

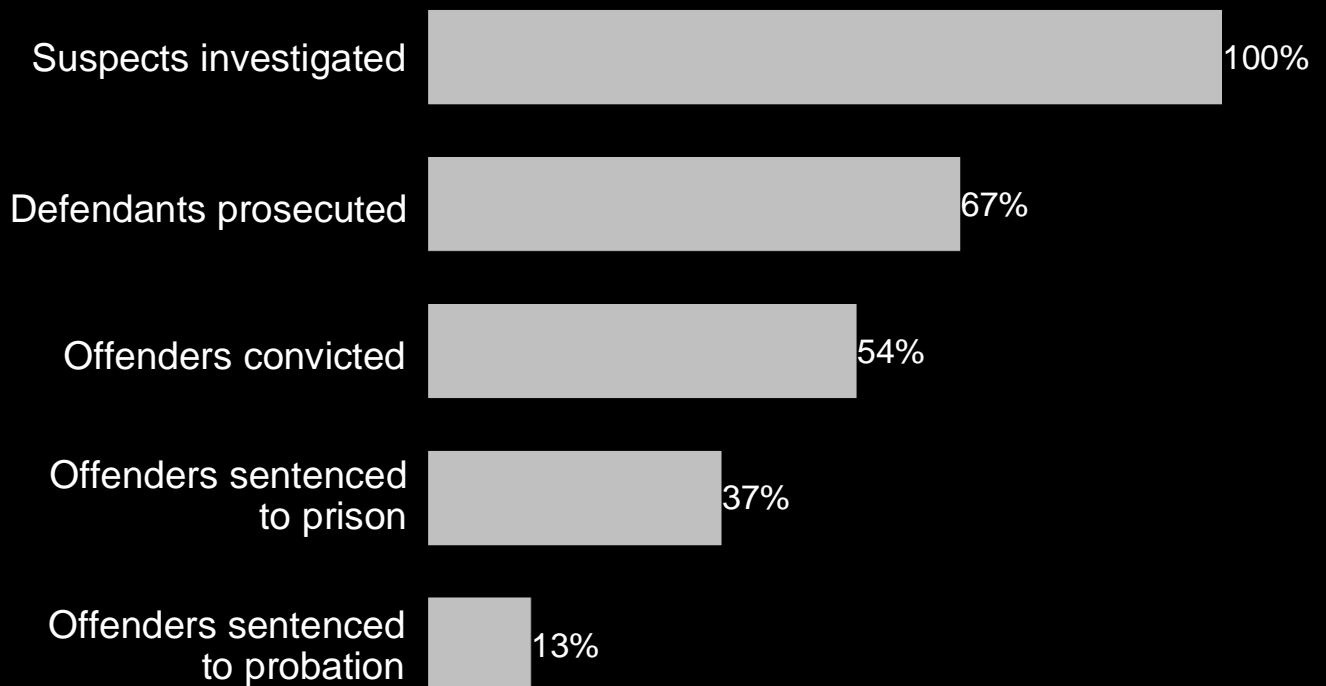


Bureau of Justice Statistics

Compendium of Federal Justice Statistics, 1996

Federal criminal case processing in matters concluded by United States attorneys, October 1, 1995 - September 30, 1996

All offenses



(reverse of front cover)

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics



Compendium of Federal Justice Statistics, 1996

November 1998, NCJ172849

U.S. Department of Justice

Office of Justice Programs
Bureau of Justice Statistics

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This Bureau of Justice Statistics Report was prepared by the Urban Institute under the supervision of Steven K. Smith and John Scalia, Jr., of the Bureau of Justice Statistics (BJS). The project is supported by BJS grant number 95-BJ-CX-K001. Principal staff for the project at the Urban Institute were William J. Sabol, Ph.D., William Adams, John McGready, Barbara Parthasarathy, Adam Pollack, Harvey Meyerson, Yan Yuan, and Christine Arriola. Layout and design were by O. Jay Arwood and David Williams. Tom Hester of BJS provided editorial review.

This report is made possible through the cooperation of the following Federal agencies and their staffs: The Administrative Office of the United States Courts (AOUSC), the Executive Office for U.S. Attorneys (EOUSA), the U.S. Bureau of Prisons (BOP), the United States Sentencing Commission (USSC), and the Federal Judicial Center (FJC). The staff who provided expert advice about the source records include: Steven Schlesinger, Catherine Whitaker, and Pragati Patrick (AOUSC); Eileen Menton and Vernlyn Bryant (EOUSA); Gerald Gaes and Christopher Innes (BOP); Elizabeth McGrath and Richard McNeil (USSC); and David Rauma and George Cort (FJC).

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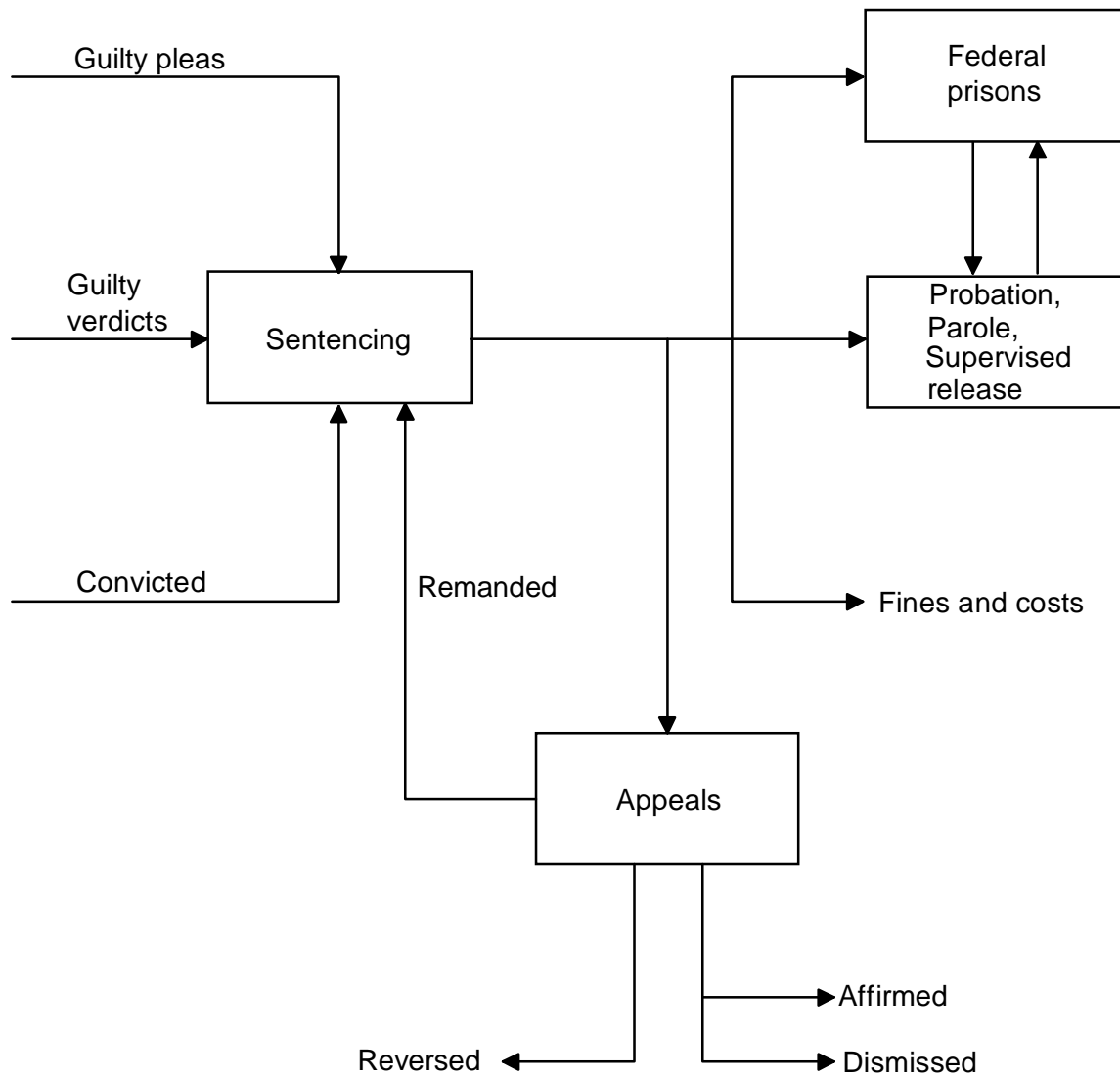
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Chapter 5

Appeals



Prior to implementation of the Sentencing Reform Act of 1984, only criminal convictions could be appealed. However, the Sentencing Reform Act provided for the appellate review of sentences imposed given that the sentence was (1) imposed in violation of the law; (2) imposed as the result of an incorrect sentencing guideline application; (3) outside the recommended guideline sentencing range; or (4) imposed for an offense for which no sentencing guideline exists and is plainly unreasonable. Both the defendant and the Government have the right to appeal an imposed sentence. (18 U.S.C. § 3742).

Appeals filed (tables 5.1 and 5.2)

During 1996 the U.S. Court of Appeals received 10,889 criminal appeals. Of all appeals, 408 (4%) were filed by the Government (not shown in a table).

Forty-six percent of appeals filed in 1996 challenged both the conviction and the sentence imposed. Twice as many appeals challenged only the sentence imposed as those that challenged only the conviction (23% versus 11%). Only 14% of appeals filed were appeals of convictions for crimes committed before 1987, when the sentencing guidelines took effect (figure 5.1).

The type of appeal filed (sentence, conviction, or both) was relatively constant across the offense categories underlying the appeal. However, for immigration offenders, 29% of those convicted appealed only their sentences, compared to 22% for public-order offenses and 23% for all criminal categories.

Nearly half of all appeals filed were for drug convictions (49%). Of these, 47% appealed both the sentence and the conviction. Public-order offenses were 24% of all appeals, and property offenses comprised 20% of all appeals. Violent offenders were only 7% of all appeals filed (figure 5.2).

Nearly half of all appeals challenged both the conviction and the sentence imposed

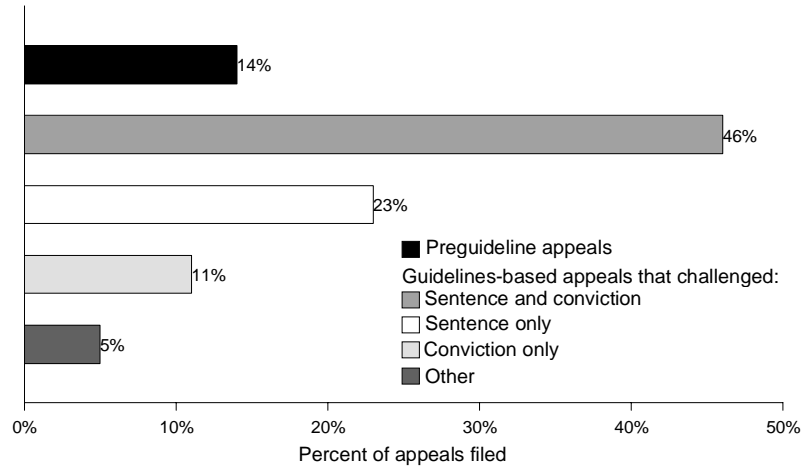


Figure 5.1. Types of criminal appeal cases during October 1, 1995 - September 30, 1996

Appeals terminated (tables 5.3-5.5)

A total of 10,161 appeals terminated during 1996. Of these, 1,441 (14%) were appeals of convictions for offenses sentenced under laws in effect prior to the sentencing guidelines. Of the 8,720 guideline-based appeals, 4,536 (52%) were appeals of sentence and conviction, 2,568 (29%) were appeals of the sentence only, and 1,196 (14%) were appeals of the conviction only.

In half of all appeals terminated in 1996 (for which offense is known), drug offense convictions underlay the

appeal; for 23%, the underlying offense was a public-order offense; for 20%, the underlying offense was a property offense; and 7% were appeals for violent offense convictions. For 52% of public-order appeals, the underlying offense of conviction was for weapons. Robbery offenses composed 46% and murder composed 20% of the underlying offenses for appeals of a violent conviction.

Of the 10,161 appeals terminated during 1996, 77% were terminated on the merits, while the remainder were terminated on procedural grounds.

Nearly half of all appeals filed were for drug convictions

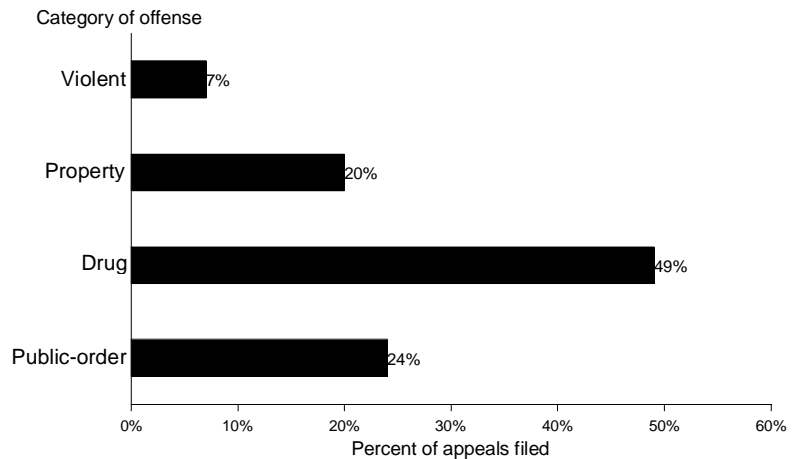


Figure 5.2. Appeals cases filed, by type of offense during October 1, 1995 - September 30, 1996

For appeals based on a conviction of a violent offense, 85% were terminated on the merits. Also terminated on the merits were 79% of appeals based on a public-order conviction, 78% of appeals based on a drug conviction, and 74% of appeals based on a property conviction. Having the highest rates of termination on the merits were appeals based on a forgery conviction (97%), rape conviction (92%), or kidnaping conviction (90%).

In 79% of appeals terminated on the merits, the district court ruling was affirmed. In another 7% it was partially affirmed. Eighty-two percent of all violent offense appeals were affirmed, as were 80% of drug offense appeals. Property offense and public-order offense appeals were affirmed in 76% and 77% of cases, respectively. District court decisions were reversed or remanded back to the court in approximately 1 out of 10 cases (9%). Public-order offenses had the highest rate of reversal or being remanded back to the court (12.1%) including perjury, contempt, and intimidation (33.3%) and traffic (21.4%). Appeals were dismissed in 4% of cases.

Table 5.1. Criminal appeals filed, by type of criminal case and offense, October 1, 1995 - September 30, 1996

Offense of conviction	Number of criminal appeals filed						
	Total	Preguideline	Guidelines-based appeals				Other
			Total	Sentence only	Conviction only	Sentence and conviction	
All offenses	10,889	1,571	9,318	2,551	1,207	4,963	597
Violent offenses	685	70	615	151	85	341	38
Murder*	139	19	120	17	15	77	11
Negligent manslaughter	3	1	2	0	0	2	0
Assault	80	11	69	14	15	36	4
Robbery	281	22	259	82	34	131	12
Rape	57	10	47	10	10	25	2
Other sex offenses*	59	5	54	14	4	28	8
Kidnaping	61	1	60	13	7	39	1
Threats against the President	5	1	4	1	0	3	0
Property offenses	2,093	321	1,772	488	240	931	113
Fraudulent	1,581	247	1,334	387	167	695	85
Embezzlement	113	21	92	23	12	50	7
Fraud*	1,328	199	1,129	326	136	597	70
Forgery	24	7	17	3	5	7	2
Counterfeiting	116	20	96	35	14	41	6
Other	512	74	438	101	73	236	28
Burglary	8	0	8	0	0	7	1
Larceny*	165	34	131	38	24	63	6
Motor vehicle theft	112	11	101	26	12	54	9
Arson and explosives	103	13	90	17	15	55	3
Transportation of stolen property	113	14	99	20	19	51	9
Other property offenses*	11	2	9	0	3	6	0
Drug offenses	5,099	668	4,431	1,254	521	2,382	274
Public-order offenses	2,521	315	2,206	547	313	1,200	146
Regulatory	196	46	150	39	29	64	18
Agriculture	17	5	12	6	4	2	0
Antitrust	2	1	1	0	0	1	0
Food and drug	3	1	2	0	1	1	0
Transportation	17	7	10	3	3	2	2
Civil rights	26	2	24	6	2	9	7
Communications	4	0	4	0	0	4	0
Custom laws	15	3	12	3	3	3	3
Postal laws	7	3	4	1	2	1	0
Other regulatory offenses	105	24	81	20	14	41	6
Other	2,325	269	2,056	508	284	1,136	128
Weapons	1,183	100	1,083	250	169	594	70
Immigration offenses	353	30	323	103	28	185	7
Tax law violations*	140	25	115	30	19	57	9
Bribery	41	3	38	9	4	22	3
Perjury, contempt, and intimidation	92	17	75	21	11	41	2
National defense	26	2	24	2	4	18	0
Escape	78	5	73	27	3	40	3
Racketeering and extortion	354	72	282	63	35	152	32
Gambling	10	3	7	0	0	6	1
Obscene material*	3	0	3	1	0	2	0
Traffic	21	4	17	1	5	10	1
Migratory birds	4	2	2	0	0	2	0
All other offenses*	20	6	14	1	6	7	0
Unknown or indeterminable offense	491	197	294	111	48	109	26

Note: For further information, see *Chapter notes*, p. 68.

*In this table, "Murder" includes nonnegligent manslaughter; "Other sex offenses" may include some nonviolent offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses" excludes

fraudulent property offenses, and includes destruction of property and trespass; "Tax law violations" includes tax fraud; "Obscene material" denotes the mail or transport thereof; and "All other offenses" includes offenses with unknown or unclassifiable offense type.

Table 5.2. Criminal appeals filed and criminal appeals terminated, by offense, October 1, 1995 - September 30, 1996

Offense of conviction	Criminal appeals filed during 1996		Criminal appeals terminated during 1996	
	Number	Percent ^a	Number	Percent ^a
All offenses	10,889	100%	10,161	100%
Violent offenses	685	6.6%	678	7.0%
Murder ^b	139	1.3	134	1.4
Negligent manslaughter	3	—	2	—
Assault	80	0.8	90	0.9
Robbery	281	2.7	315	3.3
Rape	57	0.5	49	0.5
Other sex offenses ^b	59	0.6	36	0.4
Kidnaping	61	0.6	48	0.5
Threats against the President	5	—	4	—
Property offenses	2,093	20.1%	1,909	19.8%
Fraudulent	1,581	15.2%	1,446	15.0%
Embezzlement	113	1.1	110	1.1
Fraud ^b	1,328	12.8	1,203	12.4
Forgery	24	0.2	32	0.3
Counterfeiting	116	1.1	101	1.0
Other	512	4.9%	463	4.8%
Burglary	8	0.1	9	0.1
Larceny ^b	165	1.6	200	2.1
Motor vehicle theft	112	1.1	91	0.9
Arson and explosives	103	1.0	70	0.7
Transportation of stolen property	113	1.1	80	0.8
Other property offenses ^b	11	0.1	13	0.1
Drug offenses	5,099	49.0%	4,849	50.2%
Public-order offenses	2,521	24.2%	2,228	23.1%
Regulatory	196	1.9%	207	2.1%
Agriculture	17	0.2	16	0.2
Antitrust	2	—	1	—
Food and drug	3	—	8	0.1
Transportation	17	0.2	14	0.1
Civil rights	26	0.3	24	0.2
Communications	4	—	7	0.1
Custom laws	15	0.1	3	—
Postal laws	7	0.1	5	0.1
Other regulatory offenses	105	1.0	129	1.3
Other	2,325	22.4%	2,021	20.9%
Weapons	1,183	11.4	1,057	10.9
Immigration offenses	353	3.4	251	2.6
Tax law violations ^b	140	1.3	118	1.2
Bribery	41	0.4	46	0.5
Perjury, contempt, and intimidation	92	0.9	77	0.8
National defense	26	0.3	11	0.1
Escape	78	0.8	95	1.0
Racketeering and extortion	354	3.4	318	3.3
Gambling	10	0.1	9	0.1
Liquor offenses	0	...	1	—
Obscene material ^b	3	—	5	0.1
Traffic	21	0.2	20	0.2
Migratory birds	4	—	3	—
All other offenses ^b	20	0.2	10	0.1
Unknown or indeterminable offense	491		497	

Note: For further information, see *Chapter notes*, p. 68.

—Less than .05%.

...No case of this type occurred in the data.

^aPercentage distribution based on appeals for which an offense category could be determined.

^bIn this table, "Murder" includes nonnegligent manslaughter;

"Other sex offenses" may include some nonviolent offenses;

"Fraud" excludes tax fraud; "Larceny" excludes transportation

of stolen property; "Other property offenses" excludes fraudulent property offenses, and includes destruction of property and trespass; "Tax law violations" includes tax fraud; "Obscene material" denotes the mail or transport thereof; and "All other offenses" includes offenses with unknown or unclassifiable offense type.

Table 5.3. Criminal appeals terminated, by type of criminal case and offense, October 1, 1995 - September 30, 1996

Offense of conviction	Number of criminal appeals terminated						
	Total	Preguideline	Guidelines-based appeals				Other
			Total	Sentence only	Conviction only	Sentence and conviction	
All offenses	10,161	1,441	8,720	2,568	1,196	4,536	420
Violent offenses	678	60	618	181	81	328	28
Murder*	134	17	117	19	13	82	3
Negligent manslaughter	2	1	1	1	0	0	0
Assault	90	7	83	17	16	46	4
Robbery	315	24	291	110	33	133	15
Rape	49	4	45	12	7	25	1
Other sex offenses*	36	4	32	11	8	11	2
Kidnaping	48	2	46	10	4	29	3
Threats against the President	4	1	3	1	0	2	0
Property offenses	1,909	277	1,632	492	216	844	80
Fraudulent	1,446	213	1,233	398	154	618	63
Embezzlement	110	19	91	20	18	45	8
Fraud*	1,203	178	1,025	341	117	518	49
Forgery	32	2	30	9	7	14	0
Counterfeiting	101	14	87	28	12	41	6
Other	463	64	399	94	62	226	17
Burglary	9	1	8	1	1	6	0
Larceny*	200	34	166	40	25	95	6
Motor vehicle theft	91	8	83	19	10	48	6
Arson and explosives	70	10	60	15	6	38	1
Transportation of stolen property	80	10	70	17	17	32	4
Other property offenses*	13	1	12	2	3	7	0
Drug offenses	4,849	633	4,216	1,242	570	2,200	204
Public-order offenses	2,228	259	1,969	534	292	1,048	95
Regulatory	207	47	160	44	33	75	8
Agriculture	16	4	12	6	2	4	0
Antitrust	1	0	1	0	1	0	0
Food and drug	8	0	8	5	0	3	0
Transportation	14	4	10	1	2	6	1
Civil rights	24	5	19	5	3	10	1
Communications	7	1	6	0	0	4	2
Custom laws	3	2	1	0	1	0	0
Postal laws	5	2	3	1	2	0	0
Other regulatory offenses	129	29	100	26	22	48	4
Other	2,021	212	1,809	490	259	973	87
Weapons	1,057	82	975	211	168	552	44
Immigration offenses	251	17	234	98	20	110	6
Tax law violations*	118	24	94	25	14	48	7
Bribery	46	2	44	12	9	23	0
Perjury, contempt, and intimidation	77	11	66	27	9	29	1
National defense	11	2	9	2	2	5	0
Escape	95	9	86	35	5	43	3
Racketeering and extortion	318	56	262	74	26	138	24
Gambling	9	0	9	0	0	8	1
Liquor offenses	1	0	1	0	1	0	0
Obscene material*	5	1	4	1	0	3	0
Traffic	20	4	16	4	3	8	1
Migratory birds	3	2	1	0	0	1	0
All other offenses*	10	2	8	1	2	5	0
Unknown or indeterminable offense	497	212	285	119	37	116	13

Note: For further information, see *Chapter notes*, p. 68.

*In this table, "Murder" includes nonnegligent manslaughter; "Other sex offenses" may include some nonviolent offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses" excludes

fraudulent property offenses, and includes destruction of property and trespass; "Tax law violations" includes tax fraud; "Obscene material" denotes the mail or transport thereof; and "All other offenses" includes offenses with unknown or unclassifiable offense type.

Table 5.4. Disposition of criminal appeals terminated on the merits, by offense, October 1, 1995 - September 30, 1996

Offense of conviction	Total criminal appeals	Criminal appeals terminated on the merits							Procedural terminations
		Total	Percent	Affirmed	Remanded or reversed	Partially affirmed	Dismissed	Other	
All offenses	10,161	7,820	77.0%	6,136	719	604	328	33	2,341
Violent offenses	678	576	85.0%	470	47	41	17	1	102
Murder*	134	118	88.1	89	7	21	1	0	16
Negligent manslaughter	2	1	—	0	0	1	0	0	1
Assault	90	78	86.7	63	5	4	5	1	12
Robbery	315	259	82.2	224	18	8	9	0	56
Rape	49	45	91.8	31	10	3	1	0	4
Other sex offenses*	36	30	83.3	24	4	2	0	0	6
Kidnaping	48	43	89.6	37	3	2	1	0	5
Threats against the President	4	2	—	2	0	0	0	0	2
Property offenses	1,909	1,407	73.7%	1,075	142	128	52	10	502
Fraudulent	1,446	1,054	72.9%	791	107	109	39	8	392
Embezzlement	110	85	77.3	63	11	9	0	2	25
Fraud*	1,203	869	72.2	646	86	95	36	6	334
Forgery	32	31	96.9	24	2	4	1	0	1
Counterfeiting	101	69	68.3	58	8	1	2	0	32
Other	463	353	76.2%	284	35	19	13	2	110
Burglary	9	8	—	7	0	0	1	0	1
Larceny*	200	144	72.0	115	16	9	4	0	56
Motor vehicle theft	91	79	86.8	67	7	3	1	1	12
Arson and explosives	70	55	78.6	46	3	2	3	1	15
Transportation of stolen property	80	59	73.8	45	6	5	3	0	21
Other property offenses*	13	8	61.5	4	3	0	1	0	5
Drug offenses	4,849	3,758	77.5%	3,005	280	309	150	14	1,091
Public-order offenses	2,228	1,749	78.5%	1,339	211	115	78	6	479
Regulatory	207	152	73.4%	100	31	19	2	0	55
Agriculture	16	10	62.5	7	2	1	0	0	6
Antitrust	1	1	—	1	0	0	0	0	0
Food and drug	8	8	—	4	4	0	0	0	0
Transportation	14	10	71.4	7	2	1	0	0	4
Civil rights	24	18	75.0	14	4	0	0	0	6
Communications	7	7	—	2	0	5	0	0	0
Custom laws	3	1	—	1	0	0	0	0	2
Postal laws	5	0	...	0	0	0	0	0	5
Other regulatory offenses	129	97	75.2	64	19	12	2	0	32
Other	2,021	1,597	79.0%	1,239	180	96	76	6	424
Weapons	1,057	877	83.0	692	91	62	28	4	180
Immigration offenses	251	195	77.7	137	28	5	25	0	56
Tax law violations*	118	82	69.5	65	10	2	5	0	36
Bribery	46	36	78.3	31	0	4	1	0	10
Perjury, contempt, and intimidation	77	60	77.9	35	20	3	2	0	17
National defense	11	6	54.5	5	0	0	1	0	5
Escape	95	73	76.8	57	8	1	7	0	22
Racketeering and extortion	318	230	72.3	188	16	18	6	2	88
Gambling	9	9	—	9	0	0	0	0	0
Liquor offenses	1	1	—	1	0	0	0	0	0
Obscene material*	5	5	—	4	0	0	1	0	0
Traffic	20	14	70.0	10	3	1	0	0	6
Migratory birds	3	1	—	1	0	0	0	0	2
All other offenses*	10	8	—	4	4	0	0	0	2
Unknown or indeterminable offense	497	330	66.4%	247	39	11	31	2	167

Note: For further information, see *Chapter notes*, p. 68.

—Too few cases to obtain statistically reliable data.

...No case of this type occurred in the data.

*In this table, "Murder" includes nonnegligent manslaughter; "Other sex offenses" may include some nonviolent offenses; "Fraud" excludes tax fraud; "Larceny" excludes

transportation of stolen property; "Other property offenses" excludes fraudulent property offenses, and includes destruction of property and trespass; "Tax law violations" includes tax fraud; "Obscene material" denotes the mail or transport thereof; and "All other offenses" includes offenses with unknown or unclassifiable offense type.

Table 5.5. Criminal appeals cases terminated on the merits, by nature of offense, October 1, 1995 - September 30, 1996

Most serious offense	Total	Percent of criminal appeals cases terminated on the merits				
		Affirmed	Remanded or reversed	Partially affirmed	Dismissed	Other
All offenses	7,820	78.5%	9.2%	7.7%	4.2%	0.4%
Violent offenses	576	81.6%	8.2%	7.1%	3.0%	0.2%
Murder*	118	75.4	5.9	17.8	0.8	0
Negligent manslaughter	1	—	—	—	—	—
Assault	78	80.8	6.4	5.1	6.4	1.3
Robbery	259	86.5	6.9	3.1	3.5	0
Rape	45	68.9	22.2	6.7	2.2	0
Other sex offenses*	30	80.0	13.3	6.7	0	0
Kidnaping	43	86.0	7.0	4.7	2.3	0
Threats against the President	2	—	—	—	—	—
Property offenses	1,407	76.4%	10.1%	9.1%	3.7%	0.7%
Fraudulent	1,054	75.0%	10.2%	10.3%	3.7%	0.8%
Embezzlement	85	74.1	12.9	10.6	0	2.4
Fraud*	869	74.3	9.9	10.9	4.1	0.7
Forgery	31	77.4	6.5	12.9	3.2	0
Counterfeiting	69	84.1	11.6	1.4	2.9	0
Other	353	80.5%	9.9%	5.4%	3.7%	0.6%
Burglary	8	—	—	—	—	—
Larceny*	144	79.9	11.1	6.3	2.8	0
Motor vehicle theft	79	84.8	8.9	3.8	1.3	1.3
Arson and explosives	55	83.6	5.5	3.6	5.5	1.8
Transportation of stolen property	59	76.3	10.2	8.5	5.1	0
Other property offenses*	8	—	—	—	—	—
Drug offenses	3,758	80.0%	7.5%	8.2%	4.0%	0.4%
Public-order offenses	1,749	76.6%	12.1%	6.6%	4.5%	0.3%
Regulatory	152	65.8%	20.4%	12.5%	1.3%	0%
Agriculture	10	—	—	—	—	—
Antitrust	1	—	—	—	—	—
Food and drug	8	—	—	—	—	—
Transportation	10	—	—	—	—	—
Civil rights	18	77.8	22.2	0	0	0
Communications	7	—	—	—	—	—
Custom laws	1	—	—	—	—	—
Postal laws	0
Other regulatory offenses	97	66.0	19.6	12.4	2.1	0
Other	1,597	77.6%	11.3%	6.0%	4.8%	0.4%
Weapons	877	78.9	10.4	7.1	3.2	0.5
Immigration offenses	195	70.3	14.4	2.6	12.8	0
Tax law violations*	82	79.3	12.2	2.4	6.1	0
Bribery	36	86.1	0	11.1	2.8	0
Perjury, contempt, and intimidation	60	58.3	33.3	5.0	3.3	0
National defense	6	—	—	—	—	—
Escape	73	78.1	11.0	1.4	9.6	0
Racketeering and extortion	230	81.7	7.0	7.8	2.6	0.9
Gambling	9	—	—	—	—	—
Liquor offenses	1	—	—	—	—	—
Obscene material*	5	—	—	—	—	—
Traffic	14	71.4	21.4	7.1	0	0
Migratory birds	1	—	—	—	—	—
All other offenses*	8	—	—	—	—	—
Unknown or indeterminable offense	330	74.8%	11.8%	3.3%	9.4%	0.6%

Note: For further information, see *Chapter notes*, p. 68.

—Too few cases to obtain statistically reliable data.

...No case of this type occurred in the data.

*In this table, "Murder" includes nonnegligent manslaughter; "Other sex offenses" may include some nonviolent offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses"

excludes fraudulent property offenses, and includes destruction of property and trespass; "Tax law violations" includes tax fraud; "Obscene material" denotes the mail or transport thereof; and "All other offenses" includes offenses with unknown or unclassifiable offense type.

Chapter notes

Tables in chapter 5 were created from the AOUSC appeals database. Records of appeals filed or terminated during October 1, 1995, through September 30, 1996, were selected. Data include records of 10,889 criminal appeals filed during fiscal year 1996 and 10,161 appeals terminated during the same period.

The unit of analysis in the appeals data is a single case. Most records in the appeals data report on a single appellant. Appeals were classified into the offense categories that represent the underlying offense of conviction. Offenses represent the statutory offense charged against a defendant in a criminal appeal. Offenses were classified by the AOUSC into their four-digit offense codes. These were then aggregated into the offense categories shown in the tables.