



Bureau of Justice Statistics Special Report

Felony Sentencing in 18 Local Jurisdictions

This report presents sentencing outcomes in the felony courts of 18 predominantly urban jurisdictions for the offenses of homicide, rape, robbery, aggravated assault, burglary, larceny, and drug trafficking.¹

An earlier Bureau of Justice Statistics report described aggregate statewide data on sentencing practices.² To examine sentencing outcomes in more detail, this study collected and analyzed case-specific data on the sentences imposed in 1983 on more than 15,000 felony offenders.

The 18 jurisdictions range in size from Lancaster County (Lincoln, Neb.) with a population of 192,884 to Los Angeles, Calif., with a population of 2,966,850. The average population is nearly 900,000, and the median population is about 660,000. The jurisdictions are located in 15 different States and are distributed across the major geographical regions of the country: three are in the northeast, seven in the south, five in the midwest, and three in the west. The study includes such major cities as Baltimore, Miami, Denver, Minneapolis, Los Angeles, Phoenix, Milwaukee, and New Orleans. No claim is made here, however, that the findings presented statistically represent sentencing patterns in all felony courts in the Nation or in all urban jurisdictions.

¹This study is drawn from a longer report, *Sentencing Outcomes in 18 Felony Courts*, NCJ-97690 (forthcoming).

²Bureau of Justice Statistics Special Report, *Sentencing Practices in 13 States*, NCJ-95399, October 1984.

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One of the most serious gaps in our knowledge of the criminal justice system in the United States is reliable multijurisdictional data on the sentencing of convicted felons. The Bureau of Justice Statistics began to fill this informational need in 1984 with *Sentencing Practices in 13 States*, a report on aggregate statewide data on felony sentencing. The current special report presents a wealth of additional data on felony sentencing in 18 mostly urban jurisdictions, including such major cities as Baltimore, Denver, Los Angeles, Miami, Milwaukee, Minneapolis, New Orleans, and Phoenix.

By collecting case-specific data on the sentences imposed on more than 15,000 felony offenders in 1983, this study was able to meas-

ure the use of different kinds and degrees of sanctions for seven major felonies in a variety of large jurisdictions throughout the country. It was also able to analyze the impact on sentencing patterns of such factors as crime severity, different types of sentencing systems, the number of conviction offenses, and the use of pleas vs. trials.

Special thanks are due to the National Association of Criminal Justice Planners, which conducted the research under a cooperative agreement with the Bureau of Justice Statistics, and to the many individuals in the 18 jurisdictions who assisted in the collection of the data.

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(See appendix table 1 for a list of the participating jurisdictions.)

Highlights

Principal findings from these 18 counties include the following:

- Forty-five percent of the sentences for the felonies studied were to State prison; 26% were to local jail (with or without an additional probation sentence); and 28% were to probation only.
- Those convicted of homicide were most likely to be sentenced to prison (85%) and those convicted of drug

trafficking were least likely (23%).

- Average prison sentences for each crime varied greatly among the jurisdictions, but within each jurisdiction sentence lengths were ordered with great consistency.
- The use of jail in felony sentencing varied substantially among the participating jurisdictions, ranging from less than 1% of the sentences in Baltimore City to half of the sentences in Hennepin County (Minneapolis).
- The average prison term imposed in determinate sentencing jurisdictions

was 40% to 50% shorter than in jurisdictions using indeterminate sentencing.

- Nearly three-fourths (74%) of the sentences to life imprisonment or death were for those convicted of homicide; 26% of all homicide sentences were to life in prison or death.

- For robbery and burglary, those convicted of an attempted offense were less likely to be sentenced to prison and received shorter average prison terms than those convicted of the completed offense.

- The number of charges on which a person was convicted affected sentencing outcomes. Forty percent of those convicted on a single charge received prison sentences, averaging 5.3 years; in contrast, 69% of those convicted on four or more charges received prison terms averaging 13.5 years.

- About 1 in 9 of those convicted of multiple charges and sentenced to prison received consecutive rather than concurrent sentences. The average prison term imposed on those with consecutive sentences was 18.9 years; for those with concurrent sentences it was 8.9 years.

- Nearly six times as many offenders were convicted on the highest original charge as on a lesser charge (85% vs. 15%).

- There were about five times as many convictions through guilty pleas as by trial. About five-sixths (83%) of all guilty pleas were to the highest original charge. Those pleading guilty were slightly less likely to be sentenced to prison (44%) than those found guilty at trial (51%). Those pleading guilty also received shorter average prison terms than those found guilty at trial for each of the crimes studied.

Overview of sentencing outcomes

While a felony sentence is sometimes thought of as a term of incarceration in a State prison imposed by a judge on the convicted felon, sentencing actually involves a broader range of outcomes. If a defendant is convicted of a felony, the judge must make up to three major sentencing decisions. The first decision is whether to incarcerate. If the decision is to incarcerate, the judge must decide whether the offender should be sent to a State facility (prison) or to a local facility (jail). Finally, the judge must determine the sentence length. Although judges have considerable flexibility in these decisions, State law may

1) mandate incarceration for certain crimes, 2) require that longer sentences (e.g., 1 year or more) be served in State prisons rather than local jails, and 3) set a minimum sentence length in certain cases.

Incarceration was the sentence in 71% of all of the felony convictions studied (26% to jail and 45% to prison, figure 1). Nearly all of the remaining sentences (28%) were to probation only. Approximately 1% of convicted persons received a sentence other than that of incarceration or probation, normally a fine or restitution to the victim.

Persons convicted of a felony are usually viewed as a State responsibility. With 1 out of 4 felony offenders sentenced to jail, however, local correctional institutions play a prominent role in the incarceration of convicted felons. (Persons sentenced to the jail should not be confused with others who are sentenced to a State facility and are held in a local jail until space becomes available at the State prison.)

Jail sentences can be imposed by the courts in several different ways. In some cases the offender receives a straight jail term, while in others part of the sentence is a jail term and part is probation: Straight jail terms constituted 30% of jail sentences imposed; 68% of the felons sentenced to jail also received a probation sentence. In another 2% of the cases, the jail sentence was to time served; i.e., the sentence of incarceration was made to equal the amount of time the offender had already spent in pretrial detention.

Those sentenced to a straight jail term received a longer average jail sentence, 12 months, than those sentenced to jail as part of a split sentence, in which cases the jail term averaged 7 months. The shorter term for felons serving a split sentence is offset by the period of probation that

also must be served. The average probation term for those serving a split sentence was 3 years and 2 months, 1 month longer than the average for those sentenced to straight probation.

Offense differences

Overall, 45% of the felony offenders received prison sentences. (Because nearly half of the cases—48%—involved the property crimes of burglary and larceny, the overall sentencing outcomes are heavily influenced by the patterns found for these crimes.) The likelihood of a prison sentence was highest for those convicted of homicide (85%), rape (69%), and robbery (65%); it was lowest for those convicted of drug trafficking (23%) and larceny (29%) (table 1). For the purposes of this study, drug trafficking includes "possession with intent" to sell, manufacture or distribute. The relatively low percentage of drug offenders sentenced to prison may be explained by the fact that the threshold weight for "possession with intent" generally involves ounces, not pounds. Consequently, many of the drug trafficking cases involve small-time dealers.

The use of jail varied across the different crime categories. Jail was not a common sanction for murder, rape, or robbery. It was a much more prevalent sanction for aggravated assault, burglary, larceny, and especially for drug trafficking, with 41% of drug dealers sentenced to jail. With larceny the use of jail is equally striking: for each convicted felon sent to prison, another is sent to jail (29% and 32% respectively).

Straight probation was rarely used for the crimes of homicide, rape, or robbery. It was a more frequently used sanction for aggravated assault, burglary, larceny, and drug trafficking. Indeed, for larceny, where straight probation was imposed in 38% of the

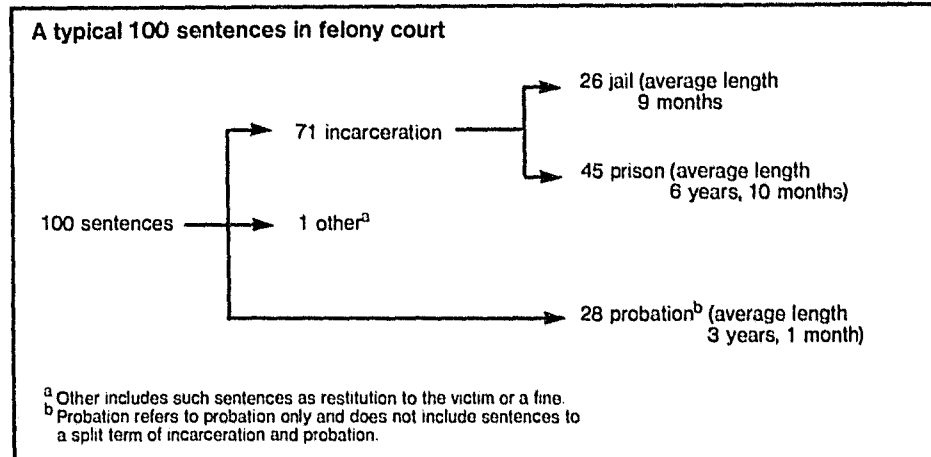


Figure 1

Table 1. Distribution of sentences, by type of sentence and conviction offense

Conviction offense	Prison	Jail only	Jail and probation	Probation only	Other	Total
Total	45%	8%	18%	28%	1%	100%
Violent						
Homicide	85	1	5	9	—	100
Rape	69	2	10	18	1	100
Robbery	65	4	12	17	1	100
Aggravated assault	39	11	19	31	2	100
Property						
Burglary	46	8	17	28	1	100
Larceny	29	15	17	38	2	100
Other						
Drug trafficking	23	6	35	35	2	100

Note: May not add to 100% because of rounding.
 — Less than 0.5%.

cases, it was the most frequently used sanction.

Sentence lengths

The average sentences imposed were longest for prison sentences and shortest for jail sentences (table 2). Prison sentence length, like the proportion of offenders sentenced to prison, was longest for the crimes of homicide, rape, and robbery and shortest for larceny and drug trafficking.

Average jail terms for the different crime categories varied less than prison terms. Only those sentenced to jail for larceny and drug trafficking had average jail sentences shorter than the range of 0.8 years to 1 year.

Average terms of probation fell in the fairly narrow range of 2.6 to 3.7 years for all crime categories other than homicide and rape. The length of the probation term, however, is only

Table 2. Average sentence length, by conviction offense

Conviction offense	Average sentence length		
	Prison	Jail	Pro-bation only
Violent			
Homicide	14.9 yrs.	.9 yrs.	5.6 yrs.
Rape	12.6	.8	5.4
Robbery	8.7	1.0	3.7
Aggravated assault	6.7	.8	3.4
Property			
Burglary	4.6	.8	2.9
Larceny	3.3	.6	2.6
Other			
Drug trafficking	4.2	.4	3.1

Note: Persons receiving life or death sentences (less than 2% of all cases but 26% of all homicide cases) were excluded in the computation of the average prison terms. Information on persons receiving life or death sentences is provided elsewhere in this report. Jail column includes those sentenced to jail and probation.

there was substantial variation in the average prison sentences imposed for the seven felony crime categories (table 3). Robbery, for example, varied from 3.8 years to 20.6; aggravated assault from 3.7 years to 14.4; and burglary from 2.2 years to 10.2. Nonetheless, there was great consistency in how sentence lengths were ordered across crimes within each jurisdiction. In 15 of the 18 jurisdictions rape sentences were longer than robbery sentences; in 13, robbery sentences were longer than those for aggravated assault; in 14, aggravated assault sentences exceeded the average length of burglary sentences; and in 17, the average sentence for burglary was greater than that for larceny.

The homicide data cannot reasonably be compared to that for other crimes since the sentence length calculations exclude sentences to life in prison or to death, which constitute 26% of all homicide sentences but no more than 2% of the sentences for any of the other crime categories. In a few other cases sentence lengths for a particular crime that seem out of step with others in the same jurisdiction—e.g., 3.5 years for rape in Jefferson County—may be attributable to a very small number of cases or to a disproportionate number of attempts rather than completed crimes.

one consideration in viewing what is to be accomplished with probation. Judges often impose conditions with probation such as restitution, drug and alcohol counseling, and community service. The convicted felon's progress in meeting those conditions and keeping out of trouble are indicators of whether or not probation is succeeding. These considerations do not necessarily correlate directly with time. This may explain why there is no strong pattern between the average duration of probation and the nature of the offense.

Prison sentences

Among the 18 jurisdictions studied,

Table 3. Average prison sentence length in years for each conviction offense, by jurisdiction

Jurisdiction	Average prison sentence length in years for:						
	Homicide	Rape	Robbery	Aggra-vated assault	Burglary	Larceny	Drug traf-ficking
Average for all jurisdictions	14.9	12.6	8.7	6.7	4.6	3.3	4.2
Determinate sentencing jurisdictions							
Hennepin County	10.0	5.8	4.1	3.7	2.2	2.1	1.5
Los Angeles	6.5	11.5	3.8	5.2	2.5	2.1	2.6
Riverside County	5.2	9.7	4.6	3.8	3.0	2.6	3.1
Kane County	9.3	8.6	5.8	4.0	4.2	2.2	5.4
Denver	7.6	11.8	7.1	5.7	4.8	4.7	4.5
Median	7.6	9.7	4.6	4.0	3.0	2.2	3.1
Indeterminate sentencing jurisdictions							
Maricopa County	11.2	7.6	7.4	5.3	3.9	3.1	5.4
Millwaukee County	12.7	8.3	7.6	9.1	4.0	3.3	3.6
Lancaster County	7.5	11.0	4.6	6.8	2.7	2.0	2.4
Davidson County	15.4	12.1	13.2	7.9	5.8	5.0	5.8
Philadelphia	14.7	11.9	8.4	5.3	5.8	3.9	5.7
Jefferson Parish	11.6	3.5	16.8	11.3	4.7	2.9	7.6
New Orleans	15.4	18.4	9.8	9.3	4.7	2.6	5.0
Oldahoma County	13.7	21.3	13.5	10.0	6.2	4.1	4.9
Lucas County	22.5	18.2	20.6	11.4	10.2	4.2	9.2
Baltimore City	17.4	11.2	6.7	14.4	3.3	*	*
Baltimore County	25.3	20.3	10.4	10.5	6.3	2.0	3.5
Dade County	28.7	26.2	15.6	4.3	5.9	3.3	6.4
Jefferson County	13.9	15.7	13.7	7.1	7.4	4.1	4.9
Median	14.7	12.1	10.4	9.1	5.8	3.3	5.0/5.4

Note: Persons receiving life or death sentences (less than 2% of all cases but 26% of all homicide cases) were excluded in

computing the average prison terms. *Sentencing data were not collected for these crimes in Baltimore City.

The differential use of jail

Another substantial difference in sentencing patterns among the 18 jurisdictions was the use of jail as a sanction for convicted felons.

At one extreme were Baltimore City and Denver, where only about 1% of felons received a jail sentence; at the other extreme were Hennepin County (Minneapolis) and Los Angeles,³ where about half the sentenced felons received some type of jail term (table 4).

Generally, the more frequent the use of jail, the higher the incarceration rate for a jurisdiction. Hennepin County and Los Angeles, for example, were among the top three jurisdictions with the highest overall incarceration rates (table 5). Denver, on the other hand, one of the jurisdictions that imposed jail sentences least often, had the lowest overall incarceration rate.

Other jurisdictions where jail was rarely used for felons, such as Baltimore City and Jefferson County (Louisville), imposed prison sentences on relatively high percentages of offenders (66% and 64%, respectively).

The differential use of jail among these jurisdictions reflects differences in how State and local authorities have elected to deal with convicted felons. Denver, for example, has a fairly extensive community-based residential corrections program, which tends to take the place of jail in the sentencing of convicted felons. In Minnesota, on the other hand, jail is used extensively to divert convicted felons from prison, especially by using short or part-time stays such as weekends in jail. In other States the criminal codes have been revised to permit judges to sentence felons to local jails for more than a year. A judge in Louisiana, for example, may sentence a person up to 12 years in the parish (county) jail.

But even where no State program exists and no code revisions have taken place, judges often retain wide discretion in deciding the type of sentence to be imposed. A judge, believing that a sentence to prison might be inappropriate but that the offender should do some time in an institution, can combine a jail term with a period of probation.

In addition to variation among the jurisdictions in how frequently jail is used, there is also considerable variation in the length of jail sentences.

³Los Angeles refers to the Central District Court of Los Angeles County, which generally conforms to the boundaries of the City of Los Angeles.

Jurisdiction	Percent of all sentences to:		Average jail sentence length for:	
	Straight jail	Jail and probation	Straight jail	Jail and probation
Baltimore City	—	—	23 weeks	9 weeks
Baltimore County	13%	14%	37	44
Dade County	13	10	32	32
Davidson County	13	7	55	23
Denver	—	1	31	19
Hennepin County	1	50	22	15
Jefferson County	1	2	57	12
Jefferson Parish	17	—	61	52
Kane County	1	32	5	12
Lancaster County	19	12	22	6
Los Angeles	4	40	36	29
Lucas County	—	26	13	14
Maricopa County	4	19	14	16
Milwaukee County	3	24	45	22
New Orleans	13	5	40	25
Oklahoma County	4	9	29	24
Philadelphia	23	11	84 ^a	86 ^a
Riverside County ^b	1	1	36	30

Note: This table includes those who received "time served" sentences.
 — Less than 0.5%.
^a Philadelphia judges impose maximum and minimum jail terms, unlike any of the other 17 jurisdictions. Average minimum jail sentences are shown here.
^b Because the record source used in Riverside County did not always indicate when a jail term was imposed along with a probation sentence, the number of jail sentences in Riverside County is most probably understated.

Jurisdiction	Percent of all sentences to:		
	Incarceration (jail and prison)	Jail ^a	Prison
Los Angeles County	88%	44%	44%
Kane County	85	33	52
Hennepin County	82	50	32
Dade County	80	23	57
Davidson County	77	19	58
Lancaster County	76	31	45
Lucas County	74	27	47
Milwaukee County	68	27	41
Jefferson County	67	3	64
Philadelphia	67	34	33
Baltimore City	66	—	66
New Orleans	64	18	46
Oklahoma County	61	13	48
Riverside County ^b	57	3	54
Baltimore County	57	26	31
Maricopa County	55	22	33
Jefferson Parish	43	17	26
Denver	42	1	41
Average for all cases	71%	26%	45%

— Less than 0.5%.
^a Includes those sentenced to "time served."
^b See table 4, footnote b.

With the exception of Philadelphia (discussed below), average terms ranged from 5 weeks in Kane County (suburban Chicago) to 61 weeks in Jefferson Parish (suburban New Orleans) for straight jail terms and from 6 weeks in Lancaster County (Lincoln, Neb.) to 52 weeks in Jefferson Parish for jail terms coupled with probatic (table 4).

Interestingly, three of the four jurisdictions—Kane, Lucas (Toledo, Ohio), and Hennepin—that most often used split sentences (to both jail and probation), had very similar average jail sentence lengths: between 12 and 15 weeks. The fourth, Los Angeles, had a

substantially higher average jail sentence of 29 weeks.

The average jail terms for Philadelphia—84 weeks for straight jail terms and 86 weeks for those receiving jail and probation—were by far the longest imposed among the participating jurisdictions. Unlike any other jurisdiction encompassed by this study, however, judges in Philadelphia impose a minimum as well as a maximum term on those sentenced to jail. Table 4 shows the average maximum jail sentences. Because most offenders sentenced to jail in Philadelphia are released shortly after serving their minimum sentence

(about a third of the maximum), the average jail sentences in table 4 for Philadelphia overstate the time that the sentenced felon actually serves in jail.

Probation

Straight probation constituted more than a fourth (28%) of sentences imposed for the felonies examined in this study. Probation sentences imposed with jail constituted another 18% of felony sentences (table 1). Thus, probation was a factor in 46% of the felony sentences covered by this study.

Total use of probation varied considerably among the 18 jurisdictions, from fewer than 1 out of 4 sentences in Dade County (Miami) to more than 2 out of 3 sentences in Hennepin County. The length of the average probation term ranged from 2.0 years in Kane County to 4.8 years in Jefferson County.

Within jurisdictions the average terms of probation did not differ substantially between offenders receiving straight probation and those receiving probation with jail: for no jurisdiction was the difference greater than 0.8 years.

Sentencing systems

While sentencing practices may vary, the concepts of incarceration and probation do not change their meaning from one jurisdiction to another. Even the time periods associated with jail and probation are a relatively stable concept from one jurisdiction to another. This is not true, however, with prison terms. Prison sentences have different meanings in different jurisdictions based on what State law permits with regard to correctional and parole board discretion, minimum terms, earned time, and time off for good behavior (good time).

There are two general legislative schemes that guide sentencing in the United States. One is determinate sentencing, under which a judge imposes a specified sentence not later reviewable by another body. The other type of sentencing scheme—indeterminate sentencing—does permit review of the judicially imposed sentence; this review function is usually performed by a parole board. Although parole boards have discretionary release authority under indeterminate sentencing systems, the scope of that discretionary power can vary substantially from State to State.

The primary mechanism for the control of parole board discretion is the

use of minimum terms. Either the judge or the law specifies a minimum term of incarceration that must be served before the prisoner can be considered for parole. The shorter the minimum (including no minimum at all in some States), the greater is the discretion afforded the parole board. Conversely, the longer the minimum the more constrained the paroling authority's discretion.

Another distinguishing characteristic of the two sentencing systems is in the sentence lengths set by legislation. The legislatively prescribed penalties in determinate sentencing States generally have shorter time spans than those in indeterminate sentencing States. For example, in California, a determinate sentencing State, the prescribed penalties for robbery range from 2 to 6 years. On the other hand, in Kentucky, an indeterminate sentencing State, the prescribed penalties for robbery range from 5 to 20 years. This difference between the two States likely reflects the desire of State legislatures in determinate sentencing States to have greater certainty in the time served in prison for criminal violations.

Another factor that affects the time that actually will be served is the practice known as "good time." In all but five of the jurisdictions involved in this study (New Orleans, Jefferson Parish, Davidson County, Oklahoma County, and Philadelphia are the exceptions), State law specifies the rate at which prison terms can be reduced by the convict's good behavior in the correctional institution.⁴ The rate at which good time can be accumulated varies among the jurisdictions; the average sentence reductions range between 25% and 33%. Generally, good-time reductions affect only the maximum term to be served. Two States, however, Ohio (Lucas County) and Nebraska (Lancaster County), permit good-time reductions of the minimum term.

Finally, sentences can be reduced in some jurisdictions through the discretion of correctional officials for time spent in prison industries or educational programs.

Sentence length and actual time served

Average sentence lengths were considerably lower in the 5 determinate

⁴The State of Louisiana does allow good time for those convicted of some felonies, but the crimes encompassed by this study do not fall into any of the eligible crime categories. Consequently, for the purposes of this study, Louisiana law does not provide for good-time credits.

sentencing jurisdictions than in the 13 indeterminate sentencing jurisdictions (table 3). This was true for each of the crime categories, with the biggest difference for the violent crimes. Because the two kinds of jurisdictions operate under different kinds of prison release mechanisms, the longer sentences in indeterminate sentencing jurisdictions do not necessarily translate into stiffer criminal penalties (i.e., more time actually served in prison).

Figure 2 shows how the average prison sentence for burglary can be affected by minimum terms, parole board discretion, correctional official discretion (earned time for time spent in prison industry and educational programs) and the behavior of the inmate (good time). The jurisdictions are grouped by the type of sentencing system under which they operate: determinate or indeterminate. Within each group jurisdictions are listed in descending order of the percentage of the maximum term that must be served before the convicted felon can be considered for release from prison.

The two determinate sentencing jurisdictions with the longest average terms (Denver and Kane County) also have the most generous good time rate (50%, or one day off the sentence for every day of good behavior). Denver is also in a State that awards earned time based on the inmate's work or educational advancement at the rate of 8% or 1 day off the sentence for every 12.5 days of involvement in correctional programs. Earned time is also a factor in California (Los Angeles and Riverside County), where it can be awarded at the rate of 17%. In Minnesota (Hennepin County) the State awards good time at a rate of 33%.

In these jurisdictions, therefore, the minimum amount of time that must be served by the sentenced burglar has a much narrower range than the range of the average maximum sentence imposed. Thus, it is likely that the differences in the average amount of time actually served in prison for burglary among these five jurisdictions will be a matter of months rather than years.

Among the indeterminate sentencing jurisdictions there is no consistent relationship between sentence length and minimum terms. Nonetheless, as figure 2 shows, the eight indeterminate jurisdictions that require more than 20% of the maximum sentence to be served have much less variation in minimum sentence lengths than in the maximum sentence imposed. Indeed, these minimums are quite similar to those found in the five determinate

sentencing jurisdictions. Altogether, 14 of the 18 jurisdictions had minimum terms between 1.25 and 2.32 years; average maximum sentences imposed in these same jurisdictions fell in the much wider range of 2.2 to 10.2 years.

This finding suggests that judges may adjust their sentences to compensate for the sentence reduction policies and practices operating in their State: by giving relatively shorter sentences in jurisdictions where the proportion of sentence that must be served is greater and giving relatively longer sentences in jurisdictions where the proportion of sentence that must be served is less. (In the two jurisdictions, for example, where the minimum is zero, average sentence lengths were among the top 5 of the 18 jurisdictions.)

It follows, then, that focusing on average prison sentence length can be misleading for assessing the variation in the criminal penalties imposed for similar crimes in different jurisdictions. A more useful indicator may be the actual minimum term that must be served before possible release from prison. At least for the crime of burglary, there was much less variation among most of the jurisdictions studied in the minimum time that must be served on an average sentence than in the sentence lengths themselves. Consequently, the average time served by imprisoned felons in different jurisdictions may vary less than the impression given by differences in average maximum sentences.⁵

Table 6 presents additional data on the differences in sentencing patterns for burglary in determinate and indeterminate jurisdictions. In the determinate jurisdictions 89% of the burglary sentences were in the range of 1 to 4 years. Less than 2% of the sentences were to terms of 10 years or more. In the indeterminate jurisdictions, on the other hand, only 55% of the maximum sentences imposed were in the range of 1 to 4 years, and 13% were to 10 years or more (including 8 life sentences).

Sentences to life imprisonment and to death

For the purposes of this study, a life sentence is defined as any prison sentence with a maximum term of life in prison, regardless of the possibility of parole. (Only about 5% of the life sentences imposed did not allow for parole.)

⁵For data on actual time served in prison by convicted felons, see Bureau of Justice Statistics Special Reports, *Time Served in Prison*, NCJ-93924, June 1984, and *Prison Admissions and Releases*, NCJ-95043, September 1984.

Average burglary sentence lengths and potential reductions in 18 jurisdictions

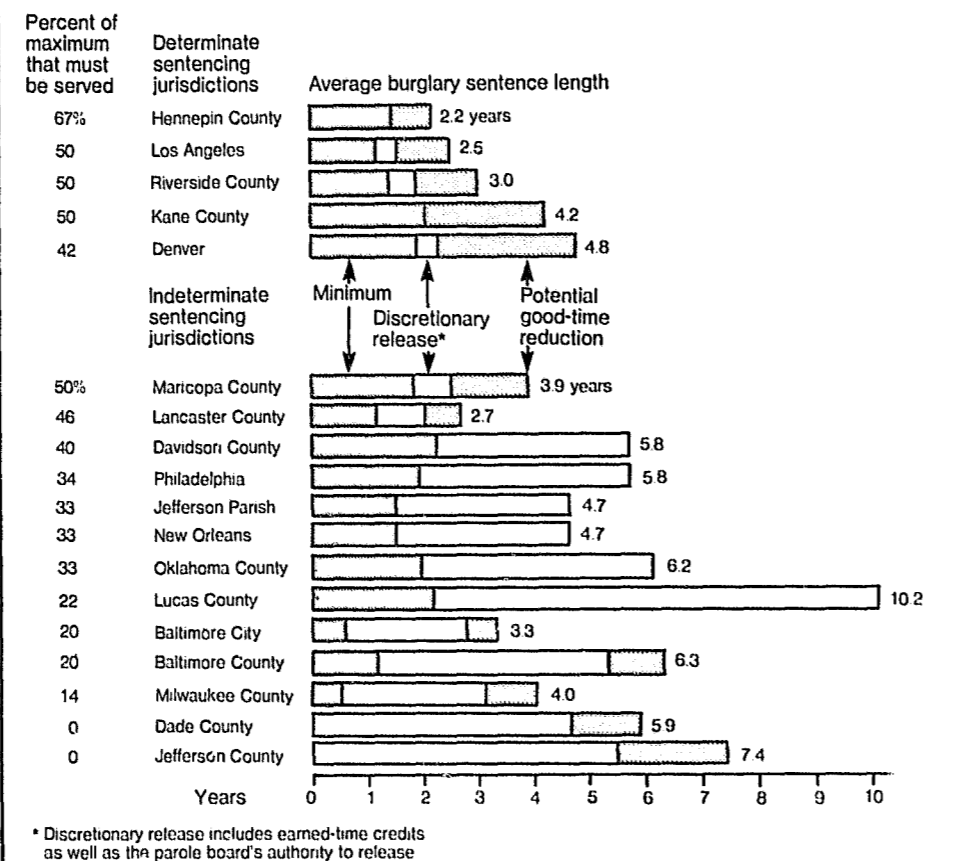


Figure 2

Table 6. Distribution of sentences for burglary, by type of sentencing system

Maximum sentence length	Number of sentences to a specified maximum length	
	Determinate sentencing jurisdictions	Indeterminate sentencing jurisdictions
Less than 1 year	0	33
1 year	201	363
2	357 median	321
3	90	435
4	203	278 median
5	22	522
6	40	117
7	4	115
8	17	41
9	2	63
10	10	105
11	1	0
12	2	16
13	2	3
14	1	8
15	1	135
16	0	3
17	0	1
18	0	2
19	0	0
20	0	23
21 or more	0	28
Life	0	8
Average burglary sentence	2.9 years	5.2 years

Note: Sentence lengths include fractions of a year. For example, a sentence to 1 year and 9 months would be classified as 1 year.

For the crimes and jurisdictions studied here, there were 445 life sentences and 12 sentences to death, or about 2% of all sentences imposed. Though a very small proportion of all sentences, these constituted 26% of homicide sentences. After homicide, the proportion of sentences to life imprisonment or death for a particular crime category falls to 2% of rape sentences, less than 2% of robbery sentences, and well under 1% for the other crimes.

The following table examines the distribution of the total 457 sentences to life imprisonment and death across the various crime categories:

	Percent	Number
Total sentences to life in prison or death	100%	457
Homicide	74	336
Rape	5	23
Robbery	18	84
Aggravated assault	1	5
Burglary	2	8
Larceny	0	0
Drug trafficking	—	1

— Less than 0.5%.

Nearly three-fourths of all the sentences to life in prison or death were for homicides; and nearly 1 in 5 were for robbery. Although the proportion of all such sentences imposed for rape (about 1 in 20) was much lower than for robbery, as shown above a slightly higher percentage of all rape sentences were to life in prison than of all robbery sentences.

While some States allow a judge to impose a life sentence on a first-time rapist or robber, most of the life sentences for crimes other than homicide were imposed under authority of habitual offender laws.

Degrees of severity within crime categories

Most State penal codes recognize degrees of severity or aggravating circumstances within general crime categories. Many penal codes, for example, authorize (or mandate) a more severe penalty for armed robbery than for robbery without a weapon. Similarly, some States penalize burglars who break into residences or who carry weapons more severely than those who burglarize commercial establishments or who operate unarmed. Finally, all States prescribe different degrees of punishment for different kinds of homicides, usually distinguishing murder, where there is intent to kill, from manslaughter, where there is no premeditation, and from negligent manslaughter, where death is attributable to the negligence or recklessness of the offender.

In the 18 jurisdictions studied here there was a direct relationship between the likely sentence and the kind of homicide, robbery, or burglary for which the offender was convicted (table 7). The proportion of sentences to prison and the average prison sentence length were higher for the more serious

crime within each crime category. Of those convicted of homicide, for example, 93% were sentenced to prison for an average term of 17.3 years if the offense was murder, while 41% were sentenced to prison for an average term of 3.9 years if the conviction offense was negligent manslaughter. (Note that sentence length data exclude life sentences. Moreover, because the definition of murder varies considerably among the 15 States in the study, some of the murder convictions included in table 7 would be classified as manslaughter in other States.)

Similar patterns exist for robbery and burglary. Those convicted of armed robbery were much more likely to be imprisoned (81%) than those convicted of the less serious offense of unarmed robbery (57%); and those convicted of either armed or residential burglary were substantially more likely to receive a prison sentence (67% and 65%) than those convicted of nonresidential burglary (38%).

Penal codes are written to reflect differences in the severity of different kinds of crimes (e.g., rape vs. burglary) as well as the elements that can aggravate or mitigate the severity of a particular kind of crime (e.g., armed vs. unarmed robbery). These findings on how punishments vary both across and within the major crime categories (especially tables 1, 2, 3, and 7) illustrate how the sentencing practices of judges reflect these legal distinctions.

Completed vs. attempted offenses

Nearly all the State penal codes for the jurisdictions participating in this study have provisions that lower the penalty if the offender is convicted of an attempted rather than completed crime. Most States have gradations of felonies (e.g., 1 to 5 or A to E) and

Table 8. Sentences to prison for attempted and completed robberies and burglaries

	Robbery	Burglary
Percent of sentences to prison terms for:		
Attempted crime	58%	26%
Completed crime	69	49
Average prison term for:		
Attempted crime	3.6 yrs.	2.8 yrs.
Completed crime	5.6	4.3

Note: Table shows only those cases where information on whether the crime was completed or attempted was available: 62% of the robbery cases and 65% of the burglary cases.

assign a different penalty range to each gradation. Moreover, most penal codes specify that the criminal penalty be lowered by one gradation for an attempted crime. For example, in Arizona (Maricopa County), armed robbery is a class 2 felony with a presumed sentence of 7 years for a first offender. If the charge is attempted armed robbery, however, Arizona reclassifies the offense as a class 3 felony, which carries a presumed sentence of 5 years, or 2 years less than that for the completed crime. Some State codes, Wisconsin for example, go as far as cutting the potential maximum sentence in half if the conviction is for an attempted rather than completed crime.

To examine the impact of this distinction on sentencing, the study compared sentences for attempted robberies and burglaries with those for the completed crimes (table 8). For both crimes the likelihood of going to prison and prison sentence length were less for those convicted of attempts. Those convicted of attempted burglary, for example, were only about half as likely to be sentenced to prison as those convicted of the completed crime (26% vs. 49%).

Multiple conviction offenses

In two-thirds of the felony convictions studied the offender was found guilty of a single offense (figure 3). In 28% of the cases the offender was convicted on more than one charge: 17% of the cases involved convictions on two crimes and 11% involved convictions on three or more crimes. In the remaining cases (5%) the study was not able to ascertain the number of crimes on which the offender was convicted. Multiple-charge convictions occurred most frequently when the highest conviction offense was homicide (39%) or rape (37%) and least frequently when it was larceny (22%) or drug trafficking (19%).

The number of conviction offenses had a significant impact on the like-

Table 7. For homicide, robbery and burglary, distribution of sentences, by type of sentence and average prison sentence length

Conviction offense	Percent of sentences to:				Average prison sentence length
	Probation only	Jail	Prison	Total	
Homicide					
Murder	4%	3%	33%	100%	17.3 years
Manslaughter	17	8	75	100	9.2
Negligent	30	29	41	100	3.9
Robbery^a					
Armed	11	8	81	100	11.2
Unarmed	28	15	57	100	7.9
Burglary^b					
Armed	22	11	67	100	9.5
Residential	17	18	65	100	4.4
Nonresidential	39	23	38	100	3.3

^a Table presents data only for those 63% of the cases where the distinction between armed and unarmed robbery could be made.

^b Table presents data for those 50% of the cases where the distinction between the three classes of burglary could be made.

Table 9. Sentences to prison, by the number of conviction charges

Number of conviction charges	Percent of all sentences to prison	Average prison terms
One	40%	5.3 years
Two	56	8.3
Three	60	10.3
Four or more	69	13.5

Note: Table does not show those cases where number of charges were not ascertained.

likelihood of receiving a prison sentence, ranging from 40% of those convicted of one offense to 69% of those convicted of four or more (table 9). Similarly, average prison sentence length was directly related to number of convictions, from 5.3 years for one offense to 13.5 years for four or more.

For homicide, rape, and robbery average prison sentence length consistently increased with the number of conviction offenses (table 10). For each of these three crimes, average prison sentences were about three times higher for those convicted of four or more charges than for those convicted on a single charge.

Aggravated assault and drug trafficking evidence a similar pattern, differing only in degree: the average prison sentence for those convicted on four or more charges was about twice as long as for those convicted of only one charge. For burglary and larceny the biggest jumps in sentence length occurred between those convicted on a single charge and on two charges.

Consecutive sentences

When a person is convicted of two or more crimes, the judge must decide whether to sentence the offender to concurrent or consecutive terms. A concurrent sentence means that the convicted felon is able to satisfy the time requirements on each charge at the same time; a consecutive sentence means that the sentences on each charge must be served sequentially. For example, if a person is convicted on two counts of burglary and sentenced to 2 years on each count, the sentence will be satisfied in 2 years if the sentences are concurrent, but will take 4 years if the judge made the terms consecutive.

Consecutive sentences were analyzed only when a single case led to a conviction on multiple charges. Excluded were instances where the judge made the sentence consecutive with another sentence previously passed on the same convicted felon. (For example, a person convicted of a new

Table 10. Average prison sentence length, by the number of conviction charges and conviction offense

Conviction offense	Number of conviction charges			
	One	Two	Three	Four or more
Violent				
Homicide	11.2 years	18.1 years	23.0 years	34.5 years
Rape	8.8	14.7	18.8	23.2
Robbery	6.4	10.5	11.4	17.6
Aggravated assault	5.9	7.3	8.6	9.3
Property				
Burglary	3.8	5.8	7.3	6.1
Larceny	2.8	4.4	4.4	4.0
Other				
Drug trafficking	3.4	5.3	6.0	7.5

Note: Sentences were classified according to the most serious conviction offense. Offenses are listed in order of seriousness. In addition to the most serious conviction charge, multiple convictions charges may include lesser offenses not covered in the study, including misdemeanors.

crime while on parole might have the new sentence added to the unexpired previous sentence.)

Consecutive sentences constituted a very small proportion (2%) of all sentences imposed (figure 3). Indeed, consecutive terms were rarely imposed even when the prerequisite condition (a multiple-charge conviction) was met. About 1 out of every 9 offenders convicted of multiple charges and sentenced to prison (513 out of 4,604) was required to serve consecutive sentences.

Consecutive sentences may be rare, but when invoked they carry significantly longer prison terms. The average prison term for offenders receiving consecutive sentences (18.9 years) was more than twice as long as those with concurrent sentences (8.9 years) and nearly three times as long as the average prison sentence for all cases studied (6.8 years).

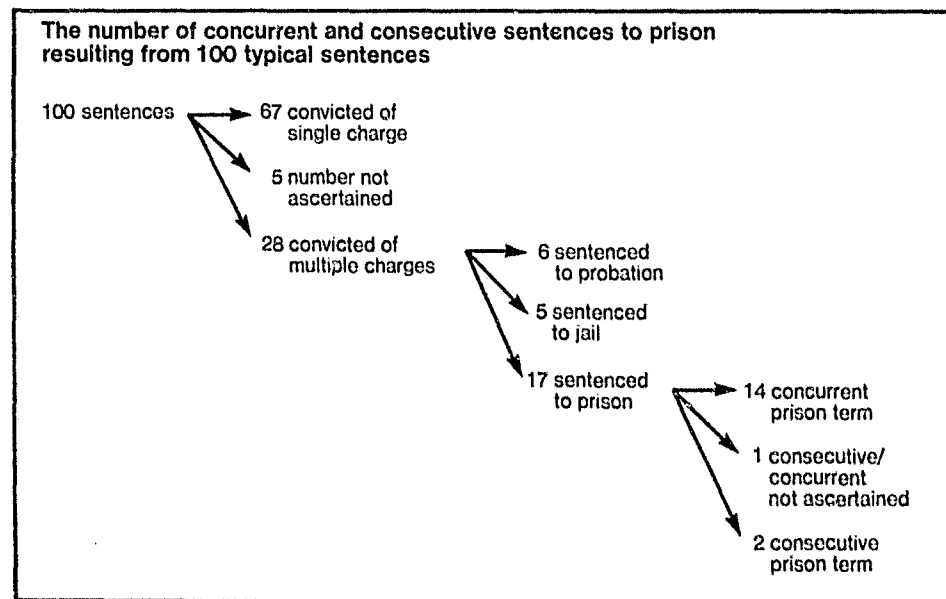


Figure 3

Table 11. Sentences to prison for those convicted on the highest original charge or a lower charge

Conviction offense	Percent of sentences to prison for those convicted on:		Average prison sentence length for those convicted on:	
	Highest original charge	Lower charge	Highest original charge	Lower charge
Total	48%	35%	7.1 years	5.9 years
Violent				
Homicide	87	80	16.3	10.8
Rape	70	59	13.9	7.9
Robbery	66	59	9.0	6.5
Aggravated assault	40	32	6.7	6.3
Property				
Burglary	50	30	4.7	4.4
Larceny	32	23	3.3	3.3
Other				
Drug trafficking	24	15	4.2	4.4

Note: Table excludes those cases (9%) where the study could not ascertain whether or not the felon was convicted on the highest original charge. Lower charge may be for a lower grade of the same general offense class; for example, a 2nd-degree murder conviction on an original 1st-degree murder charge.

those convicted on some lower charge was substantial (48% vs. 35%, table 11). This difference in imprisonment was also present for each of the crimes separately. Overall, prison sentences were longer for those convicted on the original charge. This difference was considerable for the violent crimes of homicide, rape, and robbery but disappeared for the property crimes.

Pleas vs. trials

A person may be found guilty of a crime either through admitting guilt—a guilty plea—or as a result of a trial before a judge or a jury. Information on pleas versus trials was available in 91% of the cases. An analysis of these cases reveals that conviction by trial in the felony courts studied was the exception rather than the rule. Only one out of every six felony convictions (16%) was the result of a finding by a judge or jury.

The rate at which trials took place varied substantially among the crime categories studied. Generally, the more serious the crime, the greater the proportion of trials. For the less serious offenses of burglary, larceny, and drug trafficking, about 1 out of 10 convictions was the result of a trial. For aggravated assault and robbery this ratio was 1 out of 5. For rape it rose to 1 out of 4. Finally, for homicide about 3 out of 8 convictions resulted from trials.

Overall, defendants who pled guilty were somewhat less likely to be sen-

⁶Other data on plea-to-trial ratios are presented in the Bureau of Justice Statistics Special Report, *The Prevalence of Guilty Pleas*, NCJ-96018, December 1984. For the 14 jurisdictions examined in that report, the median ratio of pleas to trials was 11 to 1, varying from a high of 37 pleas for every trial to a low of 4 pleas per trial.

tenced to prison than those found guilty at trial (44% vs 51%, table 12). This was not true, however, for all seven crime categories in the study. The reverse relationship held for burglary and larceny, and there was virtually no difference for robbery.

For all the crimes studied the average prison sentence lengths were shorter for those who pled guilty. Overall, those who pled guilty and were sentenced to prison received an average sentence of 6.0 years; those found guilty at trial and sentenced to prison averaged 10.7 years.

Although average homicide prison

Table 12. Sentences to prison, by method of conviction

Conviction offense	Percent of sentences to prison for those convicted by:		Average prison sentence length for those convicted by:	
	Trial	Guilty plea	Trial	Guilty plea
Total	51%	44%	10.7 years	6.0 years
Violent				
Homicide	92	82	16.6	14.2
Rape	81	65	16.2	10.9
Robbery	66	65	12.7	7.3
Aggravated assault	47	36	9.8	5.6
Property				
Burglary	42	48	6.4	4.3
Larceny	24	30	4.2	3.1
Other				
Drug trafficking	27	21	5.7	3.8

Note: Table excludes those cases (9%) where the study could not ascertain how the person was convicted.

Table 13. Sentences to prison for those convicted on the highest original charge or a lower charge, by method of conviction

Method of conviction	Percent of sentences to prison for those convicted on:		Average prison sentence length for those convicted on:	
	Highest original charge	Lower charge	Highest original charge	Lower charge
Trial	52%	55%	10.8 years	8.7 years
Guilty plea	47	33	6.0	5.5

sentences were only slightly longer for those found guilty by trial (16.6 years) than for those who pled guilty (14.2 years), the former were much more likely to receive a sentence to life in prison or death (46%) than the latter (22%).

Pleas and conviction offense

In 7 out of 8 cases (88%), information on the manner in which the person was convicted (trial vs. plea) and the charge on which the person was convicted (highest original charge vs. a lower charge) was available. For the overwhelming share of these cases (70%) the offender pled guilty to the highest original charge. Much smaller proportions were offenders found guilty of the highest charge at trial (15%), offenders who pled guilty to a lesser charge (11%), and offenders found guilty at trial of a lower charge (1%). Considering only those who pled guilty, about five-sixths (83%) pled to the highest original charge.

Those who pled guilty to a lower charge were less likely to be sentenced to prison (33%) than those who pled guilty to the highest original charge (47%) (table 13). The difference, however, in average prison sentence lengths for these two groups was only half a year.

⁷Data from *The Prevalence of Guilty Pleas*, op. cit., for eight jurisdictions showed a mean percentage of guilty pleas to the top charge of 60%.

Methodology

Geographical coverage. For all the jurisdictions participating in the study (appendix table 1) the sentencing data come from the entire county or independent city except in Los Angeles County. In Los Angeles multiple prosecutorial offices and courts are scattered throughout the county. Because the data had to be verified against the original court record as well as supplemented from the original court record, the decision was made to simplify this task by limiting the scope of the study in Los Angeles to the Central District Court, which serves the City of Los Angeles.

Frame of reference. Exception for Baltimore County, Dade County, and New Orleans, the data in this report

represent all of the sentences imposed during calendar year 1983 for the crimes under study. Baltimore County provided sentencing data for the period 4/1/83 through 3/31/84. On October 1, 1983, the State of Florida implemented new sentencing procedures. In the interest of obtaining a full year's worth of data under a single sentencing approach, Dade County information was collected on sentences from 10/1/82 through 9/30/83. In New Orleans the nature of the record system necessitated studying cases initiated in 1983, resulting in the inclusion of some sentences imposed in 1984.

Crime definitions. The penal codes from each of the participating jurisdictions provided the basis for defining the seven crimes analyzed in this study; i.e. homicide, rape, robbery, aggravated

assault, burglary, larceny, and drug trafficking. Project staff specified which penal code citations applied to these various crime types and in some instances specified what citations did not. These exclusions took place where the participating jurisdiction's penal code could lead to potential confusion with the general parameters that were laid down for the study. For example, a number of States have statutes dealing with criminal trespass, a crime that could easily be confused with burglary. Project staff made explicit that criminal trespass should be excluded from the data collection effort.

Project staff compiled a listing of all statutes falling into the study in a separate publication titled, "Penal Code Citations: Guidelines for BJS Sentencing Project Participants," which shows the differences in how the crimes are defined from jurisdiction to jurisdiction. Such differences are to be expected with each State legislating its own code. For the seven crimes in this study, the differences do not seriously impair the ability to obtain comparable definitions.

Sampling. Whether sampling was used and its extent varied by jurisdiction and crime category (appendix table 2). In 11 of the 18 jurisdictions there was no sampling at all. In the other seven jurisdictions sampling was used when the volume of sentences was large. This applied to fewer than half of the crimes in these seven jurisdictions and in no case included homicide or rape. A total of 15,018 cases were examined in the study. These were adjusted by their sampling ratio to represent 27,641 weighted cases. The analysis throughout this report is based on weighted cases.

Bureau of Justice Statistics Special Reports are prepared principally by BJS staff under the direction of Joseph M. Bessette, deputy director for data analysis, assisted by Marianne W. Zawitz. This report was written by Mark A. Cunniff of the National Association of Criminal Justice Planners under the direction of Carla K. Gaskins, program manager, BJS adjudication unit, and was edited by Benjamin H. Renshaw, deputy director for management. Marilyn Marbrook, publications unit chief, administered report production, assisted by Millie Baldea and Joyce M. Stanford.

June 1985, NCJ-97681

Jurisdiction	Population	Major city
Baltimore City, Maryland	786,775	Baltimore
Baltimore County, Maryland	655,615	Towson (suburban Baltimore)
Dade County, Florida	1,625,781	Miami
Davidson County, Tennessee	455,651	Nashville
Denver, Colorado	492,365	Denver
Hennepin County, Minnesota	941,411	Minneapolis
Jefferson County, Kentucky	685,004	Louisville
Jefferson Parish, Louisiana	454,592	Kenner (suburban New Orleans)
Kane County, Illinois	278,405	Geneva (suburban Chicago)
Lancaster County, Nebraska	192,884	Lincoln
Los Angeles County, California	2,966,850	Los Angeles
Lucas County, Ohio	471,741	Toledo
Maricopa County, Arizona	1,509,052	Phoenix
Milwaukee County, Wisconsin	964,988	Milwaukee
New Orleans, Louisiana	557,515	New Orleans
Philadelphia, Pennsylvania	1,688,210	Philadelphia
Oklahoma County, Oklahoma	568,933	Oklahoma City
Riverside County, California	663,166	Riverside

Note: Los Angeles population is for the Central Court District only.

Jurisdiction	Total	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking
Total	27,641^a	1,268	1,144	5,460	2,698	7,740	5,401	3,930
Baltimore City	1,713	118	102	792 ^b	119	582 ^b	c	c
Baltimore County	633	11	16	133	12	102 ^b	276 ^b	83
Dade County	3,715	231	97	711 ^b	226	1,148	1,020 ^b	282 ^b
Davidson County	964	53	65	216	98	269	156	107
Denver	697	33	14	106	61	254	60	169
Hennepin County	834	18	69	117	78	280	216	56
Jefferson County	945	53	69	177	89	224	175	158
Jefferson Parish	610	25	10	68	54	167	245	41
Kane County	330	8	12	29	21	122	85	53
Lancaster County	146	3	13	15	12	39	25	39
Los Angeles County ^d	5,772	303	172	1,155 ^b	680	1,068 ^b	604 ^b	1,790 ^b
Lucas County	471	15	13	54	50	125	154	60
Maricopa County	3,000	73	105	224	432 ^b	970 ^b	975 ^b	221
Milwaukee County	1,324	33	107	238	52	496 ^b	191	207
New Orleans	800	20	9	120	37	249	251	114
Oklahoma County	1,204	64	45	133	103	341	264	254
Philadelphia	3,549	169	119	999 ^b	450 ^b	1,040 ^b	651 ^b	121 ^b
Riverside County	934	38	107	173	124	264	53	175

^a The study used 15,018 cases that were adjusted by their sampling ratios so as to produce 27,641 weighted cases.
^b For these crimes and jurisdictions, a sample of all cases was drawn for this study.
^c Sentencing data not collected for these crimes in Baltimore City.
^d Data from Central Court District only.

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