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DRUG OFFENDERS COMMITTED TO STATE PRISON

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STATE OF NEW YORK
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THE STATE OFFICE BUILDING CAMPUS
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1991

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DEPARTMENT OF CORRECTIONAL SERVICES

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DRUG OFFENDERS COMMITTED TO STATE PRISON

This report provides a legal profile of drug offenders committed to the New York State Department of Correctional Services. The report examines drug offenders admitted to the Department as new court commitments from January 1, 1987 through December 31, 1990, those undercustody on December 31, 1990 and offenders released to parole from 1987 through 1990.

DIVISION OF PROGRAM PLANNING, RESEARCH AND EVALUATION

1991

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DRUG OFFENDER COMMITMENTS TO STATE PRISON

SUMMARY

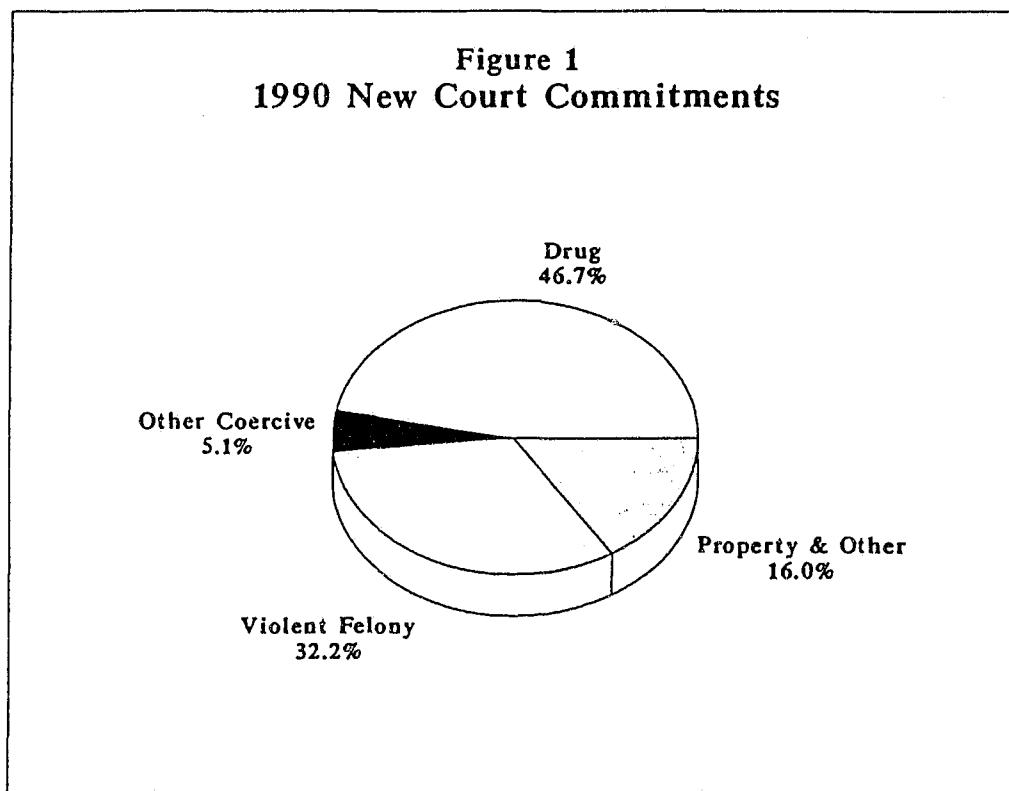
1. In the early 1980s, drug offenders accounted for roughly 10% of all new court commitments to the New York State Department of Correctional Services (DOCS). By 1990, 46.7% of all new court commitments were admitted for drug offenses (see Figure 1, p.1).
2. From 1987 to 1990, the years covered by this report, the number of individuals committed for drug offenses more than doubled, from 5,106 drug commitments in 1987 to 10,784 in 1990 (see Table 1.2, p.5).
3. Of the 10,784 offenders committed for drug offenses in 1990, 6,285 (58.3%) were second felony offenders, 4,475 (41.5%) were first felony offenders, and 24 (.2%) were persistent felons (see Table 1.1B, p.3).
4. In 1990, first felony offenders accounted for 90.3% of class A-II drug commitments and 78.2% of class B drug commitments. In comparison, second felony offenders dominated admissions for the lowest level of drug felonies, class D (90.7%) and E (94.7%) offenses (see Table 1.1B, p.3).
5. Overall, 70.4% of all offenders committed for drug offenses in 1990 were admitted for the sale of a controlled substance, while 29.6% were admitted for the possession of a controlled substance (see Table 1.3A, p.8).
6. Among drug offenders committed in 1990, 41.1% stated their offense resulted from the sale or possession of cocaine and an almost equal proportion (40.8%), reported crack. About another 17% said their drug offense involved some type of opiate (see Table 1.5B, p.11).
7. Drug commitments which involved cocaine decreased from 50.0% in 1988 to 41.1% in 1990, conversely, commitments for crack offenses rose from 33.1% in 1988 to 40.8% in 1990 (see Table 1.6, p.13).

8. The average minimum sentence for drug offenders decreased from a high of 31.7 months in 1987 to a low of 29.4 months in 1989 (in 1990, the average minimum sentence was 29.5 months) (see Table 1.7, p.14).
9. On December 31, 1990, there were 18,425 drug offenders under custody for drug offenses. Of this number, 11,527 (62.6%) were second felony offenders and 6,839 (37.1%) were first felony offenders (see Table 2.1B, p.17).
10. Average total time served for drug offenders first released to parole supervision in 1990, was 22.2 months. Among first felony offenders, average total time served was 19.6 months and for second felony offenders, it was 25.4 months (see Table 3.1, p.24).
11. In 1987, drug offenders served, on average, 25.5 months before being paroled. In comparison, drug offenders paroled in 1990 served an average of 22.2 months (see Table 3.2, p.25).
12. Approximately 90% of drug offenders in 1990 served less than 36 months before first release to parole (see Table 3.3, p.27).

INTRODUCTION

In the early 1980s, drug offenders accounted for roughly 10% of all new court commitments to the New York State Department of Correctional Services (DOCS). The proportion of drug offenders in the commitment population rose steadily from 1984 to 1990, when 46.7% of all new court commitments were admitted for drug offenses. As the 1990 figure suggests, more individuals are committed to state prison for drug offenses than for any other offense type (see Figure 1).¹ In earlier years, the state prison population was dominated by those admitted for violent felony offenses.

This report provides a legal profile of drug offenders admitted to DOCS as new court commitments during the last four years, those undercustody on December 31, 1990 and offenders released to parole from 1987 through 1990.



¹ In this report, commitments to DOCS are organized according to following offense typology: drug, violent felony, other coercive, and property offenses.

SECTION ONE - NEW COURT COMMITMENTS 1987 -1990

Commitments by Felony Offender Status

The tables in this report display drug commitments according to their respective felony class categories. Class A-I is the most serious felony class designation, while class E indicates the least serious felony class category. Tables 1.1A (column percent) and 1.1B (row percent) follow this format, with the addition of felony offender status, for drug offenders committed to DOCS in 1990.

Substantially more drug offenders in 1990 were second felony offenders (6,285), than first felons (4,475) (see Total of Table 1.1A). A second felony offender's previous felony conviction may or may not have been for a drug offense. As can be seen in Table 1.1A, first felony offenders are admitted for more serious drug offenses than are second or persistent felons. For example, 46.6% of first felons were convicted of a class B drug offense, while most second felons were convicted of a class D offense (52.7%).

1.1A DRUG COMMITMENTS BY FELONY CLASS CATEGORY AND BY FELONY OFFENDER STATUS: JANUARY 1 - DECEMBER 31, 1990

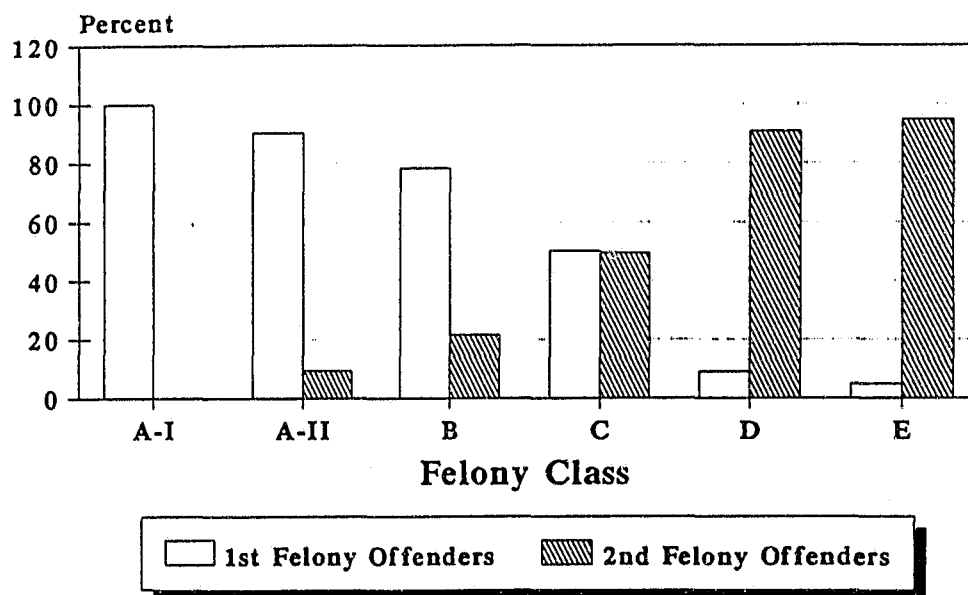
| FELONY CLASS | FIRST FELONY | | SECOND FELONY | | PERSIST FELONY | | TOTAL | |
|----------------|--------------|--------|---------------|--------|----------------|--------|-------|--------|
| A-I FELONY | 95 | 2.1% | 0 | .0% | 0 | .0% | 95 | .9% |
| A-II FELONY | 673 | 15.0% | 71 | 1.1% | 1 | 4.2% | 745 | 6.9% |
| CLASS B FELONY | 2086 | 46.6% | 575 | 9.1% | 5 | 20.8% | 2666 | 24.7% |
| CLASS C FELONY | 1234 | 27.6% | 1221 | 19.4% | 5 | 20.8% | 2460 | 22.8% |
| CLASS D FELONY | 330 | 7.4% | 3311 | 52.7% | 8 | 33.3% | 3649 | 33.8% |
| CLASS E FELONY | 57 | 1.3% | 1107 | 17.6% | 5 | 20.8% | 1169 | 10.8% |
| TOTAL | 4475 | 100.0% | 6285 | 100.0% | 24 | 100.0% | 10784 | 100.0% |

All class A-I drug offenders fall into the first felony category as New York State Penal Law exempts those convicted of class A-I offenses from second or persistent felony offender designations. Table 1.1B and Figure 2 further illustrate the more serious offense pattern of first felons in comparison to second felony offenders. Among class A-II drug offenders, fully 90% were first felons and first felons accounted for the vast majority of class B drug offenders as well (78.2%). About an equal percentage of class C drug offenders were either first or second felons (50.2% versus 49.6%). In contrast, second felony offenders accounted for 90.7% of all class D drug offenders and 94.7% of all class E offenders. The concentration of second felony offenders in the class D and E felony categories results largely from Section 70.06 of the New York State Penal Law, which mandates state imprisonment for anyone designated a second felony offender.

1.1B DRUG COMMITMENTS BY FELONY CLASS CATEGORY AND BY FELONY OFFENDER STATUS: JANUARY 1 - DECEMBER 31, 1990

| FELONY CLASS | FIRST FELONY | | SECOND FELONY | | PERSIST FELONY | | TOTAL | |
|----------------|--------------|--------|---------------|-------|----------------|-----|-------|--------|
| A-I FELONY | 95 | 100.0% | 0 | .0% | 0 | .0% | 95 | 100.0% |
| A-II FELONY | 673 | 90.3% | 71 | 9.5% | 1 | .1% | 745 | 100.0% |
| CLASS B FELONY | 2086 | 78.2% | 575 | 21.6% | 5 | .2% | 2666 | 100.0% |
| CLASS C FELONY | 1234 | 50.2% | 1221 | 49.6% | 5 | .2% | 2460 | 100.0% |
| CLASS D FELONY | 330 | 9.0% | 3311 | 90.7% | 8 | .2% | 3649 | 100.0% |
| CLASS E FELONY | 57 | 4.9% | 1107 | 94.7% | 5 | .4% | 1169 | 100.0% |
| TOTAL | 4475 | 41.5% | 6285 | 58.3% | 24 | .2% | 10784 | 100.0% |

Figure 2
1990 Drug Comitments by Felony Class
Category and Offender Status 1/



1/ Excludes Persistent Felony Offenders.

Drug Commitments by Year

From 1987 to 1990, the number of individuals committed for drug offenses more than doubled, from a total of 5,106 drug commitments in 1987 to 10,784 in 1990 (see Table 1.2).

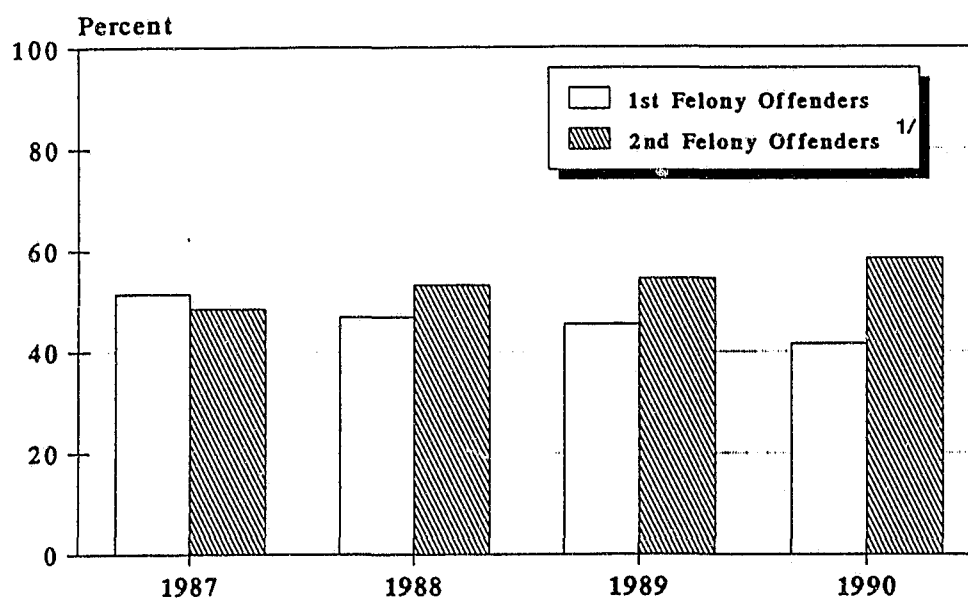
Table 1.2 also permits the comparison of felony crime class and felony offender status across the last four admission years (1987 - 1990). As a result of their small numbers, persistent felons are grouped with second felony offenders in this table, as well as in several other tables throughout this report.

The proportion of first felony offenders among drug commitments declined each year, from a high of 51.5% in 1987 to a low of 41.5% in 1990 (see Figure 3). Conversely, the proportion of second felony offenders rose from 48.5% in 1987 to 58.5% in 1990.

1.2 FELONY OFFENDER STATUS AND FELONY CLASS STATUS FOR DRUG COMMITMENTS: 1987 - 1990 NEW COURT COMMITMENTS

| FELONY CLASS | 1987 | | 1988 | | 1989 | | 1990 | |
|----------------|--------|---------|--------|---------|--------|---------|--------|---------|
| | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT |
| FIRST FELONY | | | | | | | | |
| A-I FELONY | 101 | 2.0% | 115 | 1.8% | 105 | 1.1% | 95 | .9% |
| A-II FELONY | 586 | 11.5% | 623 | 9.7% | 712 | 7.3% | 673 | 6.2% |
| CLASS B FELONY | 1377 | 27.0% | 1512 | 23.5% | 2165 | 22.2% | 2086 | 19.3% |
| CLASS C FELONY | 389 | 7.6% | 565 | 8.8% | 1128 | 11.6% | 1234 | 11.4% |
| CLASS D FELONY | 164 | 3.2% | 177 | 2.8% | 273 | 2.8% | 330 | 3.1% |
| CLASS E FELONY | 15 | .3% | 20 | .3% | 54 | .6% | 57 | .5% |
| TOTAL | 2632 | 51.5% | 3012 | 46.8% | 4437 | 45.5% | 4475 | 41.5% |
| SECOND FELONY | | | | | | | | |
| A-II FELONY | 27 | .5% | 43 | .7% | 58 | .6% | 72 | .7% |
| CLASS B FELONY | 298 | 5.8% | 389 | 6.0% | 557 | 5.7% | 580 | 5.4% |
| CLASS C FELONY | 457 | 9.0% | 516 | 8.0% | 967 | 9.9% | 1226 | 11.4% |
| CLASS D FELONY | 1262 | 24.7% | 1713 | 26.6% | 2664 | 27.3% | 3319 | 30.8% |
| CLASS E FELONY | 430 | 8.4% | 759 | 11.8% | 1059 | 10.9% | 1112 | 10.3% |
| TOTAL | 2474 | 48.5% | 3420 | 53.2% | 5305 | 54.5% | 6309 | 58.5% |
| GRAND TOTAL | 5106 | 100.0% | 6432 | 100.0% | 9742 | 100.0% | 10784 | 100.0% |

Figure 3
1987 - 1990 Drug Commitments
by Felony Offender Status



Drug Commitments by Sale or Possession of Controlled Substance

Drug commitments are dichotomized below according to whether the offense was for the sale of controlled substance or the possession of a controlled substance.

Overall, 70.4% of all offenders committed for drug offenses in 1990, were admitted for the sale of a controlled substance (see Table 1.3A). Among first felony offenders, 65.8% were admitted for the sale of a controlled substance, as were 73.7% of second felony offenders and 83.3% of persistent felons. Conversely, 34.2% of first, 26.3% of second and 16.7% of persistent felony offenders were admitted for the possession of a controlled substance.

As can be seen in Table 1.3B, the majority of offenders committed for the sale of a controlled substance were second felony offenders (61.0%). However, among offenders admitted for the possession of a controlled substance, the proportion of first and second felons was about equal (48.1% of first felons versus 51.8% of second felons).

Regardless of whether the offense was for the sale or possession of a controlled substance, first felony offenders dominated the more serious felony class categories (class A-I through class B) as second felony offenders did the least serious (class D and E). About an equal percentage of first and second felony offenders were incarcerated for class C drug offenses.

Table 1.4 looks at commitment offenses across the four year period 1987 to 1990. The percentage of offenders who were first felons imprisoned for drug sale offenses decreased from 37.3% in 1987 to 27.3% in 1990. With the exception of 1989, the proportion of offenders incarcerated for drug possession as first felony offenders remained at 14.2 percent.

The proportion of those admitted for drug sale offenses as second felony offenders, increased from 39.8% in 1987 to 43.2% in 1990. More significant was the percentage increase among those admitted for drug possession as second felony offenders, from 8.6% in 1987 to 15.3% in 1990.

1.3A DRUG COMMITMENTS BY CATEGORY OF COMMITMENT AND BY FELONY OFFENDER STATUS: JANUARY 1 - DECEMBER 31, 1990

| COMMITMENT STATUS | FIRST FELONY | | SECOND FELONY | | PERSIST FELONY | | TOTAL | |
|-------------------|--------------|---------|---------------|---------|----------------|---------|--------|---------|
| | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT |
| SALE | | | | | | | | |
| A-I FELONY | 38 | .8% | 0 | .0% | 0 | .0% | 38 | .4% |
| A-II FELONY | 302 | 6.7% | 32 | .5% | 1 | 4.2% | 335 | 3.1% |
| CLASS B FELONY | 1512 | 33.8% | 445 | 7.1% | 4 | 16.7% | 1961 | 18.2% |
| CLASS C FELONY | 966 | 21.6% | 991 | 15.8% | 3 | 12.5% | 1960 | 18.2% |
| CLASS D FELONY | 103 | 2.3% | 2521 | 40.1% | 8 | 33.3% | 2632 | 24.4% |
| CLASS E FELONY | 22 | .5% | 645 | 10.3% | 4 | 16.7% | 671 | 6.2% |
| TOTAL | 2943 | 65.8% | 4634 | 73.7% | 20 | 83.3% | 7597 | 70.4% |
| POSSESSION | | | | | | | | |
| A-I FELONY | 57 | 1.3% | 0 | .0% | 0 | .0% | 57 | .5% |
| A-II FELONY | 371 | 8.3% | 39 | .6% | 0 | .0% | 410 | 3.8% |
| CLASS B FELONY | 574 | 12.8% | 130 | 2.1% | 1 | 4.2% | 705 | 6.5% |
| CLASS C FELONY | 268 | 6.0% | 230 | 3.7% | 2 | 8.3% | 500 | 4.6% |
| CLASS D FELONY | 227 | 5.1% | 790 | 12.6% | 0 | .0% | 1017 | 9.4% |
| CLASS E FELONY | 35 | .8% | 462 | 7.4% | 1 | 4.2% | 498 | 4.6% |
| TOTAL | 1532 | 34.2% | 1651 | 26.3% | 4 | 16.7% | 3187 | 29.6% |
| GRAND TOTAL | 4475 | 100.0% | 6285 | 100.0% | 24 | 100.0% | 10784 | 100.0% |

1.3B DRUG COMMITMENTS BY CATEGORY OF COMMITMENT AND BY FELONY OFFENDER STATUS: JANUARY 1 - DECEMBER 31, 1990

| COMMITMENT STATUS | FIRST FELONY | | SECOND FELONY | | PERSIST FELONY | | TOTAL | |
|-------------------|--------------|---------|---------------|---------|----------------|---------|--------|---------|
| | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT |
| SALE | | | | | | | | |
| A-I FELONY | 38 | 100.0% | 0 | .0% | 0 | .0% | 38 | 100.0% |
| A-II FELONY | 302 | 90.1% | 32 | 9.6% | 1 | .3% | 335 | 100.0% |
| CLASS B FELONY | 1512 | 77.1% | 445 | 22.7% | 4 | .2% | 1961 | 100.0% |
| CLASS C FELONY | 966 | 49.3% | 991 | 50.6% | 3 | .2% | 1960 | 100.0% |
| CLASS D FELONY | 103 | 3.9% | 2521 | 95.8% | 8 | .3% | 2632 | 100.0% |
| CLASS E FELONY | 22 | 3.3% | 645 | 96.1% | 4 | .6% | 671 | 100.0% |
| TOTAL | 2943 | 38.7% | 4634 | 61.0% | 20 | .3% | 7597 | 100.0% |
| POSSESSION | | | | | | | | |
| A-I FELONY | 57 | 100.0% | 0 | .0% | 0 | .0% | 57 | 100.0% |
| A-II FELONY | 371 | 90.5% | 39 | 9.5% | 0 | .0% | 410 | 100.0% |
| CLASS B FELONY | 574 | 81.4% | 130 | 18.4% | 1 | .1% | 705 | 100.0% |
| CLASS C FELONY | 268 | 53.6% | 230 | 46.0% | 2 | .4% | 500 | 100.0% |
| CLASS D FELONY | 227 | 22.3% | 790 | 77.7% | 0 | .0% | 1017 | 100.0% |
| CLASS E FELONY | 35 | 7.0% | 462 | 92.8% | 1 | .2% | 498 | 100.0% |
| TOTAL | 1532 | 48.1% | 1651 | 51.8% | 4 | .1% | 3187 | 100.0% |
| GRAND TOTAL | 4475 | 41.5% | 6285 | 58.3% | 24 | .2% | 10784 | 100.0% |

1.4 DRUG COMMITMENTS BY CATEGORY OF COMMITMENT AND BY FELONY OFFENDER STATUS: 1987 - 1990 NEW COURT COMMITMENTS

| COMMITMENT STATUS | 1987 | | 1988 | | 1989 | | 1990 | |
|----------------------|-------------|---------------|-------------|---------------|-------------|---------------|--------------|---------------|
| | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT |
| FIRST FELONY | | | | | | | | |
| SALE | | | | | | | | |
| A-I FELONY | 56 | 1.1% | 64 | 1.0% | 50 | .5% | 38 | .4% |
| A-II FELONY | 351 | 6.9% | 365 | 5.7% | 375 | 3.8% | 302 | 2.8% |
| CLASS B FELONY | 1063 | 20.8% | 1139 | 17.7% | 1642 | 16.9% | 1512 | 14.0% |
| CLASS C FELONY | 312 | 6.1% | 422 | 6.6% | 879 | 9.0% | 966 | 9.0% |
| CLASS D FELONY | 115 | 2.3% | 100 | 1.6% | 121 | 1.2% | 103 | 1.0% |
| CLASS E FELONY | 10 | .2% | 10 | .2% | 18 | .2% | 22 | .2% |
| TOTAL | 1907 | 37.3% | 2100 | 32.6% | 3085 | 31.7% | 2943 | 27.3% |
| POSSESSION | | | | | | | | |
| A-I FELONY | 45 | .9% | 51 | .8% | 55 | .6% | 57 | .5% |
| A-II FELONY | 235 | 4.6% | 258 | 4.0% | 337 | 3.5% | 371 | 3.4% |
| CLASS B FELONY | 314 | 6.1% | 373 | 5.8% | 523 | 5.4% | 574 | 5.3% |
| CLASS C FELONY | 77 | 1.5% | 143 | 2.2% | 249 | 2.6% | 268 | 2.5% |
| CLASS D FELONY | 49 | 1.0% | 77 | 1.2% | 152 | 1.6% | 227 | 2.1% |
| CLASS E FELONY | 5 | .1% | 10 | .2% | 36 | .4% | 35 | .3% |
| TOTAL | 725 | 14.2% | 912 | 14.2% | 1352 | 13.9% | 1532 | 14.2% |
| SECOND FELONY | | | | | | | | |
| SALE | | | | | | | | |
| A-II FELONY | 15 | .3% | 25 | .4% | 29 | .3% | 33 | .3% |
| CLASS B FELONY | 238 | 4.7% | 321 | 5.0% | 450 | 4.6% | 449 | 4.2% |
| CLASS C FELONY | 382 | 7.5% | 420 | 6.5% | 796 | 8.2% | 994 | 9.2% |
| CLASS D FELONY | 1059 | 20.7% | 1471 | 22.9% | 2094 | 21.5% | 2529 | 23.5% |
| CLASS E FELONY | 339 | 6.6% | 641 | 10.0% | 645 | 6.6% | 649 | 6.0% |
| TOTAL | 2033 | 39.8% | 2878 | 44.7% | 4014 | 41.2% | 4654 | 43.2% |
| POSSESSION | | | | | | | | |
| A-II FELONY | 12 | .2% | 18 | .3% | 29 | .3% | 39 | .4% |
| CLASS B FELONY | 60 | 1.2% | 68 | 1.1% | 107 | 1.1% | 131 | 1.2% |
| CLASS C FELONY | 75 | 1.5% | 96 | 1.5% | 171 | 1.8% | 232 | 2.2% |
| CLASS D FELONY | 203 | 4.0% | 242 | 3.8% | 570 | 5.9% | 790 | 7.3% |
| CLASS E FELONY | 91 | 1.8% | 118 | 1.8% | 414 | 4.2% | 463 | 4.3% |
| TOTAL | 441 | 8.6% | 542 | 8.4% | 1291 | 13.3% | 1655 | 15.3% |
| GRAND TOTAL | 5106 | 100.0% | 6432 | 100.0% | 9742 | 100.0% | 10784 | 100.0% |

Drug Commitments by Type of Drug Involved in Commitment

The tables in this subsection provide some indication of the type of controlled substance (drug type) for which the offender was convicted of selling or possessing. Information pertaining to drug type is self-reported at initial classification. These tables exclude those unsure of the drug involved in the crime, those denying guilt in the instant offense and those choosing not to respond to the question.

Table 1.5A (column percent) and Table 1.5B (row percent) display drug type by felony class category. Of the 4,265 drug offenders in 1990 admitted for the sale or possession of cocaine, about an equal proportion were committed for class B (27.7%) and class D (26.7%) offenses (see Table 1.5A). Class C offenses accounted for another 21.0% of 1990 cocaine admissions, while 644 offenders (15.1%) were admitted for a class A-II cocaine offense.

A higher concentration of crack offenders were committed for lower felony class offenses than were cocaine offenders. Thirty-seven percent of the 4,233 offenders admitted for the sale or possession of crack in 1990, were sentenced for a class D offense, 25.2% for a class C offense, and about another quarter (23.3%), for a class B offense.

Opiate admissions were dominated by class D offenses (44.5%), while in the Other Drugs category, 47.2% were admitted for class E offenses.² Only 45 individuals were admitted for an offense involving marijuana in 1990. Of these offenders, 14 or 31.1% were committed for class C offenses, and 11 each, for class D and E offenses.

1.5A DRUG COMMITMENTS BY TYPE OF DRUG INVOLVED IN COMMITMENT: JANUARY 1 - DECEMBER 31, 1990

| FELONY STATUS | COCAINE | | CRACK | | OPIATES | | MARIJUANA | | OTHER DRUGS | | TOTAL | |
|----------------|---------|---------|--------|---------|---------|---------|-----------|---------|-------------|---------|--------|---------|
| | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT |
| A-I FELONY | 80 | 1.9% | 6 | .1% | 3 | .2% | 0 | .0% | 0 | .0% | 89 | .9% |
| A-II FELONY | 644 | 15.1% | 36 | .9% | 31 | 1.8% | 2 | 4.4% | 2 | 1.9% | 715 | 6.9% |
| CLASS B FELONY | 1183 | 27.7% | 987 | 23.3% | 354 | 20.4% | 7 | 15.6% | 19 | 17.9% | 2550 | 24.6% |
| CLASS C FELONY | 897 | 21.0% | 1066 | 25.2% | 393 | 22.6% | 14 | 31.1% | 5 | 4.7% | 2375 | 22.9% |
| CLASS D FELONY | 1139 | 26.7% | 1570 | 37.1% | 773 | 44.5% | 11 | 24.4% | 30 | 28.3% | 3523 | 33.9% |
| CLASS E FELONY | 322 | 7.5% | 568 | 13.4% | 183 | 10.5% | 11 | 24.4% | 50 | 47.2% | 1134 | 10.9% |
| TOTAL | 4265 | 100.0% | 4233 | 100.0% | 1737 | 100.0% | 45 | 100.0% | 106 | 100.0% | 10386 | 100.0% |

² The Opiates category is almost exclusively composed of offenders committed for selling or possessing heroin.

Table 1.5B permits comparison of felony crime class across drug types. Analysis concerning this table will be limited to cocaine and crack offenses, as there were about an equal number of these offenders admitted in 1990 (4,265 commitments for cocaine versus 4,233 for crack). (See Figure 4 for the drug type composition of 1990 admissions.)

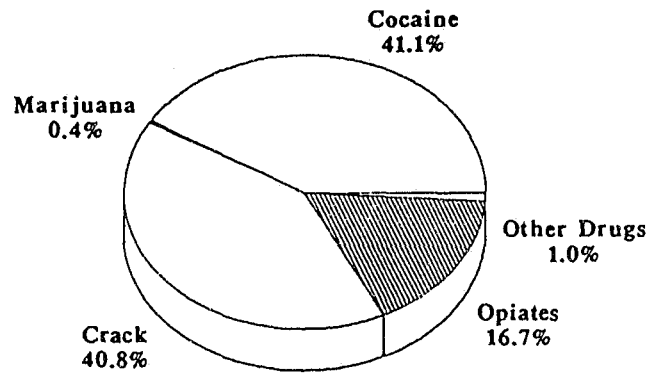
Among drug offenders admitted for a class A-I offense in 1990, 89.9% (80) stated their offense involved cocaine compared with 6.7% (6) who reported crack involvement (see also Figure 5). The same pattern exists for class A-II drug offenses, with 90.1% (644) reporting cocaine as the drug sold or possessed, versus 5.0% (36) who reported crack. The number of class B drug offenders reporting the sale or possession of cocaine was still greater than that for crack (1,183 versus 987), although the gap between the two narrowed considerably.

In the remaining felony class categories, the proportion of crack commitments exceeded those for cocaine, particularly as the felony class of the offense decreased. For example, 44.9% of class C drug offenses involved crack as opposed to cocaine (37.8%), while among class E drug felons, 50.1% were committed for crack offenses but only 28.4% for offenses involving cocaine.

1.5B DRUG COMMITMENTS BY TYPE OF DRUG INVOLVED IN COMMITMENT: JANUARY 1 - DECEMBER 31, 1990

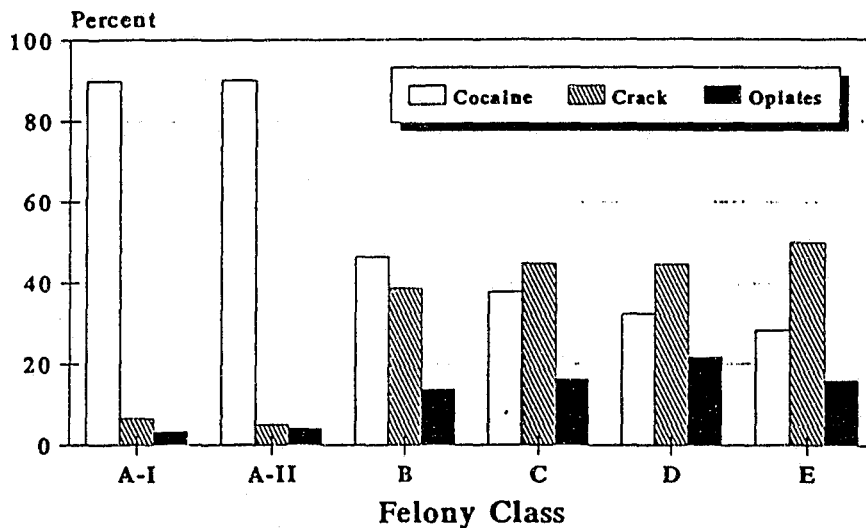
| FELONY STATUS | COCAINE | | CRACK | | OPIATES | | MARIJUANA | | OTHER DRUGS | | TOTAL | |
|----------------|---------|---------|--------|---------|---------|---------|-----------|---------|-------------|---------|--------|---------|
| | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT |
| A-I FELONY | 80 | 89.9% | 6 | 6.7% | 3 | 3.4% | 0 | .0% | 0 | .0% | 89 | 100.0% |
| A-II FELONY | 644 | 90.1% | 36 | 5.0% | 31 | 4.3% | 2 | .3% | 2 | .3% | 715 | 100.0% |
| CLASS B FELONY | 1183 | 46.4% | 987 | 38.7% | 354 | 13.9% | 7 | .3% | 19 | .7% | 2550 | 100.0% |
| CLASS C FELONY | 897 | 37.8% | 1066 | 44.9% | 393 | 16.5% | 14 | .6% | 5 | .2% | 2375 | 100.0% |
| CLASS D FELONY | 1139 | 32.3% | 1570 | 44.6% | 773 | 21.9% | 11 | .3% | 30 | .9% | 3523 | 100.0% |
| CLASS E FELONY | 322 | 28.4% | 568 | 50.1% | 183 | 16.1% | 11 | 1.0% | 50 | 4.4% | 1134 | 100.0% |
| TOTAL | 4265 | 41.1% | 4233 | 40.8% | 1737 | 16.7% | 45 | .4% | 106 | 1.0% | 10386 | 100.0% |

Figure 4
1990 Drug Commitments By Type
Of Drug Involved 1/



1/ Information pertaining to drug type is self-reported at initial classification.

Figure 5
1990 Drug Commitments by Type of Drug
Involved and Felony Crime Class 1/



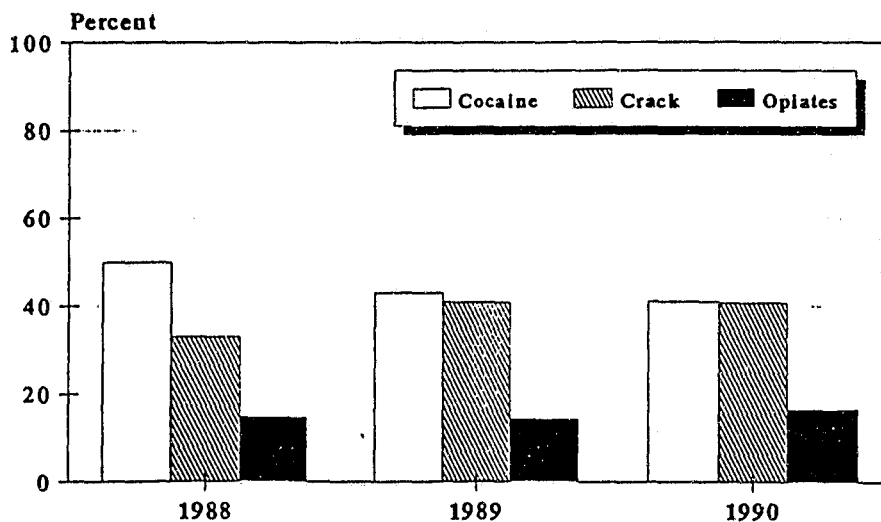
1/ Excludes Marijuana and Other Drugs categories.

Data concerning drug type was first collected beginning in January of 1988, hence Table 1.6 and Figure 6 cover only the admission years 1988 through 1990. Drug commitments involving cocaine decreased from 50.0% in 1988 to 41.1% in 1990, while commitments for crack offenses rose from 33.1% in 1988 to 40.8% in 1990 (see Table 1.6). The proportion of offenders in the opiates, marijuana and other drug categories remained relatively stable over this period, although the percentage of commitments for opiates did increase slightly from 14.9% in 1988 to 16.7% in 1990.

1.6 TYPE OF DRUG INVOLVED IN DRUG COMMITMENTS BY YEAR RECEIVED: 1988 - 1990 NEW COURT COMMITMENTS

| DRUG TYPE | 1988 | | 1989 | | 1990 | |
|-------------|--------|---------|--------|---------|--------|---------|
| | NUMBER | PERCENT | NUMBER | PERCENT | NUMBER | PERCENT |
| COCAINE | 3000 | 50.0% | 3986 | 43.0% | 4265 | 41.1% |
| CRACK | 1984 | 33.1% | 3784 | 40.9% | 4234 | 40.8% |
| OPIATES | 892 | 14.9% | 1339 | 14.5% | 1737 | 16.7% |
| MARIJUANA | 32 | .5% | 45 | .5% | 45 | .4% |
| OTHER DRUGS | 92 | 1.5% | 106 | 1.1% | 106 | 1.0% |
| TOTAL | 6000 | 100.0% | 9260 | 100.0% | 10387 | 100.0% |

Figure 6
1988 - 1990 Drug Commitments by Type
of Drug Involved 1/



1/ Data concerning drug type was first collected beginning in January 1988.

Drug Commitments by Year and Minimum Sentence

Table 1.7 displays the average and median minimum sentence by felony offender status and crime class for 1987 through 1990 drug commitments. The minimum sentence indicates the time an offender must serve before parole eligibility. The length of the minimum sentence is dependent upon the crime class of the offense, as well as the felony status of the offender. (See Appendix A for allowable minimum sentences according to crime class and felony offender status.)

Regardless of year, the overall median minimum sentence was 24.0 months (see Grand Total in Table 1.7). The overall average minimum sentence decreased from a high of 31.7 months in 1987 to a low of 29.4 months in 1989 (in 1990, the average minimum sentence was 29.5 months).

Looking further at Table 1.7, note that the average minimum sentence for second felony drug offenders fluctuated slightly, while it declined 4.7% for first felony drug offenders (from 31.6 months in 1987 to 26.9 months in 1990). This drop in the average minimum sentence of first felony offenders was not so much a reflection of declining minimum sentences, as it was the influx of large numbers of class B and C drug offenders whose offenses carry relatively low minimum sentences. Indeed, only first felony class A-I offenders received, on average, lower minimum sentences in the years succeeding 1987. With the exception of 1988, however, the declines were so minor and the numbers of class A-I offenders were so small, that the impact of these offenders on the total average minimum sentence for first felony offenders was negligible in comparison to the growth of class B and C drug offenders.

1.7 AGGREGATE MINIMUM SENTENCE BY CRIME CLASS AND FELONY OFFENDER STATUS FOR DRUG OFFENDERS: 1987 - 1990 NEW COURT COMMITMENTS

| COMMITMENT STATUS | 1987 | | | 1988 | | | 1989 | | | 1990 | | |
|-------------------|--------|---------|--------|--------|---------|--------|--------|---------|--------|--------|---------|--------|
| | NUMBER | AVERAGE | MEDIAN | NUMBER | AVERAGE | MEDIAN | NUMBER | AVERAGE | MEDIAN | NUMBER | AVERAGE | MEDIAN |
| FIRST FELONY | | | | | | | | | | | | |
| A-I FELONY | 101 | 194.4 | 180.0 | 115 | 174.5 | 180.0 | 105 | 190.0 | 180.0 | 95 | 193.2 | 180.0 |
| A-II FELONY | 586 | 52.2 | 48.0 | 623 | 50.7 | 42.0 | 712 | 53.1 | 48.0 | 673 | 53.9 | 48.0 |
| CLASS B FELONY | 1377 | 17.4 | 12.0 | 1512 | 18.0 | 12.0 | 2165 | 17.8 | 12.0 | 2086 | 18.5 | 12.0 |
| CLASS C FELONY | 389 | 16.0 | 12.0 | 565 | 17.0 | 12.0 | 1128 | 16.8 | 12.0 | 1234 | 17.0 | 12.0 |
| CLASS D FELONY | 164 | 15.4 | 12.0 | 177 | 15.9 | 12.0 | 273 | 16.2 | 12.0 | 330 | 16.1 | 12.0 |
| CLASS E FELONY | 15 | 12.3 | 12.0 | 20 | 13.6 | 12.0 | 54 | 12.5 | 12.0 | 57 | 13.4 | 12.0 |
| TOTAL | 2632 | 31.6 | 16.0 | 3012 | 30.4 | 18.0 | 4437 | 27.1 | 12.0 | 4475 | 26.9 | 12.0 |
| SECOND FELONY | | | | | | | | | | | | |
| A-II FELONY | 27 | 79.1 | 72.0 | 43 | 79.7 | 72.0 | 58 | 79.6 | 72.0 | 72 | 86.3 | 72.0 |
| CLASS B FELONY | 298 | 62.0 | 54.0 | 389 | 64.3 | 54.0 | 557 | 65.0 | 54.0 | 580 | 64.5 | 54.0 |
| CLASS C FELONY | 457 | 37.9 | 36.0 | 516 | 36.6 | 36.0 | 967 | 37.6 | 36.0 | 1226 | 37.6 | 36.0 |
| CLASS D FELONY | 1262 | 25.9 | 24.0 | 1713 | 25.6 | 24.0 | 2664 | 26.0 | 24.0 | 3319 | 26.2 | 24.0 |
| CLASS E FELONY | 430 | 18.4 | 18.0 | 759 | 18.4 | 18.0 | 1059 | 18.7 | 18.0 | 1112 | 18.6 | 18.0 |
| TOTAL | 2474 | 31.8 | 24.0 | 3420 | 30.7 | 24.0 | 5385 | 31.3 | 24.0 | 6389 | 31.3 | 24.0 |
| GRAND TOTAL | 5106 | 31.7 | 24.0 | 6430 | 30.6 | 24.0 | 9742 | 29.4 | 24.0 | 10783 | 29.5 | 24.0 |

In Table 1.8, the felony crime class categories of Table 1.7, are replaced by the type of drug sold or possessed.³ Offenders admitted for offenses involving cocaine received longer average minimum sentences than did offenders admitted for crack. (Cocaine and crack offenses accounted for the large majority of all drug commitments.) For example, in 1990, first felony cocaine offenders received an average minimum sentence of 34.6 months, while crack offenders, received an average of 17.8 months. Average minimum sentences for second felony cocaine and crack offenders in 1990 were not as dissimilar, with cocaine offenders receiving an average minimum sentence of 34.4 months and crack offenders, an average of 29.7 months.

Average minimum sentences for first felony cocaine offenders exceeded those of second felony offenders across all years because of the lengthy minimum sentences received by class A-I offenders (see Table 1.7). The predominance of cocaine offenders in the Class A-I category is also responsible for the large discrepancy in the average minimum sentences received by first felony cocaine and crack offenders (see Table 1.5B).

The overall decline in the average minimum sentence noted in Table 1.6 is the result of the changing composition of the drug commitment population. As discussed above, offenses involving crack are generally of a lower felony class than those involving cocaine, hence the minimum sentences received by crack offenders are also generally lower. Increasing numbers of crack offenders, particularly in 1989 and 1990, were most likely responsible for the decrease in the overall average minimum sentences noted for those years in Table 1.6.

1.8 AGGREGATE MINIMUM SENTENCE BY DRUG TYPE AND FELONY OFFENDER STATUS FOR DRUG OFFENDERS: 1988 - 1990 NEW COURT COMMITMENTS

| COMMITMENT STATUS | 1988 | | | 1989 | | | 1990 | | |
|-------------------|--------|---------|--------|--------|---------|--------|--------|---------|--------|
| | NUMBER | AVERAGE | MEDIAN | NUMBER | AVERAGE | MEDIAN | NUMBER | AVERAGE | MEDIAN |
| FIRST FELONY | | | | | | | | | |
| COCAINE | 1657 | 36.2 | 24.0 | 2158 | 33.8 | 18.0 | 2213 | 34.6 | 24.0 |
| CRACK | 815 | 19.0 | 12.0 | 1519 | 17.1 | 12.0 | 1547 | 17.8 | 12.0 |
| OPIATES | 236 | 23.7 | 12.0 | 416 | 22.4 | 12.0 | 453 | 19.8 | 12.0 |
| MARIJUANA | 13 | 14.5 | 12.0 | 30 | 17.9 | 16.0 | 23 | 22.0 | 16.0 |
| OTHER DRUGS | 28 | 27.5 | 14.0 | 28 | 23.7 | 19.0 | 31 | 21.0 | 16.0 |
| TOTAL | 2749 | 29.8 | 18.0 | 4151 | 26.3 | 12.0 | 4267 | 26.8 | 12.0 |
| SECOND FELONY | | | | | | | | | |
| COCAINE | 1343 | 33.3 | 24.0 | 1828 | 33.7 | 24.0 | 2052 | 34.4 | 30.0 |
| CRACK | 1169 | 29.0 | 24.0 | 2265 | 29.8 | 24.0 | 2687 | 29.7 | 24.0 |
| OPIATES | 656 | 29.3 | 24.0 | 923 | 30.3 | 24.0 | 1284 | 30.2 | 24.0 |
| MARIJUANA | 19 | 26.9 | 24.0 | 15 | 35.0 | 24.0 | 22 | 31.9 | 24.0 |
| OTHER DRUGS | 64 | 21.2 | 18.0 | 78 | 22.4 | 18.0 | 75 | 22.6 | 18.0 |
| TOTAL | 3251 | 30.7 | 24.0 | 5109 | 31.2 | 24.0 | 6120 | 31.3 | 24.0 |
| GRAND TOTAL | 5998 | 30.3 | 24.0 | 9260 | 29.0 | 24.0 | 10386 | 29.4 | 24.0 |

³ Data concerning drug type was not available until 1988.

SECTION TWO - UNDERCUSTODY POPULATION ON DECEMBER 31, 1990

This section profiles drug offenders in the Department's custody on December 31, 1990. Characteristics of the undercustody drug population discussed in this section include: the felony class category of the offense, felony offender status, sale or possession status of the offense and the type of drug involved in the offense.

Drug Offenses by Felony Offender Status

Tables 2.1A (column percent) and 2.1B (row percent) display the felony class of the drug offense by felony offender status. Comparing first and second felony offenders in Table 2.1A, about 75% of first felons were incarcerated for class A-I, A-II and B drug offenses but only 18% of second felons fell into the A-II and B felony class categories. Thirty-two percent of persistent felons were also imprisoned for class A-II and B drug offenses.

2.1A DRUG OFFENDERS BY FELONY CLASS CATEGORY AND BY FELONY OFFENDER STATUS
UNDERCUSTODY POPULATION ON DECEMBER 31, 1990

| FELONY CLASS | FIRST | FELONY | SECOND | FELONY | PERSIST | FELONY | TOTAL |
|----------------|-------|--------|--------|--------|---------|--------|--------------|
| A-I FELONY | 674 | 9.9% | 0 | .0% | 0 | .0% | 674 3.7% |
| A-II FELONY | 2127 | 31.1% | 259 | 2.2% | 2 | 3.4% | 2388 13.0% |
| CLASS B FELONY | 2353 | 34.4% | 1873 | 16.2% | 17 | 28.8% | 4243 23.0% |
| CLASS C FELONY | 1300 | 19.0% | 2473 | 21.5% | 12 | 20.3% | 3785 20.5% |
| CLASS D FELONY | 341 | 5.0% | 5415 | 47.0% | 22 | 37.3% | 5778 31.4% |
| CLASS E FELONY | 44 | .6% | 1507 | 13.1% | 6 | 10.2% | 1557 8.5% |
| TOTAL | 6839 | 100.0% | 11527 | 100.0% | 59 | 100.0% | 18425 100.0% |

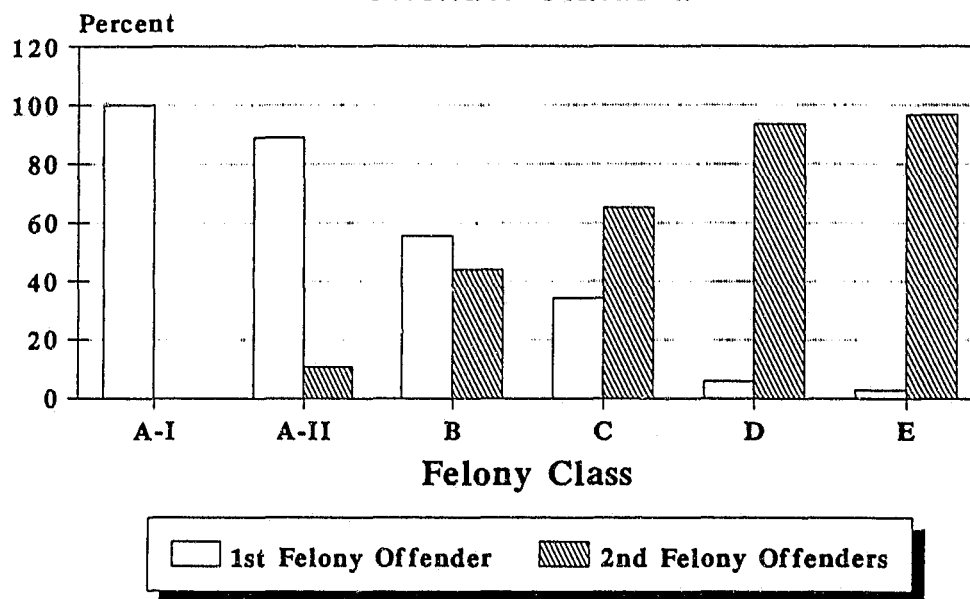
The pronounced division between first and second felony offenders in regards to the seriousness of the commitment offense is more clearly seen in Table 2.1B and Figure 7. As mentioned in Section One, those convicted of class A-I offenses are not additionally sentenced as second or persistent felony offenders. First felony offenders also accounted for 89.1% of class A-II drug offenses. There was still a higher percentage of first felony, class B drug offenders than there were second felony, class B drug offenders (55.5% versus 44.1%). Sixty-five percent of class C drug offenders were second felons compared with 34.3% of first felony offenders. In the lowest felony class categories, 93.7% of class D drug offenders were second felons, as were 96.8% of class E offenders.

Overall, 62.6% of those undercustody for drug offenses on December 31, 1990 were sentenced as second felony offenders and 37.1% were first felons (see Table 2.1B). Contrasting these figures with those for 1990 drug commitments, where 41.5% were first felons and 58.3% were second felons (see Table 1.1B, Section One), it might appear that there is a minor shift towards a higher percentage of first felony offenders in the commitment population. However, the greater proportion of second felony offenders in the undercustody population reflects the longer sentences these offenders must serve before parole eligibility.

2.1B DRUG OFFENDERS BY FELONY CLASS CATEGORY AND BY FELONY OFFENDER STATUS
UNDERCUSTODY POPULATION ON DECEMBER 31, 1990

| FELONY CLASS | FIRST | FELONY | SECOND | FELONY | PERSIST | FELONY | TOTAL |
|----------------|-------|--------|--------|--------|---------|--------|--------------|
| A-I FELONY | 674 | 100.0% | 0 | .0% | 0 | .0% | 674 100.0% |
| A-II FELONY | 2127 | 89.1% | 259 | 10.8% | 2 | .1% | 2388 100.0% |
| CLASS B FELONY | 2353 | 55.5% | 1873 | 44.1% | 17 | .4% | 4243 100.0% |
| CLASS C FELONY | 1300 | 34.3% | 2473 | 65.3% | 12 | .3% | 3785 100.0% |
| CLASS D FELONY | 341 | 5.9% | 5415 | 93.7% | 22 | .4% | 5778 100.0% |
| CLASS E FELONY | 44 | 2.8% | 1507 | 96.8% | 6 | .4% | 1557 100.0% |
| TOTAL | 6839 | 37.1% | 11527 | 62.6% | 59 | .3% | 18425 100.0% |

Figure 7
December 31, 1990 Undercustody Drug
Population by Felony Class Category and
Offender Status 1/



1/ Excludes Persistent Felony Offenders.

Drug Offenses by Sale or Possession of Controlled Substance

In Table 2.2, drug offenses are dichotomized according to the sale or possession status of the commitment offense. Of all offenders undercustody for drug offenses on December 31, 1990, 71.7% were admitted for the sale of a controlled substance. Among first felony offenders, 64.6% were admitted for the sale of a controlled substance, as were 75.9% of second felony offenders and 69.5% of persistent felons. Conversely, 35.4% of first, 24.1% of second and 30.5% of persistent felony offenders were admitted for the possession of a controlled substance.

The distribution pattern of drug sale or possession offenses for first and second felony offenders in the undercustody population, closely resembled that for 1990 new court commitments (see Table 1.3A, Section One). However, a higher percentage of persistent felons in the undercustody population were imprisoned for possession offenses (30.5%) compared with their proportion in the 1990 commitment population (16.7%).

2.2 DRUG OFFENDERS BY CATEGORY OF COMMITMENT AND BY FELONY OFFENDER STATUS
UNDERCUSTODY POPULATION ON DECEMBER 31, 1990

| COMMITMENT STATUS | FIRST | FELONY | SECOND | FELONY | PERSIST | FELONY | TOTAL |
|-------------------|-------|--------|--------|--------|---------|--------|--------------|
| SALE | | | | | | | |
| A-I FELONY | 392 | 5.7% | 0 | .0% | 0 | .0% | 392 2.1% |
| A-II FELONY | 1163 | 17.0% | 141 | 1.2% | 2 | 3.4% | 1306 7.1% |
| CLASS B FELONY | 1721 | 25.2% | 1486 | 12.9% | 11 | 18.6% | 3218 17.5% |
| CLASS C FELONY | 1013 | 14.8% | 2015 | 17.5% | 8 | 13.6% | 3036 16.5% |
| CLASS D FELONY | 115 | 1.7% | 4191 | 36.4% | 16 | 27.1% | 4322 23.5% |
| CLASS E FELONY | 13 | .2% | 914 | 7.9% | 4 | 6.8% | 931 5.1% |
| TOTAL | 4417 | 64.6% | 8747 | 75.9% | 41 | 69.5% | 13205 71.7% |
| POSSESSION | | | | | | | |
| A-I FELONY | 282 | 4.1% | 0 | .0% | 0 | .0% | 282 1.5% |
| A-II FELONY | 964 | 14.1% | 118 | 1.0% | 0 | .0% | 1082 5.9% |
| CLASS B FELONY | 632 | 9.2% | 387 | 3.4% | 6 | 10.2% | 1025 5.6% |
| CLASS C FELONY | 287 | 4.2% | 458 | 4.0% | 4 | 6.8% | 749 4.1% |
| CLASS D FELONY | 226 | 3.3% | 1224 | 10.6% | 6 | 10.2% | 1456 7.9% |
| CLASS E FELONY | 31 | .5% | 593 | 5.1% | 2 | 3.4% | 626 3.4% |
| TOTAL | 2422 | 35.4% | 2780 | 24.1% | 18 | 30.5% | 5220 28.3% |
| GRAND TOTAL | 6839 | 100.0% | 11527 | 100.0% | 59 | 100.0% | 18425 100.0% |

Drug Offenses by Type of Drug Involved in Commitment

The two tables in this subsection provide some indication of the type of controlled substance (drug type) for which the offender was convicted of selling or possessing.⁴ Tables 2.3A (column percent) and 2.3B (row percent) display drug type by felony class category.

Of the 7,136 offenders undercustody for cocaine offenses, most were imprisoned for class A-II through class D offenses. Twenty-six percent were incarcerated for class D offenses, 23.5% for class B offenses, 21.9% for class A-II offenses and 19.1% for class C offenses.

Crack offenses were not as evenly distributed by felony class category as were cocaine offenses. For example, 39.3% of crack offenders were imprisoned for class D felonies followed by 24.3% for class C offenses, 22.5% for class B offenses and 12.4% for class E offenses.

The majority of offenders undercustody for opiates or marijuana were convicted of class C or D offenses. Over 45% of opiate offenders were incarcerated for class D felonies with another 23.3%, for class C offenses. Of marijuana offenders, 36.5% were committed for class C offenses and 31.7% for class D offenses. Approximately three-quarters of those in the Other Drugs category, were either class D or E felons (32.7% class D felons and 43.8% class E felons).

2.3A DRUG OFFENDERS BY TYPE OF DRUG INVOLVED IN COMMITMENT: UNDERCUSTODY POPULATION ON DECEMBER 31, 1990

| FELONY STATUS | COCAINE | | CRACK | | OPIATES | | MARIJUANA | | OTHER DRUGS | | TOTAL | |
|----------------|---------|-------|-------|-------|---------|-------|-----------|-------|-------------|-------|-------|-------|
| A-I FELONY | 244 | 3.4% | 17 | .3% | 12 | .5% | 0 | .6% | 0 | .0% | 273 | 1.7% |
| A-II FELONY | 1565 | 21.9% | 67 | 1.1% | 90 | 3.4% | 2 | 3.2% | 2 | 1.3% | 1726 | 10.8% |
| CLASS B FELONY | 1677 | 23.5% | 1349 | 22.5% | 487 | 18.5% | 10 | 15.9% | 23 | 15.0% | 3546 | 22.2% |
| CLASS C FELONY | 1363 | 19.1% | 1452 | 24.3% | 613 | 23.3% | 23 | 36.5% | 11 | 7.2% | 3462 | 21.7% |
| CLASS D FELONY | 1853 | 26.0% | 2354 | 39.3% | 1191 | 45.3% | 20 | 31.7% | 50 | 32.7% | 5468 | 34.2% |
| CLASS E FELONY | 434 | 6.1% | 744 | 12.4% | 239 | 9.1% | 8 | 12.7% | 67 | 43.8% | 1492 | 9.3% |
| TOTAL | 7136 | 100% | 5983 | 100% | 2632 | 100% | 63 | 100% | 153 | 100% | 15967 | 100% |

⁴ Information regarding drug type was first solicited from inmates beginning in 1988. The tables exclude those unsure of the drug involved in the crime, those denying guilt in the instant offense and those choosing not to respond to the question.

Table 2.3B permits comparison of felony crime class across drug types. Since over 80% of offenders undercustody for drug offenses on December 31, 1990 were incarcerated for the sale or possession of either cocaine or crack, analysis concerning Table 2.3B will be limited to these offenses.

Of the 273 offenders imprisoned for class A-I felonies, 89.4% (244) stated their offense involved cocaine compared with only 6.2% (17) who reported crack. The same pattern exists for class A-II offenses, with 90.7% (1,565) reporting cocaine as the drug sold or possessed, versus 3.9% (67) for crack. Commitments for cocaine still dominated the class B felony category, although not to the extent that it had the class A-I and A-II felony categories (1,677 undercustody for cocaine versus 1,349 for crack).

In the remaining felony class categories, the proportion of crack commitments exceeded those for cocaine, particularly as the felony class of the offense decreased. For example, 41.9% of class C drug offenses involved crack as opposed to cocaine (39.4%), while among class E drug felons, 49.9% were committed for crack offenses but only 29.1% for offenses involving cocaine.

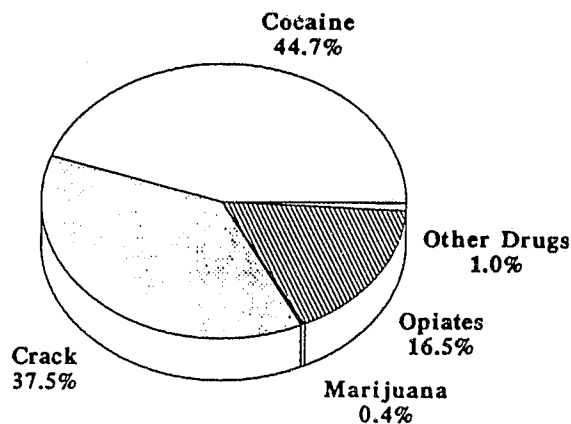
2.3B DRUG OFFENDERS BY TYPE OF DRUG INVOLVED IN COMMITMENT: UNDERCUSTODY POPULATION ON DECEMBER 31, 1990

| FELONY STATUS | COCAINE | | CRACK | | OPIATES | | MARIJUANA | | OTHER DRUGS | | TOTAL | |
|----------------|---------|-------|-------|-------|---------|-------|-----------|-----|-------------|------|-------|------|
| A-I FELONY | 244 | 89.4% | 17 | 6.2% | 12 | 4.4% | 0 | .0% | 0 | .0% | 273 | 100% |
| A-II FELONY | 1565 | 90.7% | 67 | 3.9% | 90 | 5.2% | 2 | .1% | 2 | .1% | 1726 | 100% |
| CLASS B FELONY | 1677 | 47.3% | 1349 | 38.0% | 487 | 13.7% | 10 | .3% | 23 | .6% | 3546 | 100% |
| CLASS C FELONY | 1363 | 39.4% | 1452 | 41.9% | 613 | 17.7% | 23 | .7% | 11 | .3% | 3462 | 100% |
| CLASS D FELONY | 1853 | 33.9% | 2354 | 43.1% | 1191 | 21.8% | 20 | .4% | 50 | .9% | 5468 | 100% |
| CLASS E FELONY | 434 | 29.1% | 744 | 49.9% | 239 | 16.0% | 8 | .5% | 67 | 4.5% | 1492 | 100% |
| TOTAL | 7136 | 44.7% | 5983 | 37.5% | 2632 | 16.5% | 63 | .4% | 153 | 1.0% | 15967 | 100% |

The undercustody drug population differs little from the 1990 admission population discussed in Section One. This is expected as 1990 commitments contributed heavily to the composition of the December 31, 1990 undercustody population. A minor variation between the undercustody and 1990 commitment populations mentioned earlier in this section, regarded the slightly higher proportion of second felony offenders in the undercustody drug population (see p.17).

Another noticeable difference between these two populations occurred in the type of drug sold or possessed by the offender, where the proportion of crack offenders in the undercustody population stood at 37.5% (see Figure 8), but for 1990 commitments, the figure was 40.8% (see Tables 2.3B and 1.5B). The lower percentage of offenders undercustody for crack offenses is indicative of earlier commitment years when admissions for cocaine more clearly exceeded those for crack (see Table 1.6).

Figure 8
December 31, 1990 Undercustody Drug
Population by Type of Drug Involved 1/



1/ Information pertaining to drug type is self-reported at initial classification and was not collected until January 1988.

SECTION THREE - FIRST RELEASES TO PAROLE 1987 -1990

The length of time drug offenders serve before first release to parole supervision is discussed in this section. Two types of time served data are presented here. First, the length of time an offender is incarcerated in state prison (state time served) and second, the total time an offender is imprisoned for the instant offense, which includes both state time and any time spent in jail prior to trial or sentencing (total time served).

1990 First Releases to Parole⁵

Time served data for drug offenders first released to parole supervision in 1990 appears in Table 3.1. Average total time served for all drug offenders in this table was 22.2 months. As would be expected, average total time served was higher for second felony offenders than for first felony offenders. For example, among second felony offenders imprisoned for class A-II and B offenses, average total time served was 68.0 and 50.2 months respectively, compared with first felony offenders who served 38.7 months for class A-II offenses and 16.3 months class B offenses. Overall, average total time served for first felony offenders was 19.6 months and for second felons, 25.4 months.

⁵ A first release indicates either an inmate released to parole supervision by the Board of Parole after serving his minimum period of incarceration, or, a first release can indicate an inmate conditionally released to parole supervision after serving two-thirds of his maximum sentence.

3.1 AVERAGE TIME SERVED BY FELONY CLASS AND FELONY STATUS FOR DRUG OFFENDERS
1990 FIRST RELEASES TO PAROLE SUPERVISION

| FELONY CLASS | NUMBER | STATE TIME SERVED IN MONTHS | | TOTAL (STATE+JAIL) TIME SERVED IN MONTHS | |
|----------------|--------|--------------------------------|--------|--|--------|
| | | AVERAGE | MEDIAN | AVERAGE | MEDIAN |
| FIRST FELONY | | | | | |
| A-I FELONY | 29 | 94.7 | 41.9 | 100.3 | 47.9 |
| A-II FELONY | 559 | 32.4 | 32.2 | 38.7 | 36.0 |
| CLASS B FELONY | 2124 | 12.0 | 9.6 | 16.3 | 12.2 |
| CLASS C FELONY | 1134 | 10.9 | 9.4 | 15.0 | 12.0 |
| CLASS D FELONY | 364 | 13.7 | 11.3 | 18.6 | 17.8 |
| CLASS E FELONY | 100 | 11.6 | 10.8 | 15.0 | 13.2 |
| TOTAL | 4310 | 15.1 | 10.4 | 19.6 | 12.8 |
| SECOND FELONY | | | | | |
| A-II FELONY | 29 | 59.9 | 63.6 | 68.0 | 71.9 |
| CLASS B FELONY | 144 | 44.4 | 48.0 | 50.2 | 53.9 |
| CLASS C FELONY | 478 | 25.5 | 29.7 | 30.8 | 35.9 |
| CLASS D FELONY | 1903 | 19.5 | 20.0 | 24.6 | 24.0 |
| CLASS E FELONY | 885 | 15.8 | 16.2 | 18.9 | 18.0 |
| TOTAL | 3439 | 20.8 | 19.2 | 25.4 | 23.9 |
| GRAND TOTAL | 7742 | 17.6 | 14.7 | 22.2 | 18.1 |

First Releases to Parole by Year

Examined below is the total time served experience of drug offenders across the last four release years.

The number of offenders first released to parole more than tripled from 2,427 in 1987 to 7,747 in 1990 (see Table 3.2). This increase in the number paroled is not unexpected given growth in drug commitments, and the relatively short minimum sentences received by many drug offenders. Over this same time period, the proportion of second felony offenders in the release population rose from approximately 37% in 1987 to 44% in 1990 (see Figure 9).

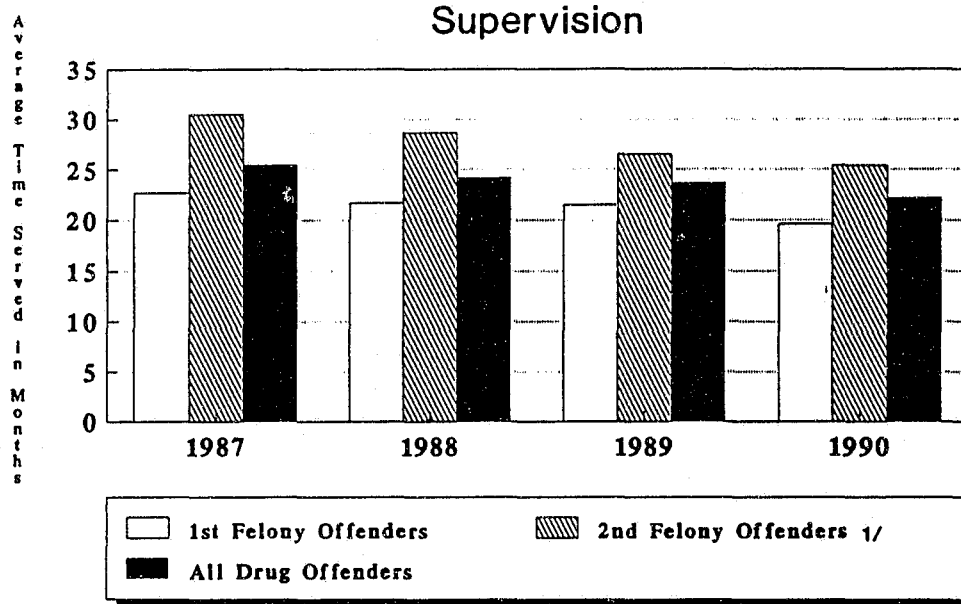
Average total time served decreased from 25.5 months in 1987 to 22.2 months in 1990 (see Grand Total in Table 3.2). Although the decline in average time served was experienced by both first and second felony offenders, it was greater among second felons. Across the four release years, average total time served by second felons fell 5.1 months, from 30.5 months in 1987 to 25.4 months in 1990, while for first felony offenders, average time served decreased 3.1 months (from 22.7 months in 1987 to 19.6 months in 1990) (see Table 3.2). Steady declines in average time served by class B, C, and D drug offenders drove the overall decrease in average total time served by second felony offenders.

Finally, the greater drop in average time served by second felony offenders, resulted in a slightly smaller gap in time served between them and first felony offenders. In 1987, second felony offenders served, on average, 7.8 months more than first felons but by 1990, second felons served only 5.8 months more.

3.2 AVERAGE TIME SERVED BY FELONY CLASS AND FELONY STATUS FOR DRUG OFFENDERS
1987 - 1990 FIRST RELEASES TO PAROLE SUPERVISION

| FELONY CLASS | 1987 | | | 1988 | | | 1989 | | | 1990 | | |
|----------------|--|---------|--------|--|---------|--------|--|---------|--------|--|---------|--------|
| | TOTAL (STATE+JAIL) TIME SERVED IN MONTHS | | | TOTAL (STATE+JAIL) TIME SERVED IN MONTHS | | | TOTAL (STATE+JAIL) TIME SERVED IN MONTHS | | | TOTAL (STATE+JAIL) TIME SERVED IN MONTHS | | |
| | NUMBER | AVERAGE | MEDIAN | NUMBER | AVERAGE | MEDIAN | NUMBER | AVERAGE | MEDIAN | NUMBER | AVERAGE | MEDIAN |
| FIRST FELONY | | | | | | | | | | | | |
| A-I FELONY | 16 | 102.4 | 80.8 | 22 | 128.9 | 177.9 | 18 | 128.7 | 179.8 | 29 | 100.3 | 47.9 |
| A-II FELONY | 227 | 42.6 | 35.9 | 342 | 41.0 | 36.0 | 473 | 39.2 | 35.9 | 559 | 38.7 | 36.0 |
| CLASS B FELONY | 866 | 18.0 | 15.3 | 1252 | 16.5 | 12.7 | 1426 | 17.1 | 12.6 | 2124 | 16.3 | 12.2 |
| CLASS C FELONY | 215 | 18.2 | 16.1 | 375 | 17.3 | 12.5 | 545 | 15.9 | 12.1 | 1134 | 15.0 | 12.0 |
| CLASS D FELONY | 181 | 18.8 | 17.8 | 212 | 18.3 | 17.0 | 260 | 18.3 | 16.6 | 364 | 18.6 | 17.8 |
| CLASS E FELONY | 27 | 18.5 | 17.9 | 32 | 17.3 | 17.9 | 59 | 17.5 | 17.9 | 100 | 15.0 | 13.2 |
| TOTAL | 1532 | 22.7 | 17.5 | 2235 | 21.7 | 16.1 | 2781 | 21.5 | 15.9 | 4310 | 19.6 | 12.8 |
| SECOND FELONY | | | | | | | | | | | | |
| A-II FELONY | 17 | 53.7 | 48.0 | 15 | 61.5 | 59.9 | 22 | 69.7 | 71.9 | 29 | 68.0 | 71.9 |
| CLASS B FELONY | 80 | 56.5 | 54.0 | 106 | 54.1 | 53.9 | 121 | 54.1 | 53.9 | 144 | 50.2 | 53.9 |
| CLASS C FELONY | 111 | 38.5 | 35.9 | 139 | 35.5 | 35.9 | 271 | 33.1 | 35.9 | 478 | 30.8 | 35.9 |
| CLASS D FELONY | 524 | 27.2 | 24.2 | 766 | 25.9 | 24.0 | 1156 | 25.3 | 24.0 | 1903 | 24.6 | 24.0 |
| CLASS E FELONY | 163 | 20.5 | 18.0 | 238 | 19.8 | 18.0 | 592 | 18.5 | 18.0 | 885 | 18.9 | 18.0 |
| TOTAL | 895 | 30.5 | 25.7 | 1264 | 28.6 | 24.0 | 2162 | 26.5 | 24.0 | 3439 | 25.4 | 23.9 |
| GRAND TOTAL | 2427 | 25.5 | 23.8 | 3498 | 24.2 | 20.1 | 4942 | 23.7 | 20.1 | 7747 | 22.2 | 18.1 |

Figure 9
Time Served by Felony Offender Status
1987 - 1990 First Releases to Parole
Supervision



Time Served Distribution for 1990 First Releases

In addition to the display of time served data based on averages or medians, Table 3.3 presents time served data in a frequency distribution for offenders paroled in 1990. Almost 66% of first felony drug offenders served between 12 and 17 months, whereas only 27.5% of second felony offenders fell into this category. The category containing the single largest group of second felony offenders was the one indicating that the offender served between 18 and 23 months. Overall, approximately 90% of drug offenders in 1990 served less than 36 months before release to parole.

3.3 FELONY OFFENDER STATUS AND FELONY CLASS STATUS BY TOTAL TIME SERVED FOR DRUG OFFENDERS
1990 FIRST RELEASES TO PAROLE SUPERVISION

| FELONY STATUS | TOTAL TIME SERVED (STATE TIME + JAIL TIME) | | | | | | | | | | | TOTAL |
|----------------------|--|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|------------------|-------------------|-----------------|----------------|
| | 12-17 MONTHS | 18-23 MONTHS | 24-29 MONTHS | 30-35 MONTHS | 36-41 MONTHS | 42-47 MONTHS | 48-59 MONTHS | 60-71 MONTHS | 72-119 MONTHS | 120-179 MONTHS | 180 + MONTHS | |
| FIRST FELONY | | | | | | | | | | | | |
| A-I FELONY | 0 | 0 | 0 | 7 | 6 | 2 | 0 | 0 | 2 | 8 | 3 | 28 |
| A-II FELONY | 107 | 11 | 3 | 180 | 72 | 64 | 67 | 29 | 25 | 1 | 0 | 559 |
| CLASS B FELONY | 1541 | 357 | 106 | 49 | 28 | 16 | 17 | 5 | 5 | 0 | 0 | 2124 |
| CLASS C FELONY | 907 | 141 | 44 | 21 | 12 | 6 | 1 | 2 | 0 | 0 | 0 | 1134 |
| CLASS D FELONY | 196 | 98 | 43 | 19 | 5 | 3 | 0 | 0 | 0 | 0 | 0 | 364 |
| CLASS E FELONY | 83 | 13 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 100 |
| TOTAL | 2834 65.8% | 623 14.4% | 199 4.6% | 277 6.4% | 123 2.9% | 91 2.1% | 85 2.0% | 36 .8% | 32 .7% | 9 .2% | 3 .1% | 4309 100.0% |
| SECOND FELONY | | | | | | | | | | | | |
| A-II FELONY | 0 | 0 | 0 | 1 | 3 | 1 | 1 | 15 | 8 | 0 | 0 | 29 |
| CLASS B FELONY | 16 | 9 | 6 | 1 | 3 | 2 | 78 | 16 | 13 | 0 | 0 | 144 |
| CLASS C FELONY | 128 | 22 | 13 | 180 | 77 | 35 | 17 | 3 | 3 | 0 | 0 | 478 |
| CLASS D FELONY | 331 | 688 | 495 | 278 | 68 | 31 | 7 | 5 | 0 | 0 | 0 | 1903 |
| CLASS E FELONY | 470 | 326 | 61 | 26 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 885 |
| TOTAL | 945 27.5% | 1045 30.4% | 575 16.7% | 486 14.1% | 153 4.4% | 69 2.0% | 103 3.0% | 39 1.1% | 24 .7% | 0 .0% | 0 .0% | 3439 100.0% |
| GRAND TOTAL | 3779 48.8% | 1665 21.5% | 774 10.0% | 763 9.8% | 276 3.6% | 160 2.1% | 188 2.4% | 75 1.0% | 56 .7% | 9 .1% | 3 .0% | 7748 100.0% |

CONCLUSION

This report presented a legal history profile of three populations of drug offenders sentenced to DOCS. Among those committed for drug offenses during the 1987 through 1990 admission years, it was noted that first felony offenders tended to be sentenced for more serious felony class offenses than second felony offenders. This commitment pattern most likely reflects the practice of sentencing many first felony offenders convicted of minor drug felonies to probation or jail, rather than state prison. For those with a prior felony conviction, a current conviction for even the most minor drug felony mandates a state prison term.

Another trend identified in the 1987 - 1990 drug commitment population was a slight decline in average minimum sentence, from 31.7 months in 1987 to 29.4 months in 1989. The decrease in average minimum sentence was attributed to the influx of those committed for lower felony class crack offenses.

Examination of drug offenders first released to parole supervision from 1987 through 1990, revealed that average total time served decreased, especially for second felony offenders. The decline in average total time served may be attributed to several factors; for example, the large numbers of crack offenders sentenced for lower felony class offenses and state prison program participation.⁶

Since admissions for drug offenses expanded rapidly in recent years and drug offenders serve relatively short sentences in state prison, the profile of the December 31, 1990 undercustody drug population varied little from the profile drawn of the 1990 drug commitment population.

⁶ The Earned Eligibility Program provides for the release of inmates at their parole eligibility date, if they satisfactorily complete certain prescribed programs (see *Earned Eligibility Program: July 1987 through September 1990*. New York State Department of Correctional Services, December 1990). The Shock Incarceration Program permits early release to parole supervision for inmates successfully completing a six month program of intensive physical training, counseling and drug treatment (see *The Third Annual Report to the Legislature: Shock Incarceration in New York State*. New York State Department of Correctional Services, January 1991).

Once again it should be emphasized that this report covers only the legal characteristics of certain drug offender populations. Further reports, such as one covering offender demographics, are needed to develop a more comprehensive profile of the drug offender sentenced to state prison.

**APPENDIX A: RANGE OF MINIMUM AND MAXIMUM
SENTENCES BY FELONY CLASS CATEGORY^{1/}**

Sentence to State Prison for First Felony Offense

| <u>Felony Class</u> | <u>Legislatively Designated Violent Felony Offense</u> | | <u>All Other Felony Offense</u> |
|---------------------|--|---|---|
| A-I Felony | Maximum | N/A | Life |
| | Minimum | | 15-25 Years |
| A-II Felony | Maximum | N/A | Life |
| | Minimum | | 3-8 1/2 Years |
| Class B Felony | Maximum | 6-25 ^{2/} | 3-25 |
| | Minimum | 2-8 1/3 (Minimum = 1/3 of maximum sentence) | 1-8 1/3 (Minimum = 1 year up to 1/3 of maximum) |
| Class C Felony | Maximum | 4 1/2-15 | 3-15 |
| | Minimum | 1 1/2-5 (Minimum = 1/3 of maximum sentence) | 1-5 (Minimum = 1 year up to 1/3 of maximum) |
| Class D Felony | Maximum | 3-7 | 3-7 |
| | Minimum | 1-2 1/3 (Minimum = 1 year up to 1/3 of maximum) | 1-2 1/3 (Minimum = 1 year up to 1/3 of maximum) |
| Class E Felony | Maximum | 3-4 | 3-4 |
| | Minimum | 1-1 1/3 (Minimum = 1 year up to 1/3 of maximum) | 1-1 1/3 (Minimum = 1 year up to 1/3 of maximum) |

^{1/} These are the general cases for these offense categories. Exceptions do exist. For example, certain class C, class D and class E felony offenders may receive a definite sentence of one year or less. For more detail see Article 70, Sentences of Imprisonment, New York State Penal Law or New York State Sentence Charts, West Publishing Co.

^{2/} For a class B "armed violent felony offense" the court may impose a minimum term which is between 1/3 the maximum and 1/2 the maximum term imposed (i.e. a minimum of 2-12 1/2.)

**APPENDIX A: RANGE OF MINIMUM AND MAXIMUM
SENTENCES BY FELONY CLASS CATEGORY**

| <u>Sentence to State Prison for Second Felony Offense</u> | | |
|---|--|---|
| <u>Felony Class</u> | <u>Legislatively Designated Violent Felony Offense</u> | <u>All Other Felony Offenses</u> |
| Class A-II | Maximum N/A | Life |
| | Minimum | 6-12 1/2 (Minimum Sentence fixed by Court) |
| Class B Felony | Maximum 12-25 | 9-25 |
| | Minimum 6-12 1/2 (Minimum Sentence = 1/2 of maximum sentence) | 4 1/2-12 1/2 (Minimum Sentence = 1/2 of maximum sentence) |
| Class C Felony | Maximum 8-15 | 6-15 |
| | Minimum 4-7 1/2 (Minimum Sentence = 1/2 of maximum sentence) | 3-7 1/2 (Minimum Sentence = 1/2 of maximum sentence) |
| Class D Felony | Maximum 5-7 | 4-7 |
| | Minimum 2 1/2-3 1/2 (Minimum Sentence = 1/2 of maximum sentence) | 2-3 1/2 (Minimum Sentence = 1/2 of maximum sentence) |
| Class E Felony | Maximum 4 years | 3-4 |
| | Minimum 2 years (Minimum Sentence = 1/2 of maximum sentence) | 1 1/2-2 (Minimum Sentence = 1/2 of maximum sentence) |

**APPENDIX A: RANGE OF MINIMUM AND MAXIMUM
SENTENCES BY FELONY CLASS CATEGORY**

Sentence to State Prison for Persistent Felony Offense

| <u>Felony Class</u> | | <u>Legislatively Designated Violent Felony Offense</u> | <u>All Other Felony Offenses*</u> |
|---------------------|---------|--|---|
| Class B Felony | Maximum | LIFE | 9-25 Life Optional |
| | Minimum | 10-25 | 4 1/2-12 1/2 (Minimum Sentence = 1/2 of maximum sentence) |
| Class C Felony | Maximum | LIFE | 6-15 Life Optional |
| | Minimum | 8-25 | 3-7 1/2 (Minimum Sentence = 1/2 of maximum sentence) |
| Class D Felony | Maximum | LIFE | 4-7 Life Optional |
| | Minimum | 6-25 | 2-3 1/2 (Minimum Sentence = 1/2 of maximum sentence) |
| Class E Felony | Maximum | LIFE | 3-4 Life Optional |
| | Minimum | Statute does not specify minimum term | 1 1/2-2 (Minimum Sentence = 1/2 of maximum sentence) |

*Under the old law a person convicted of a third felony could be sentenced as a second felony offender.