drug trafficking	37,318	28.2%	15.5%	0.7%	30.7%	15.4%	6.8%	2.7%
Continuing criminal enterprise	214	59.8	5.9	0.0	7.1	18.9	7.7	0.6
Manufacturing	453	12.2	22.7	2.0	15.3	41.2	5.9	0.8
Protected locations	370	24.7	42.8	2.2	12.5	7.5	9.7	0.6
Drug trafficking, generally	26,838	25.8	15.3	0.6	35.4	13.8	6.4	2.7
Conspiracy only	9,443	35.7	14.9	0.7	18.8	19.1	8.0	2.8
Simple possession	785	11.0%	10.3%	1.2%	59.8%	5.6%	2.7%	9.3%
Other drug offense	185	18.8%	7.9%	--	12.9%	20.8%	4.0%	35.6%

*Includes suspects for whom type of drug was not available.

-- No observations.

Data source: Executive Office for U.S. Attorneys, central system data file, fiscal year.

Drug defendants prosecuted in Federal courts

During 1999, 30,099 defendants were charged with a drug offense in U.S. district courts — alone or in tandem with other offenses.⁴ Thirteen percent of those charged were also charged with a non-drug offense (figure 4). Drug offenses were most often charged in tandem with a firearm offense. Of those drug defendants charged with two or more offenses,

⁴For 29,306 defendants the drug offense was the most serious offense charged.

57% were charged with a firearm offense, 19% with a money laundering offense, 11% with racketeering, and the remainder with other offenses (not shown in a table).

More than a third of defendants charged with a continuing criminal enterprise offense were charged with two or more offenses (figure 4).

Drug defendants charged with secondary offenses, by most serious statutory offense, 1999

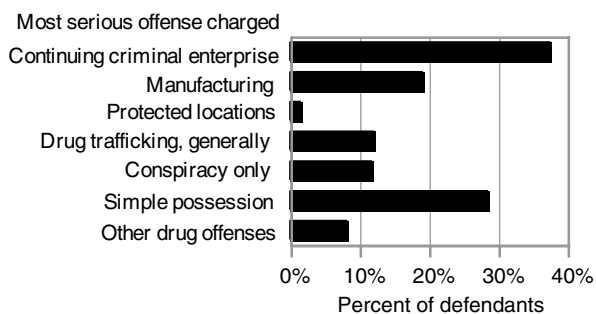


Figure 4

Federal sentencing law in transition

During the 1980's and 1990's changes in Federal criminal law and policy had a substantial effect on the processing of Federal offenders — particularly drug offenders. Prior to the implementation of the Sentencing Reform Act of 1984 (SRA) on November 1, 1987, Federal judges had few constraints when imposing criminal sentences. The U.S. Parole Commission made release decisions. Offenders became eligible for release after serving a portion of the prison sentence imposed.

The adoption of the SRA resulted in several changes to Federal sentencing law: (1) abolished parole for Federal offenders, (2) limited the amount of good conduct time offenders could earn to a maximum of 54 days per year served; (3) required offenders to serve a term of "supervised release" upon release from prison; and (4) required the development, promulgation, and adoption of sentencing guidelines that would structure the sentencing decisions of Federal judges.

Pursuant to the SRA, offenders convicted of similar offenses receive similar sentences and sentence severity varies proportionately with the severity of the offense conduct. Federal offenders are required to serve at least 87% of the sentence imposed before being eligible for release.

In addition to the general reform of the Federal sentencing process, several laws — beginning with the Comprehensive Crime Control Act of 1984 — were enacted that required offenders be sentenced to a minimum term of imprisonment. These "mandatory minimum" prison terms applied primarily to drug and firearm offenses. These laws include —

- the Comprehensive Crime Control Act of 1984, which established a 5-year minimum sentence for defendants using a firearm during the commission of a violent or drug trafficking offense and a 1-year minimum sentence for defendants convicted of selling drugs near schools or playgrounds.
- the Anti-Drug Abuse Act of 1986 which established 5-, 10-, and 20-year minimum sentences for defendants convicted of drug trafficking offenses. These minimum penalties were tied to the type and amount of drugs involved in the offense and the offender's criminal history. Additionally, the 1986 act established a 1-year minimum sentence of defendants convicted of selling drugs to persons under the age of 21 or pregnant women, or for employing for drug-related activity persons under age 18.

- the Anti-Drug Abuse Act of 1988, which established a 5-year minimum sentence for simple possession of 5 or more grams of crack cocaine and a 20-year minimum sentence for defendants engaged in a continuing criminal enterprise with the possibility of life in prison if the quantity of drugs was large enough or death if the defendant effected the death of another. This act also extended the minimum sentences established in 1986 to drug conspiracies.

The Violent Crime and Law Enforcement Act of 1994 exempted certain first-time, nonviolent drug offenders from otherwise applicable statutory minimum penalties. To be eligible for this exemption, offenders (1) must be a first-time offender or have a limited criminal history, (2) could not have used violence, possessed a weapon, or caused the death or serious injury of another during the current offense, (3) could not have organized or supervised the activities of others, and (4) must have provided truthful information and evidence to the government concerning the offense. In addition, this act provided the opportunity for early release — up to 1 year — of nonviolent drug offenders who completed a drug treatment program while incarcerated.

While firearm offenses were most often charged, these defendants were more frequently charged with violent and money laundering offenses than other drug defendants. Of those drug defendants charged with two or more offenses, 28% were charged with a violent offense and 23% with a money laundering offense (not shown in a table).

More than a quarter of defendants charged with drug possession were charged with an additional offense. Most often these defendants were charged with a traffic violation (not shown in a table).

Characteristics of defendants charged with a Federal drug offense

Almost half (46%) of those charged with a drug offense were identified as Hispanic; 28%, black; 25%, white; and 2%, other racial or ethnic groups (table 3).

About 40% of defendants charged with a drug offense lived in the community in which they were arrested for less than 1 year or they were transiting the area; 22% lived in the community for 1 to 5 years; and 38%, more than 5 years (table 3).

About two-thirds (65%) of defendants charged with a drug offense in U.S. district courts had previously been arrested (table 4).

Nearly 8 in 10 Federal drug offenders with a prior arrest had been arrested on at least 2 occasions; more than 4 in 10 had been arrested 5 or more times.

Number of prior arrests	Percent of those with a prior arrest
1	21%
2-4	35%
5 or more	44%

Federal drug offenses

Title 21 of the Federal criminal code defines several offenses for which drug offenders can be prosecuted in Federal courts:

- *continuing criminal enterprise* offenses, which involve the trafficking of illicit drugs by a person (the defendant) in concert with 5 or more other persons (21 U.S.C. § 848). In these offenses, the defendant is responsible for organizing or managing the drug conspiracy and receives substantial income or other resources from the conspiracy.
- *manufacturing* offenses, which involve the operation of places for the purposes of manufacturing, distributing, or using an illicit drug (21 U.S.C. § 856) or endangering human life while illegally manufacturing an illicit drug (21 U.S.C. § 858).
- *protected location* offenses, which involve the distribution of illicit drugs to persons under age 21 (21 U.S.C. § 859); the distribution or manufacture of drug within 1,000 feet of a school, college, public housing complex, or playground or within 100 feet of a youth center, public swimming pool, or a video arcade facility (21 U.S.C. § 860); and the employment of persons under age 18 to distribute illicit drugs or otherwise participate in a drug conspiracy or distribution to pregnant women (21 U.S.C. § 861).

- *general drug trafficking* offenses, which involve the manufacture, distribution, or possession with the intent to distribute illicit drugs (21 U.S.C. § 841) or the importation of illicit drugs (21 U.S.C. § 960).
- *conspiracy* offenses, which involve attempts and the promotion or facilitation of the manufacture, distribution, or importation of illicit drugs (21 U.S.C. §§ 846 and 963).
- *simple possession* offenses, which involve the possession of controlled substances without a valid and lawful prescription or order from a licensed practitioner (21 U.S.C. § 844). In contrast to a drug trafficking offense, a defendant charged with simple possession does not intend to distribute the illicit drug.
- *other drug* offenses include (1) the unlawful acquisition or distribution by a person registered to distribute controlled substances (21 U.S.C. §§ 842-843), (2) the investment of illicit drug profits in the establishment or operation of a business affecting interstate commerce, including the purchase of securities (21 U.S.C. § 854), (3) the sale, importation, or mailing of drug paraphernalia — equipment designed for the illicit manufacture of use of controlled substances — (21 U.S.C. § 963), and (4) the transportation of controlled substances (21 U.S.C. §§ 954 and 961).

About half of those charged had previously been convicted. Of those drug defendants with a prior conviction, two-thirds had been convicted of a felony offense: 32%, of a drug offense; 26%, of a violent offense; and 9%, of other felony offenses. About a third of those charged were under criminal justice supervision at the time of the arrest.

Black defendants were the most likely to have a criminal history. Seventy percent of black defendants compared to 60% of whites and 35% of Hispanics had previously been convicted. Additionally, black defendants had more extensive criminal histories than whites or Hispanics. Of those defendants with a prior conviction, 34% of blacks had been convicted 5 or more times compared to 26.4% of whites and 14.2% of Hispanics (figure 5).

About a quarter of defendants charged were identified as noncitizens. Two-thirds of noncitizens charged with a drug offense were prosecuted in 8 of the 94 Federal judicial districts: Western Texas (17%), Southern Texas

(12%), Arizona (12%), Southern California (8%), Eastern New York (6%), Southern Florida (5%), New Mexico (3%), and Central California (3%) (not shown in a table).

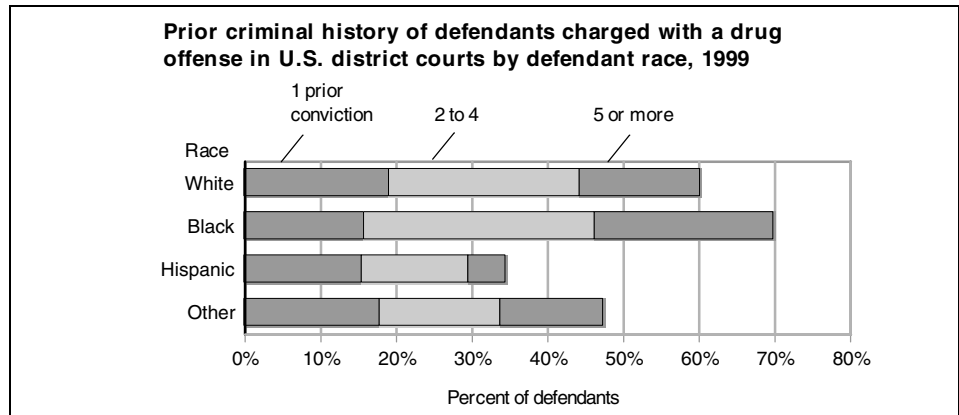


Figure 5

Table 3. Selected characteristics of defendants charged with a drug offense in U.S. district courts, 1999

Characteristic	Number	Percent
Total*	30,099	100.0%
Gender		
Male	24,291	84.6%
Female	4,409	15.4
Race/ethnicity		
White	7,081	24.8%
Black	7,951	27.9
Hispanic	12,966	45.5
Other	515	1.8
Age		
Under 19 years	331	1.2%
19 to 20	1,687	5.9
21 to 30	12,673	44.2
31 to 40	8,332	29.1
41 or older	5,657	19.7
Citizenship		
United States	19,824	73.2%
Other	7,261	26.8
Time in area		
Transient	2,731	9.5%
Less than 1 year	8,942	31.1
1 to 3	4,474	15.6
3 to 5	1,758	6.1
5 years or more	10,821	37.7

Note: Represents observations where the drug offense was the most serious offense charged.
 *Detail excludes observations where a particular characteristic was not reported.
 Data source: Administrative Office of the U.S. Courts, Pretrial services data file, fiscal year.

Table 4. Prior criminal history of defendants charged with a drug offense in U.S. district courts, 1999

Characteristic	Number	Percent
Total*	30,099	100.0%
Number of prior arrests		
None	10,061	35.0%
1	3,948	13.7
2 to 4	6,582	22.9
5 or more	8,135	28.3
Number of prior convictions		
None	14,035	48.9%
1	4,758	16.6
2 to 4	6,170	21.5
5 or more	3,763	13.1
Nature of prior convictions		
No prior convictions	14,035	48.9%
Felony	9,806	34.2
Violent	3,757	13.1
Drug	4,733	16.5
Other	1,316	4.6
Misdemeanor	4,885	17.0
Criminal justice status at arrest		
Not under supervision	18,988	66.1%
Pretrial release	1,935	6.7
Parole or supervised	673	2.3
Probation	1,744	6.1
Other	5,386	18.7

Note: Represents observations where the drug offense was the most serious offense charged. "Other" includes outstanding warrants, escape, and unlawful immigration.
 *Detail excludes observations where a particular characteristic was not reported.
 Data source: Administrative Office of the U.S. Courts, Pretrial services data file, fiscal year.

Federal drug prosecution trends

Between 1984 and 1999, the number of defendants charged with a drug offense in U.S. district courts increased about 3% annually, on average, from 11,854 to 29,306 (figure A). The increase, however, was not constant. Between 1992 and 1994, the number of defendants charged decreased 19% from 25,033 to 20,275 before increasing to the level attained during 1992. The decline in the number of drug defendants prosecuted was at least partially attributable to a decrease in referrals to U.S. attorneys during this

period. Between 1992 and 1994, the number of suspects referred to U.S. attorneys for possible drug offenses decreased 24% from 36,457 to 27,697.

Additionally, between 1984 and 1999 drug offenses comprised an increased proportion of the Federal criminal caseload. During 1984, 18% of referrals to U.S. attorneys were drug-related compared to 32% during 1999.

Changes in Federal sentencing law during the 1980's and 1990's had a substantial effect on the sentencing of Federal offenders, particularly those charged with drug offenses. Prior to enactment of legislation establishing statutory minimum sentences for many drug offenders during 1986 and 1988 and implementation of the Sentencing Reform Act during 1987, about three-quarters of convicted drug offenders received

a prison sentence. Half of drug offenders entering Federal prison during 1986 had received a prison sentence of 36 months or less.

The median time to be served for those entering prison during 1986 was about 24 months (figure B).

By 1994, Federal sentencing practices had changed considerably. The incarceration rate for convicted drug offenders had increased to 89% (figure A). During 1999, half of drug offenders entering Federal prison had received a prison sentence of 51 months or less. The median time to be served for those entering Federal prison during 1999 was 41 months (figure B).

As a result of increased prosecutions and longer time served in prison, the number of drug offenders in Federal prisons increased more than 12% annually, on average, from 14,976 during 1986 to 68,360 during 1999 (not shown in a table).

Federal drug offenders, 1984-99

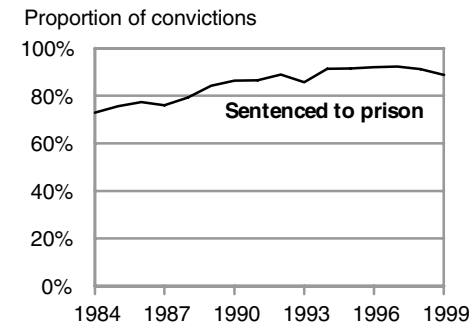
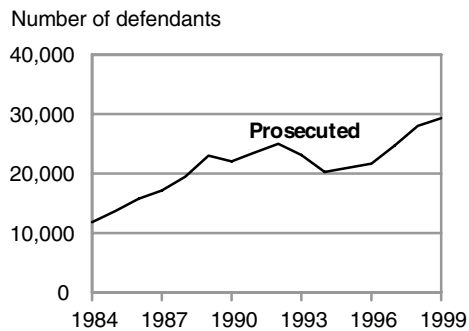
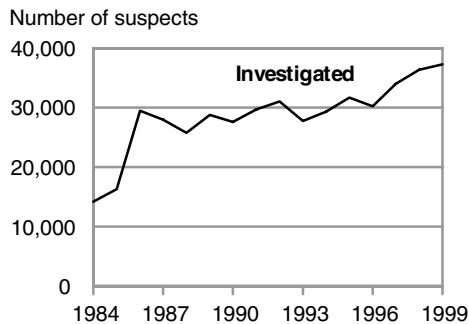


Figure A

Time to be served by drug offenders entering Federal prison, 1986 and 1999

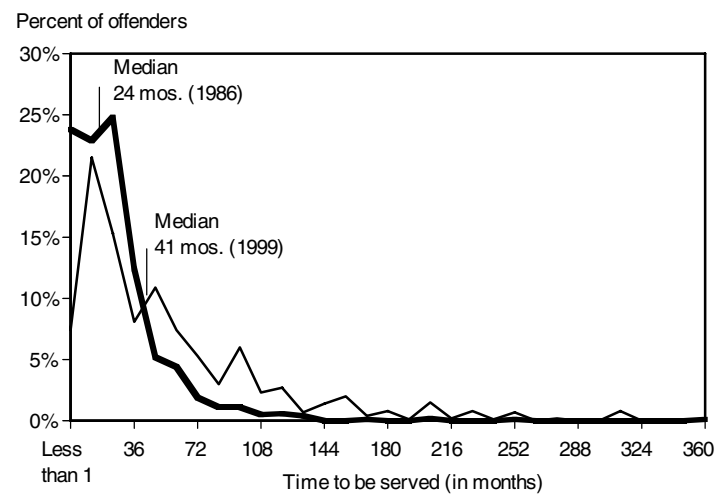


Figure B

Drug defendants adjudicated in Federal courts

During 1999 criminal cases involving 28,432 defendants charged with a drug offense were concluded in U.S. district courts; 89% of defendants charged were convicted (table 5). Almost all (95%) of those convicted pleaded guilty to at least one of the offenses charged.

Almost two-thirds of those adjudicated were represented by publicly-provided

counsel — 42% by a court-appointed attorney, 23% by a Federal public defender, and less than 1% by a community defender organization operating in the judicial district. About a third were represented by privately-retained counsel and less than 1% by themselves.

About 60% of drug defendants adjudicated were detained between arrest and adjudication. Of those defendants released prior to adjudication, about

half were released on their own recognition; more than a quarter after posting bail; 19%, on an unsecured bond; and 4%, under restrictive conditions imposed by the court.

More than a quarter of defendants released pending adjudication violated the conditions of their release. Of the violators, about two-thirds committed a technical violation of the release conditions imposed such as testing positive for illicit drug use; 16% committed a new offense; and 13% failed to make scheduled court appearances.

Sentences imposed

Nearly 9 in 10 of those convicted of a drug offense received a sentence that included imprisonment, 8% were sentenced to a term of probation, and 3% received another type of sentence such as a fine (table 5). The average prison term imposed during 1999 was 74 months (table 6).

Table 5. Defendants adjudicated in U.S. district courts for a drug offense, 1999

Characteristic ^a	Number	Percent
Total	28,432	100.0%
Outcome of criminal charges		
Not convicted	3,025	10.7%
Convicted	25,184	89.3
Plea	23,869	84.6
Trial	1,315	4.7
Type of sentence imposed		
Prison term	22,372	89.0%
Term of months	22,163	88.2
Life	208	0.8
Death	1	--
Probation only	1,951	7.8
Other	810	3.2
Type of representation at case termination		
Private	9,286	33.5%
Publicly-provided	18,153	65.5
Appointed	11,657	42.1
Federal defender	6,485	23.4
Community defender	11	--
Pro Se	257	0.9
Custody status pending adjudication		
Detained	15,412	58.9%
Released	10,762	41.1
Financial conditions	3,129	12.0
Unsecured bond	2,040	7.8
Personal recognizance	5,155	19.7
Conditional release	438	1.7
Behavior pending adjudication		
Not released pending adjudication	15,412	58.9%
No violations of release conditions	7,693	29.4
Release conditions violated ^b	3,066	11.7
Failure to appear	405	1.5
New offense	491	1.9
Technical violations	2,117	8.1
Other	53	0.2

Note: Represents observations where the drug offense was the most serious offense charged.

^aDetail does not add to total (28,432); excludes observations for which a particular characteristic was not available.

^bRepresents most serious violation.

-- Less than 0.05%.

Data source: Administrative Office of the U.S. Courts, Criminal Master file and Pretrial services data files, fiscal year.

Table 6. Prison sentence imposed on defendants convicted of a drug offense in U.S. district courts, by statutory offense, 1999

Offense charged	Number of defendants	Sentence to prison	
		Percent	Average term imposed
Total	25,184	88.8%	74.0 mo
Drug trafficking			
Continuing criminal enterprise	22,816	92.3%	77.1 mo
Manufacturing	116	93.1	233.2
Protected locations	348	84.8	84.9
Drug trafficking, generally	307	96.4	91.4
Conspiracy only	16,618	93.0	72.0
	5,427	90.3	89.5
Simple possession	1,038	22.3%	15.8 mo
Other drug-related offenses	118	61.0%	43.5 mo

Note: Represents defendants for whom the drug offense was the most serious offense of conviction. Excludes observations for which the prison term was not reported. Average prison term imposed excludes defendants sentenced to life imprisonment or death; 208 defendants received a sentence of life imprisonment.

Data source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

Defendants convicted of continuing criminal enterprise offenses were among the most likely to be sentenced to prison (93%) and received the longest average prison terms (233 months not including sentences to life

imprisonment). Defendants convicted of a drug possession offense were among the least likely to be sentenced to prison (22%) and received the shortest average prison terms (16 months).

Determinants of sentences imposed

Pursuant to the Federal sentencing guidelines, many factors contribute to the sentence that an individual may receive upon conviction. For drug offenders these factors include:

- the type and quantity of drug involved,
- whether the offense involved injury to another,
- whether a weapon was used or possessed, and
- the defendant's criminal history.

Additionally the Federal criminal code requires minimum terms of imprisonment to be imposed based on the type and quantity of drugs involved (21 U.S.C. § 841 and 960), if the offenses occurred near special protected areas such as schools or playgrounds (21 U.S.C. § 860), involved specially protected individuals such as pregnant women or juveniles (21 U.S.C. §§ 859 and 861), or involved the possession or use of a firearm (18 U.S.C. § 924(c) or (e)). During 1999, 62% of defendants convicted of a drug offense were subject to a mandatory minimum term of imprisonment (table 7).

Type of drug. Almost a third of defendants convicted of a drug offense in Federal courts were involved with marijuana; 22%, with cocaine powder; 22%, crack cocaine; 13%, methamphetamine; and 13%, all other drugs.

Statutorily and pursuant to the Federal sentencing guidelines, different penalties are prescribed for offenses involving different drugs. Apart from other factors influencing the sentence to be imposed, offenses involving crack cocaine and methamphetamine resulted in the longest imposed prison terms, on average. Defendants involved with crack cocaine were sentenced to 114 months, on average; those involved with methamphetamine, 87 months. By contrast, those involved with marijuana received the shortest sentences, on average — 34 months.

Table 7. Prison sentence imposed on defendants convicted of a drug offense in U.S. district courts, by selected sentencing factors, 1999

Sentencing factor	Defendants convicted		Sentenced to prison	
	Number	Percent	Percent	Average term imposed
Total	25,184	100.0%	88.8%	74.0 mo
Type of drug involved				
Cocaine powder	4,996	21.5%	96.0	77.1 mo
Crack cocaine	5,204	22.4	98.0	114.1
Hallucinogens	122	0.5	86.0	60.9
Marijuana	7,128	30.6	91.2	33.8
Methamphetamine	2,907	12.5	95.2	87.0
Opiates	1,814	7.8	96.9	60.8
Other	1,107	4.8	76.0	58.2
Sentence enhancement for firearm use				
No sentence enhancement	20,589	88.4%	93.3	63.5 mo
Sentence enhanced	2,699	11.6	98.5	133.4
Sentencing guideline enhancement	2,167	9.3	98.2	121.5
18 USC 924(c), use or possession during a crime	490	2.1	99.8	178.8
18 USC 924(e), possession by a prohibited person	42	0.2	100.0	238.3
Prior conviction				
None	10,546	46.3%	91.6	49.2 mo
1 prior	4,453	19.4	93.6	69.6
2 to 4	6,006	26.1	97.1	93.5
5 or more priors	1,987	8.6	98.8	125.1
Statutory minimum penalty				
None applicable	8,855	38.2%	86.6	30.6 mo
60 months or less	6,598	28.5	98.0	58.5
61 to 120 months	6,959	30.0	98.7	117.0
121 months or more	680	2.9	100.0	212.3
Life	88	0.4	100.0	...
Judicial compliance with Federal sentencing guidelines				
Sentence within guideline range	12,680	56.2%	95.5	84.7 mo
Sentence above guideline range	44	0.2	95.5	133.1
Sentence below guideline range for —	9,834	43.6	92.6	49.8
Substantial assistance to government	6,415	28.4	92.0	61.0
Other reasons	3,419	15.2	93.7	42.5
Statutory exemption from mandatory minimum				
No mandatory minimum	8,855	40.9%	86.6	30.6 mo
Mandatory minimum applicable	12,819	59.1	98.5	94.2
No exemption	8,348	38.5	99.2	117.9
Exemption	4,471	20.6	97.2	47.6

Note: Represents defendants for whom the drug offense was the most serious offense of conviction. Detail does not add to total (25,184); excludes observations for which a particular characteristic was not available. Average prison term imposed excludes defendants sentenced to life imprisonment or death. ...55% of defendants with a mandatory sentence of life imprisonment were sentenced to life imprisonment; the other 45% received prison sentences of 185 months, on average. Data source: U.S. Sentencing Commission, Monitoring data file, fiscal year.

Statutory minimum penalties.

During 1999, 62% of defendants convicted of a drug offense were subject to a statutorily prescribed minimum sentence: 29% to a term of 60 months or less; 30%, 61 to 120 months; and 3%, 121 months or more, including life imprisonment. Defendants subject to a mandatory sentence received longer prison sentences, on average, than other defendants.

Defendants subject to a minimum sentence of 60 months or less received prison sentences of 59 months, on average. Those subject to a minimum sentence of 61 to 120 months, 117 months; and 121 months or more (excluding life imprisonment), 212 months. Defendants not subject to a minimum sentence received prison sentences of 31 months, on average.

Possession or use of a weapon.

Pursuant to both the Federal criminal code and the Federal sentencing guidelines, imposed sentences may be enhanced if the defendant possessed or used a weapon during the commission of the offense. During 1999, 12% of convicted drug defendants received a sentence enhancement for the use or possession of a firearm or other weapon. Most (80%) received the enhancement prescribed by the sentencing guidelines. An additional 20% received the enhancement prescribed by statute for use or possession during a crime (18 U.S.C. § 924(c)) or as a prohibited person possessing a firearm (18 U.S.C. § 924(e)).

Sentence enhancements for weapon use vary considerably, depending on whether the enhancement was imposed pursuant to the Federal sentencing guidelines or statute. During 1999 defendants who received a guideline-based enhancement received an average prison sentence of 122 months. Those who received a statute-based enhancement received an average prison sentence of 184 months. By contrast, defendants who did not receive an enhancement for weapon use received an average prison sentence of 64 months.

Criminal history. In addition to offense-specific sentencing factors, the Federal sentencing guidelines base sentences on the defendant's prior record. Longer sentences are prescribed for defendants with more extensive criminal histories. For example, the sentencing range for defendants with 2 prior sentences of more than 1 year would be approximately 25% higher than that of a first-time offender. The sentencing range for a defendant with 5 prior sentences of more than 1 year would be twice that of a first-time offender.

Almost half of drug defendants convicted during 1999 had no prior convictions; 19% had been convicted 1 time; 26%, 2 to 4 times; and 9%, 5 or more times. Almost all drug defendants received a sentence to imprisonment, so that the imprisonment rate increased marginally with the additional number of prior convictions. During 1999, 92% of first-time offenders were sentenced to prison

compared to 94% of those with 1 prior, 97% of those with 2 to 4 priors, and 99% of those with 5 or more priors.

Average prison terms imposed also increased as the number of prior convictions increased. First-time offenders received prison sentences of 49 months, on average; those with 1 prior, 70 months; 2 to 4 priors, 94 months; and 5 or more priors, 125 months.

Departures from the Federal sentencing guidelines

U.S. district courts may impose a sentence above or below the sentencing range established by the Federal sentencing guidelines if the circumstances of a particular case were not adequately addressed by the guidelines. Judicial departures from the guidelines are nonetheless required to conform to applicable statutory minimums and maximums. Upon the motion of the U.S. attorney, a district court may impose a sentence below the applicable guideline sentencing range and below the applicable statutory minimum if the defendant provided "substantial assistance" to the Government in the investigation or prosecution of another (U.S.S.G. § 5K1.1 and 18 U.S.C. 3553(e)).

During 1999, 44% of drug defendants convicted in U.S. district courts received a sentence that was outside the applicable guideline sentencing range. Almost all (99.6%) of those sentenced outside of the guideline range received a downward departure.

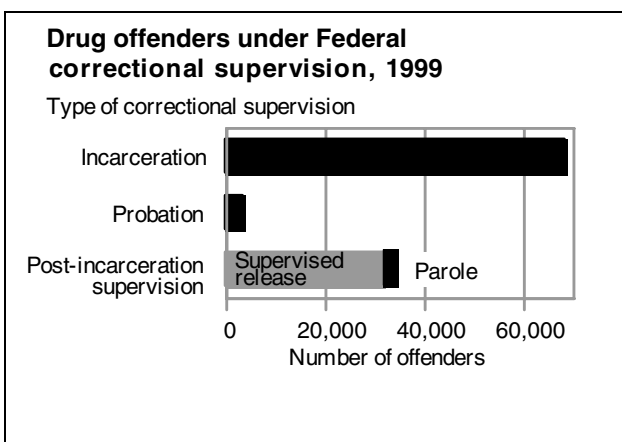


Figure 6

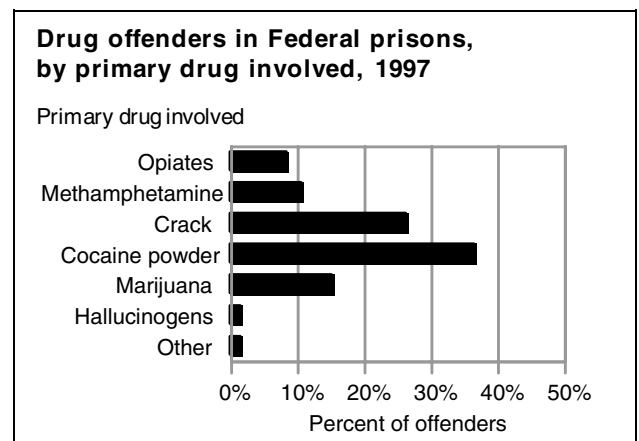


Figure 7

About two-thirds received a downward departure for substantial assistance to the Government; another third received a downward departure for other reasons such as negotiated plea agreements, general mitigating circumstances, and criminal history.

Defendants sentenced within the guideline range received prison sentence of 85 months, on average. By comparison, the average prison sentence imposed on defendants sentenced below the guideline range was 50 months. The average prison term for those sentenced above the guideline range was 133 months.

Limited exemptions from mandatory minimum sentences

The Violent Crime Control and Law Enforcement Act of 1994 exempted many first-time, nonviolent drug

offenders from any applicable mandatory minimum penalties (18 U.S.C. 3553(f)) (See page 4, *Federal sentencing law in transition*.) During 1999, 21% of convicted drug defendants received a reduced sentence as a result of this exemption. The average prison term received by these defendants was 48 months. Fifty-five percent of defendants eligible for the exemption would have otherwise been subject to a statutory minimum sentence of 60 months or less; 45%, 61 to 120 months; and less than 1%, 121 months or more (not shown in table).

Drug defendants under Federal correctional supervision

On September 30, 1999, 106,289 drug offenders were under Federal correctional supervision: 68,360 were incarcerated, 3,477 were on probation supervision, and 34,452 were on

post-incarceration supervision, including 2,692 under the authority of the U.S. Parole Commission (figure 6).

Survey of Federal prison inmates

Of the approximately 54,000 drug offenders in Federal prisons during 1997, almost two-thirds reported that the offense of conviction involved cocaine: 38% cocaine powder and 24% crack cocaine. Eighteen percent reported that the offense involved marijuana; 10%, methamphetamine; 8%, opiates; and the remainder, other drugs (figure 7).

About 40% of those incarcerated during 1997 were black; 33% Hispanic; 24%, white; and 3%, other racial or ethnic groups. Hispanic inmates were among those most likely to report being involved with opiates, cocaine powder, and marijuana. Black inmates most often reported being involved with cocaine powder and crack cocaine; white inmates, methamphetamine and marijuana (table 8).

Many offenders in Federal prisons during 1997 reported that they had a substantial role in the drug conspiracy for which they were convicted. During 1997, 16% reported that they were either an importer or manufacturer, and an additional 25% reported that they distributed drugs to street-level dealers (table 9). Offenders involved with opiates, cocaine powder, and marijuana were the most likely to be involved with importing drugs. Those involved with methamphetamine were most likely involved with manufacturing; and, those involved with crack cocaine, distributing to street-level dealers.

The proportion of offenders reporting use only did not vary significantly across type of drug involved. Though most (65%) were convicted of a more serious drug offense, about 14% of drug offenders reported that their role in the drug offense involved only use. About a quarter reported some other role not described in the survey questionnaire.

Table 8. Drug offenders in Federal prisons, by race and primary drug involved, 1997

Race/ethnicity of Federal inmates	Total	Primary drug involved						
		Opiates	Methamphetamine	Crack	Cocaine powder	Marijuana	Hallucinogens	Other
Total	100%	100%	100%	100%	100%	100%	100%	100%
White	24%	13%	72%	5%	17%	38%	52%	48%
Black	40	28	1	86	36	8	42	22
Hispanic	33	50	22	8	44	51	--	19
Other	3	8	5	1	3	3	6	11
Number of inmates	51,957	4,422	5,529	13,415	19,097	8,071	644	779

-- No observations.
Data source: BJS, Survey of Inmates in Federal Correctional Facilities, 1997.

Table 9. Drug offenders in Federal prisons, by role in the offense and primary drug involved, 1997

Role in the offense	Total	Primary drug involved						
		Opiates	Methamphetamine	Crack	Cocaine powder	Marijuana	Hallucinogens	Other
Total	100%	100%	100%	100%	100%	100%	100%	100%
Importer	11%	19%	4%	1%	14%	24%	0%	2%
Manufacturer	5	3	22	4	1	7	9	11
Dealer	42	36	42	61	38	24	67	38
Above street-level	25	23	21	45	20	7	41	22
Street-level	4	4	6	2	5	3	2	6
Other	13	9	14	13	13	14	24	10
User only	14	16	15	12	13	18	2	17
Other	26	27	17	22	32	26	23	33
Number of inmates	51,055	4,331	5,481	13,253	18,762	7,848	600	779

Data source: BJS, Survey of Inmates in Federal Correctional Facilities, 1997.

Methodology

The source of data for tables that describe Federal defendants is the BJS Federal Justice Statistics Program (FJSP) database. The FJSP database is presently constructed from source files provided by the U.S. Marshals Service, the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Federal Bureau of Prisons. The Administrative Office of the U.S. Courts also provides data collected by Federal pretrial services agencies and Federal probation agencies. Data tabulations, except where otherwise indicated, were prepared by BJS or contractor analysis of the source agency data sets.

The source of data for tables describing the type of drug involved and role in the office of drug offenders incarcerated in Federal prisons during 1997 is the BJS Survey of Inmates in Federal Correctional Facilities (ICPSR 2598).

As part of this survey, inmates were interviewed about their current offense and sentence, criminal history, social background, weapon use, drug use and treatment, as well as other issues. Data were collected from a sample of 4,041 Federal inmates selected from 135 Federal prisons to be representative of the 89,072 sentenced inmates held in facilities owned and operated by the Federal Bureau of Prisons on June 30, 1997.

The accuracy of estimates derived from the inmate survey depends on sampling and nonsampling error. While the extent of nonsampling error in any survey is unknown, estimates of the sampling error associated with the 1997 survey of inmates can be derived using the formula —

$$S_{x,p} = \sqrt{\left(\frac{38.776}{x}\right)p(100-p)}$$

where: p is the proportion of inmates with a particular characteristic
 x is the estimated population corresponding to p

The Bureau of Justice Statistics is the statistical agency in the U.S. Department of Justice. Lawrence A. Greenfeld is acting director.

BJS Special Reports address a specific topic in depth from one or more data sets that cover many topics.

John Scalia wrote this report. Urban Institute staff, under the supervision of Laura Winterfield, and Matthew Hickman of BJS, provided statistical review. Tina Dorsey produced and edited the report. Jayne Robinson prepared the report for final publication.

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The Federal Justice Resource Center, supported by BJS, as well as the BJS Clearinghouse (800-732-3277), offers data on CD-ROM. The center, this report, and documentation are also accessible through the Internet: <http://www.ojp.usdoj.gov/bjs>