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## Bureau of Justice Statistics Special Report

### *Federal Offenses and Offenders*

# Federal Sentencing in Transition, 1986-90

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Federal sentencing practices changed substantially during the last half of the 1980's. Before the 1986 and 1988 anti-drug abuse laws that stiffened sanctions, the Sentencing Reform Act of 1984 (Public Law 98-473, 98 Stat. 1837 [1984], called "the Act" in this report) had already set in motion alterations of Federal practices. Among other reforms, the Act established the U.S. Sentencing Commission to develop guidelines, which scale punishments to the gravity of the offense and the offender's criminal record. The guidelines apply to Federal prisoners who committed their crimes on or after November 1, 1987.

Under the guidelines Federal prisoners are no longer released from prison to parole by the U.S. Parole Commission. Instead, judges impose prison sentences that are served in full, except for time off that prisoners earn for good behavior. Offenders are supervised following their release from prison only if a judge requires it as a part of the sentence.

Cases subject to the Act ("guideline cases") began to appear in appreciable numbers in 1988, the year after the guidelines went into effect. During 1988, 17% of the offenders convicted in Federal district courts were guideline cases.<sup>1</sup> In 1989 the proportion increased to 51%, and in 1990, to 65%. This report summarizes the main

<sup>1</sup> See *Methodology*, page 10, for a discussion of which cases were included as guideline cases.

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The Sentencing Reform Act of 1984 introduced "truth in sentencing" to the Federal justice system. The act created a commission that specified sentencing guidelines, which went into effect in late 1987. Defendants convicted for crimes committed after the guidelines serve the actual amount of the sentence, minus a brief "good time" to enable authorities to manage inmates more easily. The guidelines take into account the gravity of the crime and the offender's criminal record. Released prisoners no longer serve time on parole unless judges expressly sentence them to supervision in the community.

This report on sentencing and time served is the first indepth analysis of these issues by the Federal Justice Statistics Program since 1987. It clearly traces changes in sentencing patterns and corresponding changes in time served in prison and supervision after incarceration.

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trends in Federal sentencing. It compares sentences imposed before the Act in 1986-87 with those imposed between January 1988 and June 1990, when an increasing percentage of defendants were subject to the guidelines and faced stiffer mandatory sentences. The report also examines time actually served by offenders released from Federal prison between 1986 and 1990.

The main findings include:

- The percentage of convicted Federal offenders receiving a prison sentence, which may have included a period of probation, rose from 52% during 1986 to 60% in the first half of 1990.
- Offenders sentenced under the sentencing guidelines were more likely to go to prison than those sentenced before the guidelines went into effect: 74% of the guideline cases in 1990, compared to 52% of the pre-guideline cases in 1986.
- The number and percentage of Federal offenders sentenced to prison increased primarily after 1988. Among those sentenced in Federal district courts, the increased number of drug offenders accounted for most of the increase in sentences to prison.
- The average length of Federal sentences to incarceration decreased between 1986 and 1990 for crimes other than drug offenses. However, because offenders sentenced under the provisions of the Act are not eligible for release on parole, the more recently committed offenders were likely to be incarcerated longer than their predecessors.
- The use of probation sentences decreased from 63% in 1986 to 44% in the first half of 1990.
- Federal prisoners first released in 1990 served an average of 19 months (75% of their court-imposed sentences). This was 29% longer than the average term served by prisoners first released in 1986.

## The Sentencing Reform Act of 1984

The Sentencing Reform Act of 1984 (Public Law 98-473, 98 Stat. 1837 [1984]), called "the Act" in this report, established the U.S. Sentencing Commission that had as one of its essential tasks the development of sentencing guidelines. This reform sought to reduce unwarranted disparities between the sentences imposed and the time in prison actually served.<sup>2</sup> The guidelines issued by the commission took effect on November 1, 1987, and applied to Federal offenses committed on that day or later. Sentencing of offenders convicted of crimes committed before that date was governed by the laws applicable before the Act's passage (called the "old law").

The report describes sentencing patterns which occurred during 1986-90. A variety of changes in criminal statutes, as well as shifts in prosecutorial priorities and composition of the offender pool, occurred during this period. Therefore, changes in sentencing patterns may not necessarily

<sup>2</sup>U.S. Sentencing Commission, *Supplementary Report on the Initial Sentencing Guidelines and Policy Statements* (Washington, D.C.: June 18, 1987).

reflect the impact of any particular factor such as the guidelines or provisions of the Act.

### Persons sentenced to prison

The number of persons convicted in Federal district courts increased from 43,920 in 1986 to about 48,730 in 1990 — an average annual increase of about 2.6%.<sup>3</sup> Although this growth in the number of convictions had slowed from the 6.4% average annual rate for the period of 1980 to 1985, the likelihood of being sentenced to incarceration rose, from 52% in 1986 to 60% in 1990 (table 1).

The likelihood of receiving a sentence to prison varied according to offense category. Violent offenders were somewhat more likely to be incarcerated in 1990 than in 1986: 88% in 1990, compared to 83% in 1986. Convicted drug offenders were more likely to receive a prison sentence in 1990 than in 1986 — 86%, compared to 77%. The likelihood of incarceration

<sup>3</sup>*Federal Criminal Case Processing, 1980-89, with Preliminary Data for 1990*, BJS report, NCJ-130526, October 1991, table 9. Figures for 1990 are preliminary.

increased slightly for public-order offenders (37% to 43%), and remained unchanged for property offenders (43% in 1986 and 1990).

As the number of convictions and the likelihood of being sentenced to prison increased, a substantially greater number of Federal offenders was sentenced to prison. From 1986 through 1988, the number of Federal offenders sentenced to prison remained between 23,000 and 23,600 per year. In 1989, the number increased to 27,377, and in 1990, to approximately 29,400.

This 1986-90 increase resulted largely from the growing number of persons sentenced to prison for drug offenses. The number of Federal drug offenders sentenced to prison rose 48%, while the number of persons sentenced to prison for all other types of crimes grew an average of 14%. By 1990 drug offenders accounted for nearly half (47%) of all persons sentenced to prison from Federal district courts, up from 40% in 1986 and 27% in 1980.

**Table 1. Offenders convicted in cases terminated in U.S. district court: Number and percent sentenced to prison, by year and offense, 1986-89 and preliminary 1990**

Most serious offense at conviction	Number of convicted offenders who were sentenced to prison <sup>a</sup>					Percent of convicted offenders who were sentenced to prison <sup>a</sup>				
	1986	1987	1988	1989	Preliminary 1990 <sup>b</sup>	1986	1987	1988	1989	Preliminary 1990 <sup>b</sup>
All offenses <sup>c</sup>	23,058	23,579	23,450	27,377	29,430	52.5%	53.0%	53.8%	58.5%	60.4%
Violent offenses	1,813	1,837	1,733	1,892	1,999	82.7	82.0	81.0	86.8	87.6
Property offenses	6,291	6,234	5,723	5,974	5,775	43.2	43.4	42.6	44.1	43.1
Fraudulent offenses	4,416	4,610	4,182	4,400	4,391	42.0	44.1	43.6	44.4	44.0
Other property offenses	1,875	1,624	1,541	1,574	1,384	46.6	41.6	40.0	43.3	40.5
Drug offenses	9,272	10,196	10,599	13,306	13,754	77.3	75.9	79.2	84.2	85.6
Public-order offenses	5,682	5,312	5,395	6,194	6,427	37.4	36.6	37.0	40.6	43.2
Regulatory offenses	688	601	640	746	757	34.2	32.5	32.6	36.9	38.3
Other public-order offenses	4,994	4,711	4,755	5,448	5,670	37.9	37.2	37.7	41.2	43.9

<sup>a</sup>Includes sentences to prison with or without probation.

<sup>b</sup>See *Methodology*, page 10.

<sup>c</sup>Total may include offenders for whom offense category could not be determined, but excludes offenders for whom sentence category could not be determined.

## Comparing pre-guideline and guideline cases

### Length of prison sentences

Between 1986 and 1990, the average length of imposed prison sentences decreased substantially for nearly all types of crimes (table 2). The average sentence to prison for all violent crimes was 32% less in 1990 than in 1986: 90 months in 1990 compared to 132 months in 1986. Sentences to prison for property offenses were 35% shorter, and for public-order offenses, 25% shorter.

Part of the reason for the shorter average sentence was that progressively larger proportions of cases during the period were subject to the Act. Despite this downward trend, the overall average length of prison sentences given to all Federal offenders increased from 53 months in 1986 to 57 months in 1990. This increase resulted from the longer sentences given to drug traffickers outweighing the decline

in sentences imposed on others. The average prison sentence for drug trafficking was 64 months in 1986 and 84 months in 1990.<sup>4</sup>

### Likelihood of offenders going to prison

Offenders sentenced under the guidelines during 1988, 1989, and the first 6 months of 1990 were more likely, on the whole, to be sentenced to prison than were offenders sentenced during 1986 and 1987 under the old law (table 3). In 1986, 52% of all offenders sentenced under the old law were given incarceration terms, as were 53% of those sentenced during 1987. In the following year, 77% of all guideline cases resulted in incarceration sentences. The proportion remained constant in 1989, and decreased slightly to 74% during the first half of 1990.

<sup>4</sup>*Federal Criminal Case Processing, 1980-89, with Preliminary Data for 1990, table 17.* The category for drug offenses in table 2 of this report includes drug trafficking, drug possession, and other drug crimes. The average prison sentence for nontrafficking offenses in 1986 was 41 months and in 1990 was 13 months.

Within all offense categories, offenders sentenced under the guidelines were more likely to be sentenced to prison than those receiving pre-guideline sentences. During 1986 and 1987, 82% of those convicted of violent crimes were sentenced to incarceration; 91% to 92% of violent offenders were sentenced to prison in guideline cases disposed in 1988-90. Of offenders convicted of Federal drug crimes in 1986 and 1987 under the old law, more than 75% received sentences to prison; under the Act, those rates rose to around 86% to 90%.

Persons charged with public-order offenses — regulatory, weapons, racketeering, immigration offenses, or tax law violations — were more likely to be given prison terms after the guidelines went to effect. During 1986-87, 37% of convicted public-order offenders received prison sentences; from 1988 through the first half of 1990, about 71% to 75% of these offenders were incarcerated (table 3).

**Table 2. Offenders convicted in cases terminated in U.S. district court: Average length of sentence to prison, by year and offense, 1986-89 and preliminary 1990**

Most serious offense at conviction	Average length of sentence to prison				Preliminary 1990 <sup>a</sup>
	1986	1987	1988	1989	
All offenses <sup>b</sup>	52.7 mos.	55.2 mos.	55.1 mos.	54.5 mos.	57.4 mos.
Violent offenses	132.0	126.2	110.7	90.6	89.8
Property offenses	34.3	32.5	31.5	26.0	22.3
Fraudulent offenses	32.8	31.1	31.0	26.1	22.3
Other property offenses	37.9	36.5	32.7	25.7	22.5
Drug offenses	62.2	67.8	71.3	74.9	81.2
Public-order offenses	36.9	35.5	30.7	27.6	27.7
Regulatory offenses	47.2	42.1	30.4	24.0	26.3
Other public-order offenses	30.8	32.2	30.7	28.1	27.8

<sup>a</sup>Includes preliminary count of all cases terminated during 1990.

<sup>b</sup>Total may include offenders for whom offense category could not be determined.

**Table 3. Offenders sentenced to Federal prison: Pre-guideline and guideline cases, by year and offense, 1986-89 and the first half of 1990**

Most serious offense at conviction	Percent of convicted offenders who were sentenced to prison <sup>a</sup>				
	Pre-guideline		Guideline		
	1986	1987	1988	1989	1990 <sup>b</sup>
All offenses	52.5%	53.0%	76.5%	76.9%	73.6%
Violent offenses	82.7	82.0	91.0	92.3	91.8
Property offenses	43.2	43.4	53.8	53.3	46.7
Fraudulent offenses	42.0	44.1	60.4	54.0	46.2
Other property	46.6	41.6	43.6	51.8	48.0
Drug offenses	77.3	75.9	85.8	89.5	89.0
Public-order offenses	37.4	36.6	74.7	71.2	71.4
Regulatory offenses	34.2	32.5	42.0	48.6	49.5

Note: Data for "other public-order offenses" are not presented because certain offenses included in that category are not covered by the guidelines. "Public-order offenses," however, reflects all cases. Overall, among guideline cases, 7,197 defendants were convicted in 1988; 22,898 in 1989; and 14,075 in the first half of 1990. The guideline status could not be determined for 1,571 in 1988; 584 in 1989; and 113 in 1990.

<sup>a</sup>Includes sentences to prison with or without probation.

<sup>b</sup>Includes only cases terminated January 1 through June 30, 1990.

Not all of these changes can be attributed to the sentencing guidelines. Beginning in 1984, and every 2 years thereafter, Congress enacted laws that mandated minimum imprisonment terms for offenders convicted of drug or violent crimes. Although over 60 statutes in the Federal Criminal Code prescribe mandatory minimum penalties for Federal offenses, nearly all mandatory prison sentences imposed (94% during 1984-90) were for drug-law and weapons violations specified in 4 statutes.<sup>5</sup> Because a growing proportion of offenders sentenced after 1984 had violated these statutes, some of the increased rate of sentencing to prison, especially for drug crimes, resulted from these mandatory sentencing provisions rather than the guidelines alone.

For all offenses other than Federal drug crimes, the guidelines brought shorter maximum imprisonment sentences, on average (table 4). For example, the average sentence for violent offenses decreased from 132 months in 1986 and 126 months in 1987 to 87 months in 1990.

<sup>5</sup>U.S. Sentencing Commission, *Mandatory Minimum Penalties in the Federal Criminal Justice System* (Washington, D.C., August 1991) p.10.

Under provisions of the Act, judges were to impose sentences to be served in full, minus a small amount of good-time credits that offenders could receive for good behavior.<sup>6</sup> For most offenses, the guidelines were designed to approximate the

<sup>6</sup>Such credits are accumulated at the maximum rate of 54 days per year for all persons serving imprisonment terms longer than 12 months.

time that prisoners actually served in confinement under the old law.<sup>7</sup>

Sentences for Federal drug offenders departed from the pattern for other types of offenders. Drug offenders convicted under the guidelines received a longer, not

<sup>7</sup>Michael K. Block and William M. Rhodes, "The impact of the Federal sentencing guidelines," *NIJ Reports* (Sept./Oct. 1987) 205, p. 2.

shorter, prison sentence on average: from 62 months in 1986 and 68 months in 1987 (pre-guideline), to 71 months in 1989 and 77 months in the first half of 1990. (See the box on this page.)

#### Sentences to probation

From 1986 through the first half of 1990, the proportion of offenders sentenced to probation (whether combined with prison terms or not) declined from 63% to 44% (table 5).<sup>8</sup> The sharpest decrease occurred after 1988 and was especially pronounced for offenders convicted of violent or drug crimes. In 1988, 33% of violent criminals were sentenced to some type of probation sentence; in 1990, 19%. Over the same span of time, the percentage of convicted drug offenders sentenced to probation went from 30% to 17%.

The proportion of all offenders sentenced to "straight" probation, without any term of confinement, changed relatively little for the population as a whole from 1986 to

<sup>8</sup>The offenders include only those sentenced by the Federal district courts, excluding petty offenses.

**Table 4. Average sentences to Federal prison: Pre-guideline and guideline cases, by year and offense, 1986-89 and the first half of 1990**

Most serious offense at conviction	Average length of imposed prison sentences				
	Pre-guideline		Guideline <sup>a</sup>		
	1986	1987 <sup>b</sup>	1988	1989	1990 <sup>c</sup>
All offenses	52.7 mos.	55.2 mos.	42.1 mos.	53.1 mos.	56.9 mos.
Violent offenses	132.0	126.2	63.0	83.2	86.7
Property offenses	34.3	32.5	14.5	15.5	16.4
Fraudulent offenses	32.8	31.1	13.1	13.3	13.4
Other property	37.9	36.5	17.7	20.5	23.5
Drug offenses	62.2	67.8	56.8	70.7	77.4
Public-order offenses	36.9	35.5	19.0	24.7	26.1
Regulatory offenses	47.2	42.1	23.4	22.3	21.1
Other public-order	30.8	32.2	18.6	25.0	26.8

Note: The number of guideline cases in 1988 was 5,500; in 1989, 17,608; and in the first half of 1990, 10,361. The number of cases missing guideline designation in 1988 was 1,256; in 1989, 452; and in 1990, 95.

<sup>a</sup>Excludes nonguideline cases in 1988-90. See table 2 for average sentences of all cases.

<sup>b</sup>Includes a small number of cases sentenced under guidelines.

<sup>c</sup>Includes only cases terminated between January 1 and June 30, 1990.

#### Sentences imposed on offenders of Federal drug laws and the prison time the offenders serve

Congress and the Federal criminal justice system have placed a high priority on the enforcement of the Federal drug laws. This emphasis is evident in prosecution and sentencing patterns, as well as time served in prison. Between 1980 and 1990, the number of drug law offenders convicted in Federal district courts more than tripled, while the number of nondrug convictions increased by 32%. The proportion of convicted offenders sentenced to incarceration for drug crimes also rose over this period, from 72% in 1980, to 77% in 1986, to 86% in 1990. For drug traffickers, the likelihood of imprisonment increased from 77% in 1980 to 83% in 1986, and to 91% in 1990.\*

The length of imposed incarceration sentences increased even more drama-

\*Federal Criminal Case Processing, 1980-1989, with Preliminary Data for 1990, NCJ-130526.

tically. The average sentence imposed on those convicted of drug crimes in 1980 was 47 months. By 1986, the average had risen to 62 months, and by 1990, to 81 months.

The 1986 and 1988 anti-drug abuse laws prescribed stiffer sentences and mandatory minimum incarceration terms for Federal drug law offenders, especially traffickers. The combined effect of these laws and the sentencing guidelines has been to increase the length of incarceration sentences actually served by offenders.

Drug law offenders sentenced during 1990 under the guidelines will serve at least 66 months in prison, on average, and perhaps even more if they lose good-time credits for not complying with prison regulations. This represents a sharp increase in time served. Drug

offenders released from Federal prison in 1986 served an average of 22 months; those released in 1990 served 30 months, on average. Dispositions and sentences reported for guideline cases reflect only cases disposed of during the study period. No guideline cases requiring more than 2½ years from charge to final disposition were included.

The courts are also imposing terms of supervised release on most drug law offenders sentenced under the guidelines. During the first half of 1990, 87% of all offenders sentenced for Federal drug crimes were required to be supervised upon release from prison. Ninety-one percent of those convicted of trafficking offenses were so required. The average number of months to be served was 49 for all drug offenders combined, and 50 months for those convicted of trafficking.

1990. In 1986, 44% of all offenders were given straight probation sentences; in the first half of 1990, the proportion had declined to 38%.

A more dramatic change characterized the use of probation sentences in combination with incarceration in guideline cases. Whereas about a third of all offenders convicted of violent crimes received some kind of sentence to probation in the pre-guideline 1986-87 period, the proportion declined to less than a tenth of guideline cases sentenced for violent offenses during the first 6 months of 1990 (table 6).

Similar large declines occurred for sentences to probation for drug offenders (from 40% in 1986 and 35% in 1987 to 11% in 1990) and public-order offenders (from 72% in 1986 and 68% in 1987 to 28% in 1990). The decline in the percentage of property offenders sentenced to probation was somewhat less, from 76% and 73% in 1986-87 to 56% in 1990. This reduced frequency of sentences to probation reflects in part change in Federal law. The Act prohibited judges from sentencing to both prison and probation except when the guidelines recommend imprisonment of at least 1 month but not more than 6.

## Time served in prison

Most of the prisoners released during 1986-90 were sentenced to prison under the laws in force before the Act's provisions took effect. Consequently, the U.S. Parole Commission determined the time of their release. After the U.S. Sentencing Commission promulgated its guidelines, the Parole Commission adopted release policies that reflected the sanctions recommended by the guidelines. The discussion that follows describes the time served by prisoners released under this transitional policy.

**Table 5. Offenders sentenced to Federal probation: Type of sentence, by year and offense, 1986-89 and the first half of 1990**

Most serious offense at conviction	Percent of offenders sentenced to:									
	Any probation <sup>a</sup>					Straight probation only				
	1986	1987	1988	1989	1990 <sup>b</sup>	1986	1987	1988	1989	1990 <sup>b</sup>
All offenses	62.5%	56.9%	54.6%	45.7%	43.9%	44.4%	38.5%	40.1%	37.3%	37.5%
Violent offenses	34.9	33.3	32.9	21.3	19.0	19.9	18.5	20.8	16.5	15.5
Property offenses	75.8	73.0	72.9	65.5	65.8	55.4	50.6	52.6	52.4	55.0
Fraudulent offenses	78.8	76.1	75.7	68.1	67.3	57.6	51.9	53.3	53.4	55.2
Other property offenses	68.0	65.1	65.5	58.6	61.7	49.7	47.0	50.6	49.6	54.5
Drug offenses	40.0	35.3	29.6	19.5	16.8	22.4	19.4	19.3	15.1	14.2
Public-order offenses	72.2	68.4	65.9	60.3	58.4	55.5	51.0	52.5	51.3	51.2
Regulatory offenses	77.7	76.1	74.0	68.7	67.3	63.8	60.6	61.7	60.2	60.6
Other public-order offenses	71.2	67.0	64.4	58.8	56.8	53.9	49.1	50.7	49.7	49.6
Number of offenders sentenced to probation	26,236	26,015	23,650	20,488	9,513	18,621	17,614	17,375	16,728	8,124

<sup>a</sup>Includes straight probation and any combination of incarceration with probation.

<sup>b</sup>Includes only cases terminated between January 1 and June 30, 1990.

**Table 6. Offenders sentenced to any type of Federal probation: Pre-guideline and guideline cases, by year and offense, 1986-89 and the first half of 1990**

Most serious offense at conviction	Percent of offenders sentenced to probation <sup>a</sup>				
	Pre-guideline		Guideline <sup>b</sup>		
	1986	1987	1988	1989	1990 <sup>c</sup>
Violent offenses	35%	33%	16%	9%	9%
Property offenses	76	73	49	47	56
Fraudulent offenses	79	76	46	48	57
Other property offenses	68	65	54	46	53
Drug offenses	40	35	16	11	11
Public-order offenses	72	68	29	29	28
Regulatory offenses	78	76	61	52	52
Number of offenders sentenced to probation	26,236	26,007	1,884	5,410	3,821

Note: Data for "other public-order offenses" are not presented because certain offenses included in that category are not covered by the guidelines. "Public-order offenses," however, reflects all cases. Overall, among guideline cases, 7,197 defendants were convicted in 1988; 22,898 in 1989; and 14,075 in the first half of 1990. The guideline status could not be determined for 1,591 cases in 1988; 584 in 1989; and 113 in 1990.

<sup>a</sup>Includes straight, mixed, and split probation sentences.

<sup>b</sup>Excludes nonguideline cases in 1988-90.

<sup>c</sup>Includes only cases terminated between January 1 and June 30, 1990.

In calendar year 1990 Federal offenders who were released from prison for the first time on a sentence imposed in a U.S. district court had served an average (mean) of 19 months, which amounted to 75% of the court-imposed sentence (table 7).

Prisoners sentenced for violent offenses served an average time of more than 4 years, substantially longer than offenders

sentenced for property, drug, or public-order crimes. Convicted murderers who were released served an average of over 7 years. Kidnapers served an average of more than 8 years.

While violent offenders served longer in prison than other Federal offenders, on average they served smaller fractions of

their sentences in prison. Overall, violent offenders were released from prison after serving less than two-thirds of their maximum sentences; murderers and kidnapers were released after serving about half of their sentences.

When offenders are categorized by length of sentence imposed, within each category violent offenders spent slightly longer in prison than offenders convicted of other kinds of offenses (table 8). For example, violent offenders who were sentenced to a maximum prison term of 2 years served an average of 23 months before release, while other offenders with the same maximum sentence served about 10% less, 18 to 21 months.

On average, prisoners sentenced to less than 1 year served nearly all of their terms. A few exceeded their initial terms because they received sentences for crimes committed while in prison or for convictions following the original sentence. Those with 2-year sentences served 83% of the imposed term, those with 3-year sentences served 72%, and those with terms of 8 years served 53% of the imposed term. Persons sentenced to 10 years served an average of 48% of the maximum term imposed.<sup>9</sup>

<sup>9</sup>These numbers may differ from those reported by the Bureau of Prisons because they refer only to first releases of prisoners sentenced in Federal district courts for violations of the U.S. Code. The Bureau of Prisons typically counts all persons in its custody, including those returned to its custody for probation and parole violations, as well as some State, military, and District of Columbia prisoners.

**Table 7. Prisoners released from Federal prison in 1990: Average time served to first release and percent of sentence served, by offense**

Most serious offense at conviction <sup>a</sup>	Number of prisoners released	Average time served	Percent of sentence served
<b>All offenses<sup>b</sup></b>	25,591	19.2 mos.	75.0%
<b>Violent offenses</b>	1,458	54.2 mos.	64.8%
Murder	43	92.3	53.2
Negligent manslaughter	28	23.0	78.4
Assault	401	45.0	69.1
Robbery	826	58.4	62.2
Rape	19	64.6	51.8
Other sex offenses	87	34.0	72.3
Kidnaping	31	106.3	50.5
Threats against the President	23	25.8	89.2
<b>Property offenses</b>	5,354	16.3 mos.	76.2%
Fraudulent property	3,899	15.1	76.7
Embezzlement	400	11.6	82.9
Fraud	2,797	15.2	76.0
Forgery	323	14.6	73.5
Counterfeiting	379	19.0	78.0
Other property	1,455	19.6 mos.	74.8%
Burglary	79	27.2	73.3
Larceny	867	16.8	77.0
Motor vehicle theft	204	22.6	69.1
Arson	39	38.8	66.8
Transportation of stolen property	168	28.3	68.7
Other	98	8.5	82.0
<b>Drug offenses</b>	7,685	29.7 mos.	67.6%
Trafficking	7,279	30.7	66.6
Possession and other	394	10.6	87.7
<b>Public-order offenses</b>	10,899	8.6 mos.	81.0%
Regulatory offenses	477	18.2	78.7
Weapons	1,192	20.9	78.6
Immigration offenses	7,329	4.1	82.0
Tax law violations	449	12.0	73.1
Bribery	79	11.5	78.5
Perjury	67	13.2	80.2
National defense	24	20.7	83.6
Escape	157	18.4	92.8
Racketeering and extortion	475	31.2	64.3
Gambling	2	8.3	86.6
Liquor	2	11.2	91.7
Mail or transport of obscene materials	69	24.8	75.7
Traffic offenses	434	2.0	91.6
Migratory birds	34	7.3	94.1
Other <sup>c</sup>	109	13.9	100.5

**Note:** Includes prisoners first released after serving terms imposed by Federal district courts.

<sup>a</sup>Excludes prisoners with life sentences and others whose sentence could not be determined.

<sup>b</sup>Includes 195 prisoners whose offense category could not be determined.

<sup>c</sup>Average time served exceeded the average sentence because the sentence was the longest single sentence imposed but the time-served average includes time for all sentences.

## Offender characteristics and time served

In general, offenders who were convicted at age 19 or 20 served shorter prison terms than offenders over age 20 (table 9). This difference may reflect a number of separate factors. Younger offenders are less likely to have prior convictions, and for that reason judges may impose shorter sentences on them. The law also allows special sentences for some youthful offenders. Female prisoners generally

served shorter terms than males because they were convicted of less serious offenses and tended to have fewer prior convictions.

Among offenders convicted of drug offenses, foreign nationals served slightly longer sentences than U.S. citizens. In contrast, noncitizens served much shorter sentences than U.S. citizens for "other" public-order offenses, including immigration offenses. Foreigners can violate immigration laws simply by illegal entry,

whereas U.S. citizens convicted of immigration violations are often involved in more serious crimes.

For assault, robbery, immigration offenses, and tax law violations, black offenders served longer prison terms than white offenders (table 10). In counterfeiting, motor vehicle theft, regulatory offenses, and racketeering and extortion, white offenders served more time incarcerated than black offenders. Racial differences in time served might be mostly or entirely explained by differences in sentences or other legal factors. For example, the 2-year difference for assault primarily stemmed from a larger percentage of blacks (55%) than whites (29%) having a sentence of 10 or more years.

**Table 8. Prisoners released from Federal prison in 1990: Average time served to first release, by offense and sentence length**

Sentence imposed*	Average number of months served in prison						
	All offenses	Violent offenses	Property		Drug offenses	Public-order	
			Fraud	Other		Regulatory	Other
6 mos.	6 mos.	7 mos.	6 mos.	7 mos.	7 mos.	6 mos.	7 mos.
12	13	13	11	12	14	13	14
24	20	23	18	21	21	20	21
36	26	30	22	23	27	25	26
48	31	36	28	29	32	...	33
60	38	42	33	38	39	40	39
72	43	51	37	41	43	...	41
84	48	58	40	...	46	...	...
96	51	65	40	49	49	...	51
120	58	70	51	56	55	...	57

Note: Includes prisoners first released after serving terms imposed by Federal district courts. Excludes prisoners with life sentences, those whose sentence could not be determined, and prisoners for whom offense category could not be determined. The number of missing cases was 3,769.  
... Fewer than 20 cases.

\*Average time served exceeded the average sentence in some offense categories because "sentence imposed" refers to the longest single sentence imposed, but time-served averages include time for all sentences.

**Table 9. Prisoners released from Federal prison in 1990: Average time served to first release, by offense and offender characteristics**

Offender characteristic	Average number of months served in prison					
	Violent offenses	Property		Drug offenses	Public-order	
		Fraud	Other		Regulatory	Other
All offenders	54.2 mos.	5.1 mos.	19.6 mos.	29.7 mos.	18.2 mos.	8.1 mos.
<b>Age</b>						
19-20	40.7	9.3	12.4	21.3	...	3.5
21-30	56.4	13.6	17.5	26.8	18.8	6.0
31-40	52.9	15.5	20.3	30.6	18.4	10.1
Over 40	54.6	16.0	22.2	33.9	16.8	14.4
<b>Sex</b>						
Male	55.1	15.9	20.9	30.5	18.7	8.3
Female	39.0	11.2	11.8	23.2	13.3	6.2
<b>Ethnicity</b>						
Hispanic	52.9	12.0	20.8	32.3	16.2	4.7
Other	54.3	15.5	19.5	28.4	18.6	16.4
<b>Nationality</b>						
U.S.	55.5	15.7	19.8	27.7	19.0	16.6
Other	33.9	12.3	17.0	34.4	15.3	4.8

Note: Includes prisoners first released after serving terms imposed by Federal district courts. Includes prisoners with life sentences and others whose sentence could not be determined. Excludes prisoners for whom offense category could not be determined. The number of cases missing data on average time served in 1990 was 195.  
... Fewer than 20 cases.

**Table 10. Offenders released from Federal prison in 1990: Average time served to first release, by race and selected offenses**

Offense	Average number of months served in prison	
	White	Black
<b>Violent offenses</b>		
Assault	37.1 mos.	60.5 mos.
Robbery	55.6	65.0
Kidnaping	98.3	...
<b>Property offenses</b>		
Embezzlement	10.9 mos.	10.3 mos.
Fraud	14.5	14.5
Forgery	17.6	16.2
Counterfeiting	19.9	18.6
Burglary	24.7	25.4
Larceny	17.1	18.3
Motor vehicle theft	29.2	23.6
Arson	28.7	...
Transport of stolen property	28.6	28.3
Other property	9.9	8.8
<b>Drug offenses</b>		
Trafficking	25.9 mos.	26.1 mos.
Possession	10.1	10.9
<b>Public-order offenses</b>		
Regulatory offenses	19.2 mos	17.6 mos.
Weapons	20.8	20.1
Immigration	4.8	10.6
Tax law	10.7	13.7
Bribery	10.7	...
Perjury	11.2	...
Escape	15.9	18.1
Racketeering and extortion	29.1	23.6
Mail or transport of obscene material	13.4	...
Traffic	2.3	2.1
Migratory birds	2.7	...
Other	1.8	...

Note: Includes prisoners first released after serving terms imposed by Federal district courts. Excludes prisoners with life sentences and others whose sentence could not be determined. Excludes prisoners for whom offense category could not be determined. In 1990, 186 cases were missing race or offense of offender.  
... Too few cases for reliable estimate.



Hispanic offenders, who could be of any race, served prison terms similar to non-Hispanics in all categories except immigration law violations, for which Hispanics had a shorter average sentence.

#### Trends in time served

Offenders first released from prison in 1990 had served on average 29% more time than those released in 1984 (table 11). Although the time served in prison increased for every offense category, the largest increases were for regulatory offenses (from 13 months in 1984 to 18 months in 1990) and for drug offenses (from 22 months to more than 29 months). The proportion of the sentence served

prior to first release from prison increased from 69% in 1984 to 75% in 1990 (table 12). Overall, and for most individual offenses, the percentage of sentence served increased the most in 1989 and 1990, as the earliest offenders sentenced under the provisions of the Act left prison. As mentioned above, these offenders were not eligible for release to parole supervision.

#### Time served in nonguideline and guideline cases

It is too early to determine the precise effect of the sentencing guidelines on time served in Federal prison. Relatively few offenders sentenced to prison in guideline

cases have completed their terms, and those released in 1990 who were sentenced under the guidelines had received a sentence of less than 3 years.

The effect of the sentencing guidelines can be estimated, however, using the assumption that the prisoners earn the maximum permitted time off for good behavior. Prisoners sentenced under the guidelines to imprisonment longer than 1 year are awarded good-time credits. For each year of the sentence a prisoner can receive a credit of 54 days, unless the Bureau of Prisons determines that the prisoner has not complied satisfactorily with institutional regulations during the preceding year.

**Table 11. Offenders released from Federal prison: Average time served to first release, by offense and year of release, 1984-90**

Year of first release	Number of releases*	Average time served until first release						
		All offenses	Violent offenses	Property		Drug offenses	Public order	
				Fraudulent	Other		Regulatory	Other
1984	16,758	14.9 mos.	49.9 mos.	12.6 mos.	16.5 mos.	21.9 mos.	12.6 mos.	6.5 mos.
1985	16,606	14.9	49.9	12.3	17.3	21.2	14.9	6.4
1986	22,122	14.9	49.6	13.5	19.3	22.1	15.9	6.0
1987	22,315	16.3	48.8	13.3	18.8	23.0	16.3	7.1
1988	22,022	18.7	54.2	14.8	21.0	25.2	18.3	8.5
1989	23,748	18.7	52.6	15.5	18.4	27.7	17.7	8.0
1990	25,591	19.2	54.1	15.1	19.6	29.6	18.2	8.1

Note: Includes only prisoners first released after serving terms imposed by Federal district courts.  
 \*Includes prisoners with life sentences, those whose sentence could not be determined, and the following number of prisoners for whom offense category could not be determined:  
 1984 (403), 1985 (609), 1986 (522), 1987 (355), 1988 (220), 1989 (179), and 1990 (195).

**Table 12. Offenders released from Federal prison: Percent of sentence served to first release, by offense and year of release, 1984-90**

Year of first release	Number of releases	Average percent of sentence served until first release						
		All offenses	Violent offenses	Property		Drug offenses	Public order	
				Fraudulent	Other		Regulatory	Other
1984	16,751	68.6%	49.2%	67.3%	65.6%	58.4%	69.5%	78.2%
1985	16,581	69.3	56.1	68.4	68.2	59.9	68.0	77.2
1986	22,117	67.5	53.8	65.8	64.0	59.0	66.9	75.2
1987	22,312	67.9	56.8	68.3	64.7	59.9	68.9	76.1
1988	22,013	66.9	57.6	67.7	65.6	58.3	67.6	76.1
1989	23,725	70.8	59.0	69.8	69.7	61.9	73.4	79.9
1990	25,574	75.0	64.8	76.7	74.8	67.6	78.7	81.1

Note: Includes only prisoners first released after serving terms imposed by Federal district courts.  
 Excludes prisoners with a life sentence and those whose sentence could not be determined.

If prisoners sentenced under the guidelines during 1990 receive full good-time credit, they will serve substantially more time, on average, than prisoners who were released during 1990 (table 13). Offenders sentenced under the guidelines for violent offenses in 1990 will serve 74 months in prison on average, compared to 54 months for offenders released in 1990. Federal drug offenders sentenced under the guidelines will serve 66 months in prison, compared to 30 months for prisoners released in 1990. Those convicted of nonfraud-related property offenses and regulatory public-order offenses will serve the same time as their counterparts in the past, on average, while those convicted of fraud crimes will serve slightly shorter terms (12 months as opposed to 15 months served by those released in 1990).

These differences between the time served by those released in 1990 and the time expected to be served by those sentenced under the guidelines in 1990 may reflect not only changes in the sentencing laws but also differences in offense and offender characteristics of the two populations.

#### Supervised release

As part of the broader reform of Federal sentencing procedures, the Sentencing Reform Act of 1984 eliminated the U.S. Parole Commission's authority to release prisoners in advance of the time imposed by the court. The Act did provide for "supervised release," a period of time during which prisoners would be under supervision in the community. The

sentencing judges must specify the length of supervision for such a release, if it is part of a sentence. Under the old system of parole supervision, released prisoners were required to be supervised in the community by Federal parole officers until the expiration of the court-imposed maximum sentence.

Judges are not required to impose supervised release. If they choose to do so, judges can sentence offenders to a term within a permitted maximum — up to 5 years for those convicted of the most serious felonies. The declared purpose of this change in law was to have the courts allocate resources for community supervision to only those offenders who were thought to require supervision, rather than to all persons who were released before their sentences expired.

Sixty-nine percent of all persons sentenced under the guidelines during the first half of 1990 were required to serve terms of supervised release after prison (table 14). Violent offenders (89%) and drug offenders (87%) were the most likely to have a supervised release; public-order regulatory offenders (64%) and property offenders (40%) were the least likely.

The average time to be served under supervision in the community after release from prison, by all offenders so sentenced, was 42 months. The longest average supervision terms were imposed on persons convicted of violent crimes, especially murder (39 months), robbery (44 months), kidnaping (52 months), and drug trafficking (50 months).

Congress gave Federal courts the authority to extend terms of supervised release up to the statutory maximum number of months and to terminate supervision early. The courts may also revoke supervision for violations of the terms and conditions of release and send offenders back to prison.

**Table 13. Time served by prisoners first released in 1990 and estimated time to be served by prisoners sentenced in guideline cases during the first half of 1990, by offense**

Most serious offense at conviction	Time served by prisoners released during 1990	Estimated time that prisoners sentenced during the first half of 1990 are expected to serve*
<b>Violent offenses</b>	54.1 mos.	74.0 mos.
<b>Property offenses</b>	16.3	14.6
Fraudulent offenses	15.1	12.0
Other property offenses	19.6	20.5
<b>Drug offenses</b>	29.6	66.1
<b>Public-order offenses</b>	8.6	22.8
Regulatory offenses	18.2	18.5
Other public-order offenses	8.1	23.4
Number of prisoners	25,591	10,361

Note: The number of prisoners released during 1990 for whom offenses could not be classified was 195.  
\*Assumes that all prisoners sentenced under the provisions of the Sentencing Reform Act of 1984 will earn the maximum amount of time off for good behavior.

**Table 14. Offenders sentenced in guideline cases during the first half of 1990: Percent sentenced to supervised release and time to serve under supervision, by offense**

Most serious offense at conviction	Prisoners sentenced in guideline cases, 1990	
	Percent sentenced to supervised release	Average length of supervision
All offenses	68.9%	42.1 mos
Violent offenses	88.7	40.6
Property offenses	40.0	31.8
Fraudulent offenses	39.1	31.2
Other property offenses	42.1	33.1
Drug offenses	86.5	49.2
Public-order offenses	63.9	30.5
Regulatory offenses	41.4	28.3
Other public-order offenses	68.7	30.8
Number of cases sentenced to supervised release	9,967	9,967

## Methodology

Abt Associates Inc. calculated the tables in this report for the BJS Federal Justice Statistics Program (FJSP), based on data provided to the FJSP by Federal agencies. The Administrative Office of the U.S. Courts and the Bureau of Prisons provided the source files for this report.

Because some judges contested the constitutionality of the Act, a small proportion of cases that were eligible for sentencing under the guidelines were sentenced under the old law. In January 1989 the Supreme Court upheld the Act's constitutionality in *Mistretta v. U.S.*, Mo. 1989, 109 S.Ct. 647, 448 U.S. 361.

Offenders sentenced under the old law prior to *Mistretta* are excluded from tables of guideline cases. Also excluded are offenders whose cases combined offenses committed both before and after the effective date of the Act. The term *guideline cases* refers to all other offenders whose offenses were committed after the effective date of the Act, regardless of whether the imposed sentence actually fell within the guideline range.

The classification of offenses is based primarily upon offense codes established by the Administrative Office of the U.S. Courts. Offenders are classified according to their most serious charge at conviction.

Sentences to incarceration include all imprisonment terms of longer than 4 days, regardless of whether this term was concurrent or consecutive with a period of probation, a fine, or any other condition.

The average length of imprisonment sentences for tables 2 and 4 includes only offenders who received sentences limited by an imposed maximum term and excludes offenders given a life sentence or a death sentence. The statistic tabulated is the mean value of the maximum term to be served, considering all consecutive and concurrent sentences.

In tables 1 and 2 preliminary data for 1990 are based only on transactions recorded prior to April 1, 1991.

In tables 3 and 4, data from the Federal Probation Sentencing and Supervision System files are used for the 1988-90

period because they indicate whether offenders were sentenced under the guidelines.

In tables 5 and 6, data from Federal Probation Sentencing and Supervision System files are used because they indicate whether offenders were sentenced under the guidelines. The tables may not correspond to those in other Federal Justice Statistics Program (FJSP) publications, which present the same categories from other source files.

Tables 7 through 12 are computed from data that the Bureau of Prisons supplied to the FJSP. Prisoners are classified according to the offense associated with the longest sentence actually imposed. Offense categories are based on combinations of offense designations used by the Bureau of Prisons. They are similar to the categories in other tables, but may not be directly comparable.

Tables 7 through 12 include only prisoners committed by U.S. district courts for violations of the U.S. Code. Other prisoners, such as probation and parole violators, and other types of offenders, such as those from the military, District of Columbia, or States, are excluded. Unlike BJS publications concerning State prisoners, which exclude prisoners serving sentences under 1 year, tables 7 through 12 include Federal prisoners who received sentences of any length. Offenses for a few offenders could not be classified; these offenders are excluded from the tables.

Time served is the number of months from the prisoner's arrival into custody of the Bureau of Prisons until first release from prison, plus any jail time served and credited. The calculation is the same as that currently used by the Bureau of Prisons, but the population to which the calculation is applied differs, as discussed above.

In table 13, estimates of average incarceration time to be served by those sentenced during the first half of 1990 were computed by assuming that offenders sentenced to a term of 1 year or less would serve their full court-imposed term, while those given a sentence that exceeded 1 year would receive the maximum amount of time off permitted for good behavior (good time) and would thereby serve 85% of their imposed term.

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