

CR-Sent  
10-27-87

**ICPSR**  
**Inter-university Consortium for**  
**Political and Social Research**

---

**Penal Code Citations:**  
**Sentencing in 18**  
**American Felony Courts, 1983**

---

Principal Investigator  
Mark A. Cuniff  
National Association of Criminal Justice Planners

Data Collection Sponsor  
U.S. Department of Justice  
Bureau of Justice Statistics

ICPSR 8396

105517

105517

PENAL CODE CITATIONS:  
SENTENCING IN 18 AMERICAN FELONY COURTS, 1983  
(ICPSR 8396)

Principal Investigator

Mark A. Cuniff  
National Association of Criminal Justice Planners

Data Collection Sponsor  
U.S. Department of Justice  
Bureau of Justice Statistics

Third ICPSR Edition  
Spring 1987

Inter-university Consortium for  
Political and Social Research  
P.O. Box 1248  
Ann Arbor, Michigan 48106

**NCJRS**

**MAY 7 1987**

**ACQUISITIONS**

#### ACKNOWLEDGEMENT OF ASSISTANCE

All manuscripts utilizing data made available through the Consortium should acknowledge that fact as well as identify the original collector of the data. The ICPSR Council urges all users of the ICPSR data facilities to follow some adaptation of this statement with the parentheses indicating items to be filled in appropriately or deleted by the individual user.

The data (and tabulations) utilized in this (publication) were made available (in part) by the Inter-university Consortium for Political and Social Research. The data for PENAL CODE CITATIONS: SENTENCING IN 18 AMERICAN FELONY COURTS, 1983, were originally collected by Mark A. Cuniff, Executive Director of the National Association of Criminal Justice Planners. Neither the collector of the original data nor the Consortium bear any responsibility for the analyses or interpretations presented here.

In order to provide funding agencies with essential information about the use of archival resources and to facilitate the exchange of information about ICPSR participants' research activities, each user of the ICPSR data facilities is expected to send two copies of each completed manuscript or thesis abstract to the Consortium. Please indicate in the cover letter which data were used.

## TABLE OF CONTENTS

	PAGE NO.
INTRODUCTION	
Study Description	i
Methodology	i
Site Selection	i
Data Collection	i
Data Comparability	iii
Sampling	iii
Codebook Information	iv
ICPSR Processing Information	vi
VARIABLE DESCRIPTION LIST	vii
CODEBOOK	1
APPENDIX A	12

## INTRODUCTION

### STUDY DESCRIPTION

Penal Code Citations: Sentencing in 18 American Felony Courts, 1983 focuses on sentences imposed in courts of general jurisdiction for selected felony crimes. The crimes selected were homicide, rape, robbery, aggravated assault, burglary, theft, and drug trafficking. The collection of these data was sponsored by the United States Department of Justice, Bureau of Justice Statistics under Grant Number 82-BJ-CX-K086. The study dealt with defendants who were sentenced in the calendar year 1983.

### METHODOLOGY

#### Site Selection

This data collection includes information from eighteen (18) county based jurisdictions, or the court of original jurisdiction serving a particular county. The counties selected for this study were large in population size with an average population of 886,600 persons and were urban oriented, either containing a major urban area within their boundaries or neighbored a major metropolitan area. These large jurisdictions were selected because they could generate a sufficient number of cases for analysis.

#### Data Collection

Data for this study originated from a variety of sources. Table 1 provides a listing for the participating jurisdictions, their population figures, as well as information on the record source for the sentencing data.

Table 1  
Listing of Jurisdictions that Participated in the Study  
and the Record Source for the Data

Jurisdiction	State	Population	Data Source
Baltimore City	Maryland	786,775	Court records
Baltimore County	Maryland	655,615	Baltimore County CJIS*
Dade County	Florida	1,625,781	Dade County CJIS
Davidson County	Tennessee	455,651	Court records
Denver	Colorado	492,365	Court records
Hennepin County	Minnesota	941,411	Department of Court Services
Jefferson County	Kentucky	685,004	Prosecutor and court records
Jefferson Parish	Louisiana	454,592	Prosecutor and court records
Kane County	Illinois	278,405	Court records
Lancaster County	Nebraska	192,884	Court records
Los Angeles Co.**	California	2,966,850	Prosecutor and court records
Lucas County	Ohio	471,741	Court records
Maricopa County	Arizona	1,509,052	Maricopa County CJIS*
Milwaukee County	Wisconsin	964,988	Prosecutor records
New Orleans	Louisiana	577,515	Court records
Philadelphia	Pennsylvania	1,688,210	Court records
Oklahoma County	Oklahoma	568,933	CJIS and prosecutor records
Riverside County	California	663,166	Prosecutor records

Average population = 886,600

\*CJIS = Criminal Justice Information System

\*\*Los Angeles Co.: covers only the Central District of Los Angeles County. See Methodological Notes in Appendix A (Geographical Coverage).

Although court records were used in the majority of the jurisdictions, in a number of instances prosecutorial or criminal justice information systems data were used either as the sole source of data or in conjunction with other records. In most cases manual data collection was performed from original court records or from computerized printouts provided by the court or prosecutor's office.

Case information was collected according to defendant. In instances where multiple charge convictions occurred against one individual, only one case was record generated. In instances where multiple defendants were involved in a case, a separate record was made on each convicted defendant.

#### Data Comparability

Despite the variety in data sources and data collection methods, the data remain comparable across jurisdictions because all the data flowed from a common set of decision rules in its collection. In addition to providing data only on those penal code citations specified by the project, each jurisdiction was instructed to use the following hierarchy in sorting through cases involving multiple charge convictions: homicide, rape, robbery, aggravated assault, burglary, larceny, and drug trafficking. Finally, each jurisdiction examined the charge on which the person was convicted, not the charge on which the defendant was indicted.

#### SAMPLING

In most instances the study received a total accounting of all cases falling within the scope of the study. Where total counts were not achievable or were very large, sampling was used. The sampled cases were then weighted so as to reflect the total caseload. Homicide, rape, aggravated assault represented a small proportion of the cases with all three combined constituting only 19% of all the cases. While robbery, larceny, and drug trafficking each came in with a sizeable share of the workload (20%, 20%, and 14% respectively), burglary was the most prevalent crime among the various crime types. Better than one out of four felony court sentences in this study involved burglary (28%).

A distinction was also made between core informational items and optional ones. The core items had to be provided on every case and they included: the highest charge on which sentenced; the type of sentence imposed; and the term to which each person was sentenced. The optional items dealt with characteristics of the crime, case processing, and the defendant. These included: whether or not the charge on which convicted was an attempted or completed crime; the number of charges convicted of; whether consecutive terms were imposed; whether sentencing enhancements were invoked; whether the charge on which convicted was lower than the one on which indicted; whether provisions for career criminal prosecution were used; and the age of the defendant.

#### CODEBOOK INFORMATION

The example below is a reproduction of information appearing in the machine-readable codebook for a typical variable. The numbers in brackets do not appear but are references to the descriptions which follow this example.

.....  
 [1] VAR 011    [2] MAXIMUM/FIXED TERM    [3] MD=99999  
          REF 011            [4] LOC 30    WIDTH 05    [5] DK 01 COL 32

[6] Maximum or Fixed Term of Respondent's  
      Incarceration  
      -----

[7] All sentence terms have been multiplied by 100  
      so that a sentence of one year appears as 100 on  
      on the record.

Maximum amount of time the respondent must  
      serve in either jail or prison. Term specified  
      by judge is recorded in years.

[8] Actual number is coded.

[9]            [10]

88888. Jail imposed but sentence not ascertained  
 99600. Life (with possibility of parole)  
 99700. Natural life (no possibility of parole)  
 98000. Death

99999. Not applicable

.....



- [1] Indicates the variable and reference numbers. A variable number and a reference number are assigned to each variable in the data collection. In the present codebook which documents the archived data collection these numbers are identical. Should the data be subsetted or rearranged by an OSIRIS program (e.g., MMP to intersperse data from another source, or TCOT to produce an analysis deck), the variable numbers would change to reflect the order of the new data collection, while the reference number would remain unchanged to reflect the variable number in the codebook describing the archived data collection.
- [2] Indicates the abbreviated variable name (maximum of 24 characters) used in the OSIRIS system to identify the variable for the user. An expanded version of the variable name can be found in the variable description list.
- [3] Indicates the code values of missing data. In this example, the code value equal to 99999 is missing data. Alternative statements for other variables are "MD=0," "MD=9" or "NO MISSING DATA CODES." Some analysis software packages (including the OSIRIS software package) require that certain types of data which the user desires to be excluded from analysis be designated as "MISSING DATA," e.g., inappropriate, unascertained, unascertainable, or ambiguous data categories. Although these codes are defined as missing data categories, this does not mean that the user should not or cannot use them in a substantive role if so desired.
- [4] Indicates the starting location and width of this variable when the data are stored on a magnetic tape in the OSIRIS format. If the variable is of a multiple-response type, the width referenced is that of a single response. In this example the variable named "MAXIMUM/FIXED TERM" is 05 column(s) wide and is located in the 30th column within the record.
- [5] Indicates the location by deck and column(s) of this variable when the data are stored on cards or in card-image format (80-column format)

- [6] This is the full text (question) supplied by the investigator to describe the variable. The question text and the numbers and letters that may appear at the beginning reflect the original wording of the questionnaire item.
- [7] Indicates an additional comment or explanation appended to the variable description.
- [8] "Actual number is coded" appears in the codebook to indicate that the variable has been declared continuous.
- [9] Indicates the code values occurring in the data for this variable.
- [10] Indicates the textual definitions of the codes. Abbreviations commonly used in the code definitions are "DK" (Do Not Know), "NA" (Not Ascertained), and "INAP" (Inappropriate).

#### ICPSR PROCESSING INFORMATION

The data collection was processed according to the standard ICPSR processing procedures. There are 19 total data files. The first 18 correspond to the jurisdictions included in this collection. The final file is a concatenated file containing data from the 18 jurisdictions. The data were checked for illegal or inconsistent code values which, when found, were recoded to OSIRIS missing data values. No consistency checks were performed. Statements bracketed in "<" and ">" signs in the body of the codebook were added by the processors for explanatory purposes.

## VARIABLE DESCRIPTION LIST

## ICPSR PROCESSING VARIABLES

- 1 ICPSR Study Number-8396
- 2 ICPSR Edition Number-3
- 3 ICPSR part number-1
- 4 ICPSR Sequence Number

## CASE IDENTIFICATION

- 5 Felon case number

## CRIME DESCRIPTION

- 6 What is the highest charge R sentenced
- 7 What was the completion level of the crime
- 8 How was the conviction obtained

## SENTENCING DESCRIPTION

- 9 What was the sentenced imposed on R
- 10 Probation sentence length for R
- 11 Minimum term of incarceration for R
- 12 Maximum/fixed term of incarceration for R
- 13 Where was R sentenced to
- 14 Credit for pretrial detention for R
- 15 Total number of charges R convicted
- 16 Consecutive terms of incarceration for R
- 17 Sentencing enhancements involved for R
- 18 Was this a career criminal prosecution procedure
- 19 Was a gun used or present in the crime
- 20 Highest charge R convicted
- 21 Age of R when sentenced
- 22 Weight factor
- 23 Jurisdiction ID
- 24 Simplified Crime Code

VAR 0001	ICPSR STUDY NUMBER-8396	NO MISSING DATA CODES
REF 0001	LOC 1 WIDTH 4	DK 0 COL 1- 4

ICPSR Study Number

8396. The ICPSR has attached this number as a unique data collection identification number.

VAR 0002	ICPSR EDITION NUMBER - 3	NO MISSING DATA CODES
REF 0002	LOC 5 WIDTH 1	DK 0 COL 5

ICPSR Edition Number

The number identifying the release edition of the data collection.

2. Spring, 1987 release

VAR 0003	ICPSR PART NUMBER	NO MISSING DATA CODES
REF 0003	LOC 6 WIDTH 2	DK 0 COL 6- 7

ICPSR Part Number

The number identifying this part of an 18-part data collection.

Note that the part number will not always correspond exactly to the matching jurisdiction number, due to the numbering scheme used by the original principle investigator. Also see VAR 22 for jurisdiction identification codes.

- 01. Jurisdiction one, Baltimore City (MD)
- 02. Jurisdiction two, Baltimore County (MD)
- 03. Jurisdiction four, Dade County (FL)
- 04. Jurisdiction five, Davidson County (TN)
- 05. Jurisdiction six, Denver (CO)
- 06. Jurisdiction seven, Hennepin County (MN)

(CONTINUED)

07. Jurisdiction eight, Jefferson County (KY)
08. Jurisdiction nine, Jefferson Parish (LA)
09. Jurisdiction ten, Kane County (IL)
10. Jurisdiction eleven, Lancaster County (NE)
11. Jurisdiction twelve, Los Angeles County, Central District (CA)
12. Jurisdiction thirteen, Lucas County (OH)
13. Jurisdiction fourteen, Maricopa County (AZ)
14. Jurisdiction fifteen, Milwaukee County (WI)
15. Jurisdiction seventeen, New Orleans (LA)
16. Jurisdiction eighteen, Oklahoma County (OK)
17. Jurisdiction nineteen, Philadelphia (PA)
18. Jurisdiction twenty, Riverside County (CA)
19. Jurisdictions concatenated

.....

VAR 0004	ICPSR SEQUENCE NUMBER	NO MISSING DATA CODES
REF 0004	LOC 8 WIDTH 5	DK 0 COL 8-12

#### ICPSR Sequential Case Identification Number

-----

The ICPSR has attached a sequential case identification number to each record. This number uniquely identifies each record in the data collection.

.....

VAR 0005	FELON CASE NUMBER	NO MISSING DATA CODES
REF 0005	LOC 13 WIDTH 9	DK 0 COL 13-21

#### Felon's Case Number

-----

A sequence of numbers and/or letters that represent a specific offender. Zeros have been added to the left hand side to make the column width of this variable the same for all 18 jurisdictions.

VAR 0006      HIGHEST CHARGE SENTENCED      NO MISSING DATA CODES  
 REF 0006      LOC    22 WIDTH    3      DK    0 COL 22-24

Highest Charge on which the Repsondent was Sentenced  
 -----

Reclassified to match NACJP penal code

- 100. Homicide (undifferentiated)
- 110. Murder
- 130. Manslaughter
- 140. Reckless homicide (including vehicular)
- 200. Rape (undifferntiated)
- 210. Forcible rape
- 220. Statutory rape
- 300. Robbery (undifferentiated)
- 310. Armed robbery
- 320. Unarmed robbery
- 400. Assault
- 430. Attempted homicide
- 500. Burglary (undifferentiated)
- 510. Residential burglary
- 520. Non-residential burglary
- 530. Burglary involving contact with victim or a weapon
- 600. Theft
- 700. Drug Trafficking (undifferentiated)
- 710. Narcotics, Cocaine, Schedule I and II Drugs
- 720. All other drugs except Cannibus
- 730. Cannibus

.....  
 VAR 0007      COMPLETION LEVEL/CRIME      MD=9  
 REF 0007      LOC    25 WIDTH    1      DK    0 COL 25

Completion Level of the Crime  
 -----

- 1. Attempted Crime
- 2. Completed Crime
- 3. Conspiracy, etc.
  
- 9. Unable to make distinction

VAR 0008  
REF 0008

NATURE OF CONVICTION  
LOC 26 WIDTH 1

MD=9  
DK 0 COL 26

#### Nature of the Respondent's Conviction

---

1. Trial, the respondent is found guilty either through a bench trial or a jury trial
3. Plea, the respondent pleads guilty
9. Not able to ascertain

VAR 0009  
REF 0009

SENTENCE IMPOSED  
LOC 27 WIDTH 1

NO MISSING DATA CODES  
DK 0 COL 27

#### Sentence Imposed Upon the Respondent

---

1. Incarceration to a secure correctional facility
2. Probation and jail
3. Probation only
5. All other sentences

VAR 0010  
REF 0010

PROBATION TIME  
LOC 28 WIDTH 4

MD=8888 OR GE 9999  
DK 0 COL 28-31

#### Respondent's Probation Sentence Length

---

All sentence terms have been multiplied by 100 so that a sentence of one year appears as 100 on the record.

Total sentence length, including time spent in special programs, such as drug rehabilitation. Time coded in unit of years, so that a sentence of 20 months is recorded as 175 years.

- 8888. Probation time given, but not ascertained
- 9999. No probation time given to respondent

```

VAR 0011          MINIMUM TERM                      MD=9999
REF 0011          LOC   32 WIDTH  4                  DK   0 COL 32-35

```

### Minimum Term of Respondent's Incarceration

All sentence terms have been multiplied by 100 so that a sentence of one year appears as 100 on the record.

Judge specifies a minimum term that must be served before the convicted respondent can be eligible for release. Term specified by judge is recorded in years.

9999. No minimum term given to respondent

```
VAR 0012      MAXIMUM/FIXED TERM      MD=99999
REF 0012      LOC 36 WIDTH 5          DK 0 COL 36-40
```

## Maximum or Fixed Term of Respondent's Incarceration

All sentence terms have been multiplied by 100 so that a sentence of one year appears as 100 on the record.

Maximum amount of time the respondent must serve in either jail or prison. Term specified by judge is recorded in years.

88888. Jail imposed but sentence not ascertained  
99600. Life (with possibility of parole)  
99700. Natural life (no possibility of parole)  
98000. Death

99999. Not applicable

VAR 0013	WHERE SENTENCED TO	MD=9
REF 0013	LOC 41 WIDTH 1	DK 0 COL 41

## Place Where Respondent Will Serve Term



(CONTINUED)

1. Local secure correctional facility (jail, workhouse, etc.)
2. Local, but time not ascertainable
3. State secure correctional facility
4. State, but with a life or death sentence
5. Judge sentences respondent only to that time which s/he has already served in pretrial detention.
6. Time served, but time not ascertainable
9. Not applicable

.....

VAR 0014	CREDIT FOR PRETRIAL	MD=9
REF 0014	LOC 42 WIDTH 1	DK 0 COL 42

Was Respondent Given Credit for Pretrial Detention

-----

1. Yes, court specifies that credit is awarded for time spent in pretrial detention. This includes those instances where a judge sentences the respondent to time already served.
3. No, court specifically denies the application of time served in pretrial detention to the sentence imposed.
9. Not ascertainable, the court is silent on the matter of pretrial detention.

.....

VAR 0015	TOTAL NUMBER OF CHARGES	MD=99
REF 0015	LOC 43 WIDTH 2	DK 0 COL 43-44

Total Number of Charges on Which Respondent is Convicted

-----

The total number of felony charges on which the respondent is convicted, including sentencing enhancements if those enhancements appear as separate charges.

Actual number is coded.

(CONTINUED)

99. Number of charges cannot be determined

.....

VAR 0016	CONSECUTIVE TERMS	MD=9
REF 0016	LOC 45 WIDTH 1	DK 0 COL 45

Was Respondent Sentenced to Consecutive Terms of  
Incarceration

-----

1. Yes, respondent is convicted of two or more charges/counts and the judge elects to have these sentences served as consecutive terms, so that the sentence is additive.
  3. No, respondent is convicted of two or more charges/counts and the judge elects to have these sentences served as concurrent terms, so that each sentence is served at the same time.
  9. Not applicable, if respondent is convicted on only one charge.
- .....

VAR 0017	SENTENCING ENHANCEMENTS	MD=9
REF 0017	LOC 46 WIDTH 1	DK 0 COL 46

Are There Sentencing Enhancements

-----

1. Yes, circumstance of the crime calls for a tougher sentence even if this aggravating factor appears as an additional charge.
3. No, cases in which sentencing enhancements are not raised.
9. Not applicable

VAR 0018  
REF 0018

CAREER CRIMINAL  
LOC 47 WIDTH 1

MD=9  
DK 0 COL 47

Was This Career Criminal Prosecution  
-----

This variable relates to those programs that target special types of crimes or offenders for special prosecutorial attention. This variable, is not to be confused with legislation dealing with habitual offenders and enhanced sentencing.

1. Yes, respondent was targeted for special prosecutorial attention under a career criminal program.
3. No, respondent did not receive any special prosecutorial attention under a career criminal program.
9. Not Ascertainable

.....  
VAR 0019  
REF 0019

GUN USED  
LOC 48 WIDTH 1

MD=9  
DK 0 COL 48

Was a Gun Used in the Crime  
-----

This variable relates to the presence or use of a gun by the respondent when s/he committed the crime regardless of whether or not such gun usage or presence shows up in a separate charge.

1. Yes, Gun used or present
3. No, Gun not used or not present
9. Not ascertainable, insufficient information to determine whether or not a gun was used or present during the crime.

VAR 0020      HIGHEST CHARGE CONVICTED  
 REF 0020      LOC 49 WIDTH 1

MD=9  
 DK 0 COL 49

Was Respondent's Sentence Charge Lower than Indictment  
 Charge  
 -----

This variable relates to the charge made against the respondent when s/he was first brought before the felony court. It is not related to arrest charges. If conviction is on a lower charge than original felony court charge, then there is a charge reduction.

1. Yes, Charge reduction
  3. No, No charge reduction
  9. Not ascertainable from information on the record
- .....

VAR 0021      AGE/PERSON SENTENCED  
 REF 0021      LOC 50 WIDTH 2

MD=99  
 DK 0 COL 50-51

Age of the Respondent  
 -----

Age of the respondent in whole years at the time of sentencing.

Actual age is coded.

00.

:  
 .

97.

98. 98 years or older

99. Not ascertained

VAR 0022            WEIGHT FACTOR            NO MISSING DATA CODES  
REF 0022            LOC    52 WIDTH   3            DK    0 COL 52-54

Weight Factor

This variable is a multiplier that factors the number of cases up to the total number of cases in the universe. In those instances where total counts are being provided 0100 is recorded.

.....

VAR 0023            JURISDICTION ID            NO MISSING DATA CODES  
REF 0023            LOC    55 WIDTH   2            DK    0 COL 55-56

Jurisdiction Identification Code

01. Baltimore City (MD)
  02. Baltimore County (MD)
  04. Dade County (FL)
  05. Davidson County (TN)
  06. Denver (CO)
  07. Hennepin County (MN)
  08. Jefferson County (KY)
  09. Jefferson Parish (LA)
  10. Kane County (IL)
  11. Lancaster County (NE)
  12. Los Angeles County, Central District (CA)
  13. Lucas County (OH)
  14. Maricopa County (AZ)
  15. Milwaukee County (WI)
  17. New Orleans (LA)
  18. Oklahoma County (OK)
  19. Philadelphia (PA)
  20. Riverside County (CA)
- .....

VAR 0024            SIMPLIFIED CRIME CODE            NO MISSING DATA CODES  
REF 0024            LOC    57 WIDTH   1            DK    0 COL 57

Simplified Crime Code

(CONTINUED)

1. Homicide
2. Rape
3. Robbery
4. Assault
5. Burglary
6. Theft
7. Drug Trafficking

(CONTINUED)

## Appendix A Methodological Notes

### A.1 Frame of Reference

-----

With the exception of Baltimore County, Dade County, and New Orleans, the data in this report represent all of those sentences meted out for the crimes under study during calendar year 1983.

Baltimore County provided sentencing data for the period 4/1/83 through 3/31/84. The reason for this frame was that Baltimore County was using its Prosecutor Management Information System to identify cases falling into the study and that the system was not fully operational to provide such information before April 1, 1983. So to stay with a common record source for identifying the eligible cases, the time frame was altered.

On October 1, 1983, the State of Florida implemented new sentencing procedures. In the interest of obtaining one full year's worth of data under a single sentencing approach, the decision was made to collect the Dade County information on sentences from October 1, 1982 through September 30, 1983.

The record systems in New Orleans forced a change in the reference period there. The change entailed going from sentences handed down in 1983 to cases initiated in 1983. The reason for this change in reference period was that no central record system existed in which to examine cases by their date of disposition. Court records are organized by the date on which cases are initiated. Because of the large number of raw records that would have to be examined (there are ten courts with each court having 12-14 volumes of 250-300 cases each) and because cases tend to be disposed of within 60-90 days, the decision was made to go with cases initiated in 1983 knowing that nearly all would have been disposed of by the time the data were coded (which was in June, 1984).

(CONTINUED)

## A.2 Geographical Coverage

-----

In all of the jurisdictions participating in the study, the sentencing data come from the entire county except in Los Angeles. In Los Angeles there are multiple prosecutorial offices and courts 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 basically serves the City of Los Angeles. So the data from Los Angeles is more similar to the data coming from jurisdictions when there is a consolidated city/county government (e.g. Denver, Philadelphia, etc.) than those jurisdictions where a substantial portion of the county population lives outside of the core central city (e.g. Dade County, Hennepin County, Maricopa County, etc.).

## A.3 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. 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. Staff made explicit that criminal trespass should be excluded from the data collection effort.

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." A review of this document would show that there are differences as to how the crimes are defined from jurisdiction to jurisdiction. Such differences are to be expected with each state legislating its own code. In the context of the seven crimes involved in this study, the differences do not seriously impair our ability to obtain comparable definitions.



(CONTINUED)

The general parameters for the selected crime categories and the major differences observed among the jurisdictions are outlined below.

**HOMICIDE.** This crime was defined as wrongful death with or without intent and included such legal terms as murder, manslaughter, reckless homicide, and vehicular homicide. The types of crimes excluded from this crime category for the purposes of this study involved such activities as aiding in a suicide and causing the death of an unborn child. Because the study was looking at cases disposed of as FELONIES, there were several instances where certain types of homicides did not qualify for inclusion in the study because they were defined as misdemeanors in the penal codes, for example, vehicular homicide is a felony in Maryland. Because of its misdemeanor status, this crime fell out of the scope of the study. Yet vehicular homicide is a felony in most of the other participating jurisdictions and so was within the scope of the study for them. Finally, whenever a homicide was attempted, for purposes of this study it fell under the crime category of aggravated assault.

**RAPE.** This crime was defined as the illegal sexual penetration of a person, including the use of foreign objects. Consequently, this definition embraces statutory rape (where force may be absent but the status of the victim is viewed as prima facie evidence that the victim was not capable of resistance, e.g. age, mental competency) as well as forcible rape. This crime category includes homosexual rape as well as heterosexual rape. Statutory provisions that the study excluded involved crimes of sexual contact (including those with elements of force and those committed against children) where NO sexual penetration was achieved. For purposes of this study, persons found guilty of ATTEMPTED rape would remain in the rape category.

**ROBBERY.** This crime was defined as the use of force to deprive another of his/her property. While the definition for robbery is very straightforward, there are items that need to be highlighted here. A number of penal codes have provisions under burglary that involve a basic element for robbery; i.e., a confrontation between the offender and the victim. Where state penal codes specifically detail such circumstances, the study classified those burglaries

(CONTINUED)

as burglaries. Also, almost every penal code differentiates between armed robbery and unarmed robbery. The reader should note that armed robbery covers a wide spectrum of weapons that goes beyond the image of a felon pointing a gun at the victim. Weapon usage can embrace knives, bats, play guns, or even someone pointing a finger through his/her pocket to give the appearance of a weapon.

**AGGRAVATED ASSAULT.** This crime was defined as the infliction of injury or the threat to inflict injury on another. As noted above, attempted homicide is included under this crime category. The penal codes tend to differentiate between felony and misdemeanor assault based on the extent of injury and the nature of the threat. Felony assault is usually defined as aggravated assault and involves serious physical injury and/or weapon usage. A number of statutes elevate simple (misdemeanor) assaults against police to felony assaults and these are included in the study. On the other hand, some states treat the threat to use a weapon as a misdemeanor so those crimes are not included in the study.

**BURGLARY.** This crime was defined as the unlawful entering of a structure. Some crimes defined in the penal code as burglaries discuss contact between the burglar and the victim or the presence of a weapon. While these types of burglary approximate the definition of robbery, there is no easy way to identify those cases where there was a confrontation with the victim. So these cases were left as a special category within burglary. Penal code provisions excluded from this crime category in the study dealt with the possession of burglar tools and criminal trespass. The study also sought to exclude those instances where the penal codes defined break-ins on such items as coin boxes, cars, boats, etc., as burglaries. In some instances this was impossible; but in discussing these situations with staff from the prosecutor's offices, such crimes (breaking into a car) were seldom pursued under the burglary statute.

**THEFT.** This crime is perhaps the most ambiguous of the crime categories included in the study. The study sought to limit the definition to the unlawful taking of property and to exclude such circumstances as extortion, fraud, or deception. Some codes have separate citations for such circumstances while many of the codes strictly focus on the value of the

(CONTINUED)

property taken, without regard to the method used by the offender. In addition, the value threshold for felony theft varies from \$20 in Oklahoma to \$1,000 in Pennsylvania. It should also be noted that theft here includes motor vehicle theft. Finally, a number of codes define certain types of theft to be felony without regard to the value taken; i.e., theft from the person (pocket picking).

DRUG TRAFFICKING. This crime was defined to include the transportation, manufacture (including growing), distribution, and selling of controlled substances as well as those legislative provisions that specified possession WITH INTENT TO transport, manufacture, distribute, or sell. Straight possession, however, was NOT included in this crime category. It should be noted that codes vary on the threshold weight in distinguishing between straight possession and possession with intent to sell.

#### A.4 WEIGHTS

Whether sampling was used and its extent varied by jurisdiction and crime category. In most cases there was no sampling; i.e., all of the cases meeting the selection criteria for the study were used. In the grid below, the number one (1) represents such instances. When cases were sampled the sampled cases were weighted by the inverse of their sampling rate. For example, in Baltimore City every fourth (1/4) robbery meeting the selection criteria for the study was selected and those cases then received a weight of four (4) because they each represented four cases. When cases were sampled, they were sorted by type of sentence imposed (jail, prison, probation) and by the term imposed so as to assure representativeness on these two critical considerations.

(CONTINUED)

## Weighting Grid

	Homi- cide	Rape	Robbery	Agg. Assault	Burg- lary	Lar- ceny	Drug Traffick.
Baltimore City	1	1	4	1	3	NA	NA
Baltimore Co.	1	1	1	1	1	2	1
Dade County	1	1	3	1	7	6	2
Davidson Co.	1	1	1	1	1	1	1
Denver	1	1	1	1	1	1	1
Hennepin Co.	1	1	1	1	1	1	1
Jefferson Co.	1	1	1	1	1	1	1
Jefferson Par.	1	1	1	1	1	1	1
Kane County	1	1	1	1	1	1	1
Lancaster Co.	1	1	1	1	1	1	1
Los Angeles	1	1	5	4	5	4	10
Lucas County	1	1	1	1	1	1	1
Maricopa Co.	1	1	1	3	5	5	1
Milwaukee Co.	1	1	1	1	3	1	1
New Orleans	1	1	1	1	1	1	1
Oklahoma Co.	1	1	1	1	1	1	1
Philadelphia	1	1	10	5	10	4	1.33
Riverside	1	1	1	1	1	1	1