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State inmates, 1992-94

Violent Offenders in State Prison: Sentences and Time Served

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In partnership with State departments of corrections, the Bureau of Justice Statistics (BJS) collected information on sentences and time served by violent offenders in State prison. For 1992, 1993, and 1994, 49 States and the District of Columbia provided information on violent offenders who were admitted to or released from prison.

In April 1995, BJS published *Prison Sentences and Time Served for Violence,* which discussed truth in sentencing and the hypothetical impact of increasing the percentage of sentence served. Data sources in this report differ from those in the previous report —

- State-by-State tabulations appear for the first time in this report
- BJS received totals and averages, not individual records, from States
- State definitions of *violent offenses,* rather than standard BJS definitions, were used in this report.

Correctional authorities provided the number of violent offenders admitted or released, the average total maximum sentence, the average minimum time to be served by incoming prisoners, and the average time served in prison and jail by released prisoners. (See the questionnaire on page 9.)

This information allows the calculation of percent of sentence served or to be served — measures of the correspondence between sentence length and time served.

From a previous BJS report —
Prison Sentences and Time Served for Violence

Since the mid-1970's, legislatures around the Nation have sought to reduce discretion in both the sentencing process and the determination of when the conditions of a sentence have been satisfied. Determinate sentencing, use of mandatory minimums, and guidelines-based sentencing are illustrations of approaches that limit discretion and increase the predictability of penalties.

A majority of State prisoners today serve presumptive sentences — 90% of State inmates can estimate their probable release date, and their discharge from prison is less likely than in the past to be determined by a parole board decision. In 1977, 72% of those released from State prisons had served an indeterminate sentence, and a parole board decided their release. In 1992, by contrast, less than 40% of prison releases were determined by a parole board.

Interest in truth-in-sentencing reflects continued attention to discretion and to the relation between sentences and time served. Truth-in-sentencing is generally meant to describe a close correspondence between the sentence imposed upon those sent to prison and the time actually served prior to prison release.

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The report was based on BJS definitions of violent offenders and individual level records or interviews. Data drawn from the annual National Corrections Reporting Program revealed that released violent offenders had served about half their sentence in confinement and admitted violent offenders were expected to serve about 60% of their sentence before release. Data from a national survey of State inmates indicated that violent prisoners believed that they would serve nearly 50% of their sentence.

Though nearly all States (and the District of Columbia) participated in this special data collection, for many jurisdictions the requisite information was unavailable. Just over half the participating jurisdictions provided sufficient data in each year to calculate the percentage of sentence to be served by violent offenders entering prison.

Nearly 8 in 10 participating jurisdictions reported data on average sentence length and time served for violent offenders released from prison. In these jurisdictions the percentage of sentence served could be calculated.

	Number of jurisdictions		
		With sufficient data to calculate percent of sentence served	
Year	Total participating	Admissions	Releases
1992	46	27	39
1993	48	27	40
1994	49	28	40

Percent of sentence to be served, as estimated from prison admissions

Data collected from the States for 1992 to 1994 total over a quarter million violent offenders admitted to prison from sentencing courts (table 1).[1] The number of violent offenders admitted in 1994 ranged from more than 10,300 in California to less than 100 in Wyoming and Vermont.

[1]Violent crimes are those offenses under State law which involve force or the threat of force. See *Methodology*.

The States with the largest prison populations in 1994 — California, Texas, New York, Florida, and Ohio — all reported average sentences for violent offenders entering prison. But only New York and Ohio could provide sufficient data to estimate an expected length of stay prior to release (table 2). Furthermore, half of the 10 largest State prison systems did not provide information needed to calculate the percent of sentence to be served.[2]

Based on admissions data for 1992 to 1994, violent State prisoners had an average sentence of about 10 years and were expected to serve slightly less than 5 years on average. Overall, the percentage of sentence to be served rose from 44% to 48% between 1992 and 1994. In each year the percentage varied substantially across the States.

Percent of sentence served, as estimated from prison releases

A total of 40 jurisdictions reported in all 3 years both the average sentence and the time served for released violent offenders (table 3). Most States also included in the average time served any credit for time spent in a local jail before trial or after conviction.

Among released prisoners the average sentence for a violent crime was about 8 years and the average time served, about 3½ years, or just under half of their total maximum sentence.

[2]The 10 largest prison systems in 1994, accounting for about 60% of State prisoners, were California, Texas, New York, Florida, Ohio, Michigan, Illinois, Georgia, Pennsylvania, and Virginia.

The percent of sentence served by released violent offenders varied widely among reporting jurisdictions and within some jurisdictions over the 3 -year period. These variations may reflect a differing mix of the type of violent offenders being released, unique jurisdictional sentencing practices, and evolving release policies. Without an accounting of these factors, State-to-State comparisons are likely to be misleading.

7 in 10 prisoners with a life sentence expect to be released

For calculation of average sentence length and percent of sentence served, prisoners sentenced to life in prison or to death were excluded. Such offenders account for about 6% of violent offenders admitted to State prisons each year. In 1992 an estimated 5,700 violent offenders were admitted with a life or death sentence.

In the 1991 survey, about 1 in 6 State prisoners serving time for a violent offense had received a sentence to life in prison or to death. About 74% of had been convicted of homicide; 9% convicted of rape or sexual assault; 9%, of robbery; 4%, kidnaping; and 4%, assault.

Among prisoners with a life sentence —

- 69% reported that they expected to be released
- 18% reported that they did not know if or when they would be released
- 13% reported that they would never be released.

Based on this survey information, an estimated 2% to 5% of violent offenders would never be released from prison and contribute to the calculation of time served.

Prisoners expect to serve about half their sentence

A 1991 BJS survey of inmates in State prisons indicated that prisoners also believe that they are likely to serve just under half of the sentence they received. For each of the violent offenses, prisoners reported:

Type of offense	Average sentence	Expected time to serve	Percent of sentence
All violent	216 months	100 months	46%
Murder	381	178	47
Manslaughter	185	81	44
Sexual assault	211	95	45
Robbery	200	82	41
Assault	158	68	43

Table 1. New court commitments and first releases of violent State offenders, 1992-94

Region and jurisdiction	Number of violent new court commitments to State prison 1992	1993	1994	Percent change, 1992-94[a]	Number of violent first releases from State prison 1992	1993	1994	Percent change, 1992-94[a]
All participating States	84,598	84,559	81,535	-4.9%	60,753	61,347	61,282	-6.9
Northeast	14,822	15,999	15,420	-6.5%	11,281	11,843	11,583	-12.3%
Connecticut	1,090	993	965	-11.5	707	376	343	-51.5
Maine	282	252	197	-30.1	251	241	188	-25.1
Massachusetts	--	1,267	1,268	--	--	1,617	1,684	--
New Hampshire	203	244	253	24.6	130	188	138	6.2
New Jersey	2,401	2,287	2,406	.2	2,566	2,138	2,380	-7.2
New York	8,650	8,654	7,715	-10.8	6,174	5,833	5,533	-10.4
Pennsylvania	2,112	1,999	2,250	6.5	1,384	1,359	1,247	-9.9
Rhode Island	--	232	300	--	--	--	--	--
Vermont	84	71	66	-21.4	69	91	70	1.4
Midwest	17,916	18,986	19,087	-1.3%	7,570	10,598	12,522	6.6%
Illinois	5,494	5,429	5,581	1.6	4,224	4,448	4,674	10.7
Indiana	--	974	1,008	--	--	--	--	--
Iowa	495	495	532	7.5	512	522	558	9.0
Kansas[b]	--	--	395	--	--	--	38	--
Michigan	3,481	3,306	3,241	-6.9	--	--	1,828	--
Minnesota	355	358	356	.3	181	186	177	-2.2
Missouri	1,964	2,047	2,116	7.7	1,136	1,269	1,167	2.7
Nebraska	370	309	377	1.9	335	375	337	.6
North Dakota	61	81	112	83.6	64	65	66	3.1
Ohio	4,155	4,320	3,879	-6.6	--	2,508	2,585	--
South Dakota	244	231	236	-3.3	174	180	160	-8.0
Wisconsin	1,297	1,436	1,254	-3.3	944	1,045	932	-1.3
South	34,739	31,747	30,036	-8.4%	28,774	25,148	23,047	-15.5%
Alabama[c]	2,340	2,329	2,058	-12.1	--	--	--	--
Arkansas	1,014	873	1,031	1.7	765	817	978	27.8
Delaware	380	402	351	-7.6	430	378	388	-9.8
District of Columbia	540	427	354	-34.4	390	468	344	-11.8
Florida	8,781	7,701	6,931	-21.1	7,144	6,343	6,486	-9.2
Georgia	2,695	2,748	2,621	-2.7	2,397	2,248	1,420	-40.8
Kentucky	857	843	945	10.3	658	771	780	18.5
Louisiana	1,225	1,235	1,248	1.9	1,363	1,333	1,190	-12.7
Maryland	2,220	2,218	2,233	.6	2,393	2,451	2,421	1.2
Mississippi	1,103	1,037	1,112	.8	996	807	746	-25.1
North Carolina	2,455	2,568	2,521	2.7	2,366	2,871	1,882	-20.5
Oklahoma	1,577	1,610	1,634	3.6	727	830	867	19.3
South Carolina	1,407	1,418	1,450	3.1	1,239	1,217	1,205	-2.7
Tennessee	1,204	1,068	905	-24.8	1,421	1,267	992	-30.2
Texas	4,798	5,078	4,440	-7.5	4,851	3,204	3,201	-34.0
Virginia	1,956	--	--	--	1,495	--	--	--
West Virginia	187	192	202	8.0	139	143	147	5.8
West	17,121	17,827	16,992	-.8%	13,128	13,758	14,130	7.6%
Alaska	456	417	464	1.8	222	229	228	2.7
Arizona	1,417	1,597	1,383	-2.4	926	1,012	917	-1.0
California	10,683	11,182	10,308	-3.5	8,958	9,238	9,939	11.0
Colorado	835	870	1,052	26.0	549	611	600	9.3
Hawaii	180	219	251	39.4	135	186	170	25.9
Idaho	189	174	115	-39.2	97	104	75	-22.7
Montana	239	250	256	7.1	192	188	189	-1.6
Nevada	--	--	--	--	--	--	--	--
New Mexico	497	541	666	34.0	--	--	--	--
Oregon	719	691	682	-5.1	644	708	608	-5.6
Utah	224	240	209	-6.7	171	180	172	.6
Washington	1,555	1,562	1,507	-3.1	1,171	1,246	1,219	4.1
Wyoming	127	84	99	-22.0	63	56	13	-79.4

Note. See *Methodology* for definitions of new court commitments and first releases.
--Not reported.
[a]State total and regional totals based on States reporting data in 1992 and 1994.
[b]Includes only admissions and releases governed solely by determinate sentences under the Sentencing Guidelines Act.
[c]Includes data on all admissions and releases.

Table 2. New court commitments of violent State prisoners: Sentence length, minimum time to be served, and percent of sentence to be served before release, 1992-94

Regions and jurisdictions	Mean total maximum sentence length[a]			Mean minimum time to be served before release			Percent of maximum sentence to be served before release[b]		
	1992	1993	1994	1992	1993	1994	1992	1993	1994
All participating States	123 mo	121 mo	126 mo	54 mo	57 mo	59 mo	44%	47%	48%
Northeast	110 mo	112 mo	116 mo	55 mo	61 mo	61 mo	49%	53%	53%
Connecticut	69	70	70	–	–	–	–	–	–
Maine	210	189	147	161	144	112	77	76	76
Massachusetts	–	115	110	–	85	78	–	74	71
New Hampshire	100	116	117	44	54	52	44	47	44
New Jersey	128	134	134	44	46	45	34	34	34
New York[c]	98	101	103	54	59	60	55	58	58
Pennsylvania	149	146	167	61	60	71	41	41	43
Rhode Island	–	63	56	–	–	–	–	–	–
Vermont	133	146	118	–	–	–	–	–	–
Midwest	151 mo	154 mo	149 mo	52 mo	53 mo	55 mo	36%	36%	37%
Illinois	107	115	112	48	53	51	45	46	46
Indiana	–	–	–	–	–	–	–	–	–
Iowa	141	130	134	–	–	–	–	–	–
Kansas[d]	–	–	53	–	–	42	–	–	80
Michigan	204	199	203	77	74	76	38	37	37
Minnesota	111	113	125	80	82	88	72	72	70
Missouri	116	122	127	–	–	–	–	–	–
Nebraska	136	144	141	60	60	70	44	42	50
North Dakota	75	71	62	39	40	40	52	56	65
Ohio	201	208	198	42	43	42	21	21	21
South Dakota	–	–	–	–	–	–	–	–	–
Wisconsin	117	111	116	30	26	26	26	23	22
South	138 mo	134 mo	141 mo	56 mo	67 mo	68 mo	39%	51%	51%
Alabama	170	186	153	–	–	–	–	–	–
Arkansas	189	176	182	–	–	–	–	–	–
Delaware	72	60	74	64	54	65	89	90	89
District of Columbia	174	190	180	110	138	141	63	73	78
Florida	99	103	102	–	–	–	–	–	–
Georgia	123	129	132	–	–	–	–	–	–
Kentucky	139	137	143	–	–	–	–	–	–
Louisiana	148	141	144	80	83	86	54	59	60
Maryland	110	115	119	–	–	–	–	–	–
Mississippi	129	137	144	–	–	–	–	–	–
North Carolina	168	169	173	–	–	–	–	–	–
Oklahoma	177	160	150	–	–	–	–	–	–
South Carolina	125	127	126	36	37	37	29	29	29
Tennessee	141	148	134	–	–	–	–	–	–
Texas	–	–	190	–	–	–	–	–	–
Virginia	198	–	–	39	–	–	20	–	–
West Virginia	142	146	153	45	46	49	32	32	32
West	78 mo	81 mo	83 mo	50 mo	53 mo	57 mo	59%	59%	64%
Alaska	89	90	79	59	60	52	66	67	66
Arizona	90	87	84	54	52	66	60	60	78
California	70	72	74	–	–	–	–	–	–
Colorado	116	131	127	43	49	48	37	37	38
Hawaii	114	107	122	–	–	–	–	–	–
Idaho	129	122	130	43	44	48	33	36	37
Montana	175	215	163	44	54	41	25	25	25
Nevada	–	–	–	–	–	–	–	–	–
New Mexico	65	70	73	33	35	37	51	50	51
Oregon	67	73	75	51	56	58	76	77	77
Utah	118	108	114	/	/	/	/	/	/
Washington	76	85	91	53	61	70	70	72	77
Wyoming	72	69	70	42	40	40	58	58	57

Note: See *Methodology* for definition of total maximum sentence length and minimum time to be served before release.
–Not reported.
/Not applicable. Sentencing statutes do not require any minimum time to be served before release.
[a]Excludes inmates with sentences of life or death.
[b]Based on jurisdictions that reported data on minimum time to be served and total maximum sentence length.
[c]Minimum time to be served includes inmates with sentences of life or death.
[d]Data pertain only to offenders sentenced under the Sentencing Guidelines Act for offenses committed on or after July 1, 1993.

Table 3. First releases of violent State prisoners: Maximum sentence, time served, and percent of sentence served, 1992-94

Region and jurisdiction	1992 Mean maximum sentence	1992 Mean time served in prison/jail	1992 Percent of sentence served	1993 Mean maximum sentence	1993 Mean time served in prison/jail	1993 Percent of sentence served	1994 Mean maximum sentence	1994 Mean time served in prison/jail	1994 Percent of sentence served
All participating States	96 mo	40 mo	42%	97 mo	43 mo	44%	94 mo	43 mo	46%
Northeast	98 mo	45 mo	45%	101 mo	52 mo	51%	102 mo	54 mo	53%
Connecticut	61	–	–	68	–	–	84	–	–
Maine	–	–	–	–	–	–	–	–	–
Massachusetts	–	–	–	117	91	78	116	90	77
New Hampshire[a]	90	34	38	93	33	35	90	37	41
New Jersey	129	45	35	123	43	35	119	44	37
New York	83	43	51	86	45	53	87	47	54
Pennsylvania	127	52	41	122	57	47	121	59	49
Rhode Island	–	–	–	–	–	–	–	–	–
Vermont	90	46	51	89	44	49	97	54	56
Midwest	88 mo	38 mo	43%	123 mo	37 mo	30%	120 mo	37 mo	31%
Illinois	84	35	41	86	35	41	79	34	43
Indiana	–	–	–	–	–	–	–	–	–
Iowa[a,b]	126	34	27	132	32	24	107	34	32
Kansas[c]	–	–	–	–	–	–	–	–	–
Michigan	–	–	–	–	–	–	–	57	–
Minnesota	62	45	73	66	46	70	71	52	73
Missouri	107	56	52	106	55	52	96	49	51
Nebraska[a]	89	39	44	85	38	45	94	42	45
North Dakota[d]	62	27	44	52	22	42	54	25	46
Ohio	–	–	–	230	37	16	239	40	17
South Dakota	–	–	–	–	–	–	–	–	–
Wisconsin	68	29	43	67	28	42	66	25	38
South	115 mo	41 mo	36%	107 mo	44 mo	42%	105 mo	46 mo	43%
Alabama	–	–	–	–	–	–	–	–	–
Arkansas	140	51	36	152	55	36	168	61	36
Delaware[d]	66	36	55	57	36	62	56	33	59
District of Columbia	160	92	58	176	108	61	172	116	67
Florida	83	25	31	71	31	43	73	35	47
Georgia	112	47	42	117	50	43	102	49	48
Kentucky	106	34	32	128	37	29	96	36	38
Louisiana[d]	96	67	70	103	67	65	108	62	57
Maryland	118	62	53	118	63	53	110	59	54
Mississippi	100	40	40	93	34	37	93	37	40
North Carolina	124	35	28	129	32	25	106	32	30
Oklahoma	100	34	34	100	33	33	107	38	36
South Carolina[d]	113	41	36	109	40	37	117	43	37
Tennessee	144	44	31	142	48	34	108	38	35
Texas[d]	139	41	29	147	51	35	145	56	39
Virginia[d]	176	51	29	–	–	–	–	–	–
West Virginia	106	39	37	109	49	45	114	61	54
West	55 mo	36 mo	65%	56 mo	37 mo	65%	51 mo	36 mo	71%
Alaska	106	70	66	107	70	65	107	70	65
Arizona	75	44	59	75	45	59	74	46	62
California	42	33	78	42	33	77	39	33	85
Colorado	78	39	50	73	39	53	67	35	52
Hawaii	132	55	42	142	55	39	125	52	42
Idaho[d]	81	57	70	104	59	57	83	56	67
Montana	130	48	37	166	55	33	124	46	37
Nevada	–	–	–	–	–	–	–	–	–
New Mexico	–	–	–	–	–	–	–	–	–
Oregon[d]	123	40	33	109	42	39	103	43	42
Utah[d]	108	50	46	113	47	42	103	46	45
Washington[d]	50	35	70	57	38	67	58	39	67
Wyoming	59	36	61	66	41	63	96	45	47

Note: Maximum sentence length excludes sentences of life or death. Time served includes time served in jail and prison before release, unless otherwise noted. See *Methodology* for definitions.
–Not reported.
[a]Includes jail time for 1992 only.
[b]1992 data were estimated from data supplied to the National Corrections Reporting Program.
[c]Data that were reported pertained only to offenders sentenced under the Sentencing Guidelines Act for offenses committed on or after July 1, 1993, and are excluded for reasons of comparability.
[d]Excludes jail time for 1992, 1993, and 1994.

Methodology

The National Corrections Reporting Program (NCRP) was initiated in 1983 and annually collects individual-level data on all persons admitted to and released from State and Federal prisons. In 1992, 38 States and the District of Columbia reported 431,279 admissions to the program, representing an estimated 93% of all admissions to State prisons nationwide that year. Release data for 1992 were provided by 36 States, totalling 347,854 releases or an estimated 86% of all releases from State prisons.

For this report, to update the estimates of both sentence length and time served for violent offenses and to provide jurisdiction-level estimates, BJS contacted each State corrections agency. NCRP participants were asked to verify estimates made from 1992 data and to provide similar estimates for 1993 and 1994. States not participating in the NCRP were asked to generate estimates of average sentences and time served for all 3 years.

Forty-nine States and the District of Columbia provided data. BJS provided all tables presenting State-level information to each State corrections agency for verification.

Limitations

For violent offenders admitted to prison, the minimum time to be served before becoming eligible for release is projected, not actual, time. These estimates, taken from prison records, account for good-time provisions, early release practices, parole policies, and other factors that affect time served. These estimates may turn out to be higher or lower than the actual time served when these prisoners are eventually released.

For violent offenders released from prison, the average sentence and time served reflect the experience of persons actually released for the first time on the current sentence.

These figures exclude offenders who —

- had violated the conditions of their release and who had been returned to prison
- were given a sentence that cannot be included in an average, such as life, life without parole, or death.
- would never get out of prison (those who die in prison).

The sentences and time served statistics based on release data reflect sentences and correctional practices in the past. Because less serious offenders typically receive shorter sentences and serve less time, they will comprise a larger percentage of prisoners released than prisoners admitted during a year. For example, those convicted of homicide accounted for 4.2% of admissions in 1992 but 2.6% of those released from prison that year.

Definitions and coverage

Jurisdictions were provided with the following definitions and instructions for coverage:

Sentenced prisoners — Report data for prisoners with a total maximum sentence of more than 1 year.

New court commitments — Persons entering prison directly from court and not from any unsuccessful period of community supervision.

First releases — Persons released for the first time on the current sentence. Excludes persons who had previously been released for the same offense, returned to prison and then released again.

Violent offenses — Crimes involving personal injury, and threat of injury, and theft of property or attempted theft by force or threat of force. Includes murder, manslaughter, rape, other sexual assault, robbery, assault, extortion, intimidation, criminal endangerment, child abuse, and other offenses involving confrontational force or threat of force.

Total maximum sentence length — The total maximum term of incarceration including all consecutive sentences.

Minimum time to be served — The shortest time that each admitted prisoner is expected to serve prior to the first release.

Explanatory notes by jurisdiction

Jurisdictions were instructed to provide estimates when exact numbers were not available. Jurisdictions were also asked to provide an explanation when their definitions or coverage differed from those used in the NCRP.

The following jurisdiction notes summarize these differences. Most States used their own definition of violent offenses. The list below presents only the exceptions to the NCRP definition of violent offenses. If not noted, the State definition of violent offenses matched the NCRP categories. (See *Definitions and coverage.)*

Alabama

New court commitments and first releases: Include all admissions and releases.

Alaska

All data were estimated.

Connecticut

Minimum time to be served and time served in prison and jail: Offenders serve 50% or more of the maximum sentence if the sentence is greater than 24 months.

Colorado

All data were estimated.

Violent offenses: Exclude simple robbery.

Florida

Violent offenses: Include murder, manslaughter, sexual battery, lewd acts on children, robbery, aggravated assault, and aggravated battery.

Minimum time to be served: Cannot be accurately calculated, due to Florida's early release process and various gain-time. Recent changes in gain-time laws and the elimination of early release will make this evaluation possible for future prison admissions.

Hawaii

All data are estimates. Excludes inmates with missing charge information.

Maximum sentence: Should be considered as estimates since between a third and a half of admissions and release records had missing or incorrect data.

Time served in prison and jail: Includes jail time only for releases who were continuously incarcerated from the date of admission as pretrial felons until their date of release from prison.

Illinois

Minimum time to be served: All data were estimated.

Indiana

Violent offenses: Include arson (class A), customer product tampering (class B), obstructing traffic (class D), and resisting law enforcement (class C and D).

New court commitments: Number of admissions was estimated for 1993 and 1994.

Iowa

1992 data were based on a BJS analysis of State data in NCRP.

First releases: Data for 1993 and 1994 were estimated based on release samples.

Maximum sentence length: Data are for the "lead" offense only.

Kansas

All figures pertain to offenders whose admission or release was governed solely by determinate sentences (that is, sentenced only for offenses committed on or after July 1, 1993, the effective date of the Sentencing Guidelines Act). All offenders with active "old law" sentences, as well as those with both "new" and "old" law sentences, have been excluded.

Minimum time to be served: The current law provides for a maximum of 20% good time, leaving a minimum of 80% of the sentence to be served.

First releases: Relatively few violent offenders with only determinate sentences have been released since the enactment of the Sentencing Guidelines Act.

Kentucky

Violent offenses: Exclude sex offenses.

Louisiana

Violent offenses: Include aggravated arson, aggravated criminal damage to property, intentional exposure of AIDS, and mingling of harmful substances. Exclude attempts and conspiracies to commit violent offenses.

Maryland

First releases: Include only parolees, mandatory releases to supervision, expirations of sentence, and commutations. Releases do not necessarily represent first releases. Logic was used to exclude offenders whose stay time was greater than or equal to their total sentence length.

Massachusetts

All data were estimated.

Michigan

Violent offenses: Include arson.

First releases: 1994 data were based on a sample of prisoners with first release or discharge in the 4th quarter, 1994, and extrapolated to the full year.

Minnesota

All data were estimated.

Good time was eliminated for inmates sentenced for crimes committed after August 1, 1993. The sentencing court now is required to pronounce a term of imprisonment, 100 percent of which must be served by the inmate. The term of imprisonment cannot be shortened but may be increased as a result of disciplinary infractions during incarceration.

Missouri

Violent offenses: Include family offenses and weapons offenses.

New court commitments and first releases: Exclude shock cases release to probation after 120 days.

Montana

Data are for fiscal years.

New Mexico

Data are for fiscal years.

Violent offenses: Include bringing contraband into prison, escape, dangerous use of explosives, weapons possession, and sexual exploitation.

New York

Violent offenses: All data pertain to violent felony offenders as defined by New York State Penal Law. Include first and second degree arson and weapons offenses. Exclude manslaughter (2nd), other homicide, robbery (3rd), attempted assault (2nd), and coercive sex offenses other than rape (1st), sodomy (1st) and sexual abuse (1st).

Minimum time to be served and time served in prison and jail: Include inmates with sentences of life or death.

North Carolina

Data on admissions and releases were estimated.

Violent offenses: Include felonies only — misdemeanors are excluded. Violent offenses include arson, burning of property, incest, possession of weapon by inmate, riot and civil disorder, failure to disperse, looting, violation of emergency ordinance, and repeat felon with a deadly weapon.

First releases: General statutes impose a "cap" on the prison population. If a population emergency is declared, the Parole Commission must accelerate paroles to reduce population. During 1994 the Parole Commission slowed down the release of violent offenders as additional space became available.

Minimum time to be served and time served in prison and jail: For inmates with crimes prior to October 1994, North Carolina law grants day-for-day good-time credit; therefore, inmates usually serve 50% or less of their sentence. Inmates with crimes after October 1994 will serve 100% of their minimum sentences. They may also serve an additional 20% of their minimum sentence, if they violate prison rules.

North Dakota

Minimum time to be served: All data were estimated.

Oregon

Sentencing guidelines apply to convicted offenders who committed their crimes after November 1, 1989. These offenders must serve at least 80 percent of their sentence. Prior to the adoption of guidelines, the date of release was determined by a parole board.

During the 1992-94 period most new commitments of violent offenders were guideline cases and most releases were pre-guideline cases. As the size of the guidelines portion of the first release group increases, the effect will be a rising length of time actually served and a declining maximum sentence length.

Pennsylvania

Violent offenses: Include arson of occupied structure.

Rhode Island

Violent offenses: Exclude sex offenses.

New court commitments: 1993 and 1994 data represented total commitments with sentences of more than 6 months. Information based on the March 1995 monthly report and projected for each year.

South Carolina

Violent offenses: Include exposing other to HIV and felony DUI resulting in death.

Minimum time to be served: All data were estimated.

South Dakota

Violent offenses: Include rioting, burglary in the first or second degree, and other felonies in which a dangerous weapon or any explosive or destructive device was used.

Tennessee

Data are for prisoners with a total maximum sentence of 1 year or more.

Texas

Data are for fiscal years.

New court commitments: Exclude parole or mandatory release violators.

First releases: Include all violent parole, mandatory supervision releases, and discharges including violators (not just first releases).

Utah

Minimum time to be served: No statutory minimum time to be served before release exists under Utah's indeterminate sentencing system. All release decisions are made on an individual basis by Utah's Board of Pardons and Parole.

Vermont

Violent offenses: Include arson resulting in death, elderly abuse, habitual offender, hate crime, and lewd and lascivious conduct.

First releases: All data were estimated.

Virginia

Violent offenses: Include arson resulting in death, sex offenses against children, incest with child, bigamy, threats to bomb or burn, and firing into a dwelling, building, or occupied vehicle.

Washington

Minimum time to be served, maximum sentences of first releases, and time served: All data were estimated.

West Virginia

All data were estimated.

Wyoming

First releases: All 1994 data were estimated.

1. New Court Commitments of Violent Sentenced Prisoners During the Calendar Year —

	1992 •BJS analysis of State data	1992 •Your State's statistics		1993 •Your State's statistics		1994 •Your State's statistics	
A. Number admitted			☐Est.		☐Est.		☐Est.
B. Average total maximum sentence length (in months) •Exclude sentences of life or death.			☐Est.		☐Est.		☐Est.
C. Average minimum time to be served (in months)			☐Est.		☐Est.		☐Est.

2. First Releases of Violent Sentenced Prisoners During the Calendar Year —

	1992 •BJS analysis of State data	1992 •Your State's statistics		1993 •Your State's statistics		1994 •Your State's statistics	
A. Number released			☐Est.		☐Est.		☐Est.
B. Average total maximum sentence length (in months) •Exclude sentences of life or death.			☐Est.		☐Est.		☐Est.
C. Average time served in prison and jail (in months)			☐Est.		☐Est.		☐Est.
Is jail time included?	☐ Yes ☐ No	☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No	

Notes. *(Please provide an explanation, if possible, where your State numbers differ from those defined by BJS. For example, if your State's definition of violent offenses differs, indicate here.)*

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is the director.

Selected Findings usually present data from both Bureau of Justice Statistics programs and other sources.

Allen J. Beck and Lawrence A. Greenfeld wrote this report. Tom Bonczar, Peter Brien, and Darrell Gilliard collected the data and provided a statistical review. Jodi Brown and Coliece Rice verified the tables. Tom Hester produced the report. Marilyn Marbrook supervised final production, assisted by Jayne Robinson and Yvonne Boston.

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July 1995, NCJ-154632

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Bureau of Justice Statistics Selected Findings

Number 4

April 1995, NCJ-153858

Prison Sentences and Time Served for Violence

By Lawrence A. Greenfeld
BJS Statistician

Since the mid-1970's, legislatures around the Nation have sought to reduce discretion in both the sentencing process and the determination of when the conditions of a sentence have been satisfied. Determinate sentencing, use of mandatory minimums, and guidelines based sentencing are illustrations of approaches that limit discretion and increase the predictability of penalties.

A majority of State prisoners today serve presumptive sentences — 90% of State inmates can estimate their probable release date, and their discharge from prison is less likely than in the past to be determined by a parole board decision. In 1977, 72% of those released from State prisons had served an indeterminate sentence, and a parole board decided their release. In 1992, by contrast, less than 40% of prison releases were determined by a parole board.

Interest in truth-in-sentencing reflects continued attention to discretion and to the relation between sentences and time served. Truth-in-sentencing is generally meant to describe a close correspondence between the sentence imposed upon those sent to prison and the time actually served prior to prison release.

Data collected from States by the Bureau of Justice Statistics (BJS) indicate that violent offenders released from State prisons in 1992 served 48% of the sentence they had received — an average of 43 months in confinement, both jail and prison, on an average sentence of 89 months. The finding that just under half the sentence will be served in confinement was confirmed through analysis of self-reports of a national sample of State prisoners. An examination of prison release practices for violent offenders in 31 States reveals wide disparity across the States in sentence length but substantially less disparity and greater consensus on the duration of time spent in confinement.

Violent offenders are persons convicted of homicide, kidnaping, forcible rape, sexual assault, robbery, assault, or other crimes involving the threat or imposition of harm upon the victim, including extortion, intimidation, reckless endangerment, hit-and-run driving with injury, or child abuse.

These findings are drawn from BJS data collection programs, including the annual National Corrections Reporting Program (NCRP) and the 1991 sample survey of State prisoners. (See **Sources of data**, page 3.)

(See Sources of data, page 3.)

Admissions, releases, and prisoners present

Prison releases

Participating NCRP States, representing about 8 out of 10 violent offenders released from prisons nationwide in 1992, provided sufficient information to examine the relationship between the sentence received and time served prior to first release.

Released violent offenders in 1992 served 48% of their sentence

Type of offense	Average sentence	Average time served*	Percent of sentence served
All violent	89 months	43 months	48%
Homicide	149	71	48
Rape	117	65	56
Kidnaping	104	52	50
Robbery	95	44	46
Sexual assault	72	35	49
Assault	61	29	48
Other	60	28	47

*Includes jail credit and prison time.

old

Little variability was found in the percentage of sentence served for different types of violent crimes. For most violent crimes, offenders served just under half of the sentence imposed. Those convicted of rape were found to serve the highest percentage of their sentences, 56%.

	Prison releases		
Years	Average sentence	Average time served	Percent of sentence served
1988	95 months	41 months	43%
1989	91	42	46
1990	94	44	47
1991	92	44	48
1992	89	43	48

During the most recent 5-year period, data for released violent offenders indicated that the percentage of their sentence spent in prison remained relatively stable.

Prison admissions

Another measure of the time served relative to a sentence is derived from those admitted to prison. NCRP obtains estimates of the minimum time to be served by those admitted to State prisons. From 1988 to 1992, sentences received and preliminary estimates of length of stay for violent offenders admitted to State prisons have shown a consistent percentage of the sentence to be served:

	Prison admissions		
Years	Average sentence	Average time to be served	Percent of sentence to be served
1988	113 months	66 months	58%
1989	107	65	61
1990	105	63	60
1991	105	64	61
1992	104	62	60

Admissions in 1992 had average sentences of 104 months, and correctional authorities predicted that they would stay for 60% of that time. Releases that same year had average sentences that were 15 months shorter and their length of stay was 19 months less; releases served 48% of the sentences they received.

Estimated percentage of sentence served or to be served by admitted, current, and released prisoners

Prisoner self-reports and records obtained for those released from prison tell a similar story — just under half the sentence received will be served in confinement. Estimates for admissions, however, may differ from the other estimates for two reasons: admissions reflect current policies and legislation affecting the use of prison, and less is known at admission about how long inmates will actually serve. During the course of a prison stay, various credits against a sentence may be earned (such as good time) or reductions in sentence length may occur (such as sentence rollbacks in crowding emergencies), changing the percentage of sentence actually served.

Prisoner status	Average sentence	Average time served	Percent of sentence
Admissions, 1992	104 months	62 months	60%
Prisoners, 1991	216	100	46
Releases, 1992	89	43	48

Estimating hypothetical impacts of changing the percentage of sentence served

Thinking about truth-in-sentencing requires at least the knowledge of two numbers — sentence length and the actual or predicted length of stay. Since the desired goal of truth-in-sentencing is to increase the percentage of sentence served over current practice, it is possible to estimate what sentences and what time served would be necessary to achieve increased correspondence between the two. Such estimates would, of course, be speculative because policies or practices implemented by jurisdictions seeking to change the percentage of sentence served may simultaneously modify both sentence length and time served.

If the current average sentence remained the same for violent offenders and a policy were adopted requiring that 85% of the current sentence should be served, the predicted time served would increase the current length of stay

- for admissions, 26 months
- for prisoners present, 84 months
- for releases, an average 33 months longer in prison.

Based upon current sentences, what would time served in prison be if violent offenders served higher percentages of the sentences they had received?

	Estimated time to serve		
Percent of sentence served	Prison admissions	Prisoners present	Prison releases
Current	62 months	100 months	43 months
65%	68	140	58
70%	73	151	62
75%	78	162	67
80%	83	173	71
85%	88	184	76
90%	94	194	80
95%	99	205	85
100%	104	216	89

old

Based upon current time served in prison, what would sentences need to be to achieve higher percentages of sentence served?

Percent of sentence served	Estimated sentence: Prison admissions	Prisoners present	Prison releases
Current	104 months	216 months	89 months
65%	95	154	66
70%	89	143	61
75%	83	133	57
80%	78	125	54
85%	73	118	51
90%	69	111	48
95%	65	105	45
100%	62	100	43

An alternate approach would be to hold constant the current average lengths of stay and change sentence lengths, attempting to ensure a particular ratio of time served to sentence. As shown above, by setting the current time served to equal 85% of the sentence received, estimated sentence lengths would decrease

- for admissions, 31 months
- for prisoners present, 98 months
- for releases, an average 38 months.

How States differ in the percentage of sentence served

Among the NCRP States, released violent offenders in 1992 had an average sentence of 89 months and an average time served of 43 months; these violent prisoners had served 48% of their sentence prior to discharge from prison. The reporting jurisdictions can be divided into three groups according to whether they were above, at, or below the national average percentage of sentence served.

Above average About 40% of releasees were in States that had percentages of sentence served that were at least 10% (5 percentage points) above the national average of 48%. For these States, the average sentence was 72 months and average time served was 44 months, or 61% of the imposed sentence.

Average Just under 30% of releasees were in States that had approximately the national ratio of time served to sentence with average sentences of 102 months and time served of 47 months, or 46% of the sentence.

Below average The remaining 30% of releasees were in States that provided release records in which the percent of sentence served fell at least 10% (5 percentage points) below the national average with sentences averaging 125 months and time served of 42 months. Discharged violent offenders in these States had served 34% of the sentence they had received. These data

States with a percent of sentence served —	Prison releases: Average sentence	Average time served	Percent of sentence served
Above average	72 months	44 months	61%
Average	102	47	46
Below average	125	42	34

indicate that all three groupings of States had similar time served among violent offenders released from prison regardless of the sentence received or the percentage of sentence served. In other words, States have a much greater consensus on the duration of incarceration for violent crime than could be inferred from simply examining the sentences imposed or the percentage of sentence served.

Sources of data

In 1992, 38 States and the District of Columbia participated in the National Corrections Reporting Program, covering 93% of State prison admissions nationwide (431,000 records) and 86% of State prison releases (348,000 records). While the length of the sentence received was gathered for both groups of prisoners, time served (including jail credits) was only obtainable for those released from prison. For those admitted to prisons in 1992, States provided a prediction of the expected minimum time to be served.

In 1991 BJS conducted a representative sample survey of State prisoners and obtained estimates from prisoners of the likely time to be served. Approximately 14,000 inmate interviews were conducted in 45 States.

The categorization of violent offenses is the same for both the NCRP and the survey of State prisoners. Beginning in 1982, a three-digit offense coding system was devised by BJS, in consultation with State departments of corrections, to provide a uniform approach. A user's guide provided to the States indicated how BJS categorized particular offenses.

NCRP datasets, available for public use through the National Archive of Criminal Justice Data, preserve the original source offense codes as well as the assigned BJS offense codes. BJS has expanded its codes over the years to take into account groups of offenses entering common use and to provide increased detail on other offenses. These revisions have been provided to the participating States.

Most analyses in this report used data on sentence length, jail credits, and time served in prison from published BJS reports. The analysis comparing States on the percent of sentence served used individual-level records supplied by the States. Differences in the methods used may introduce small differences in the estimates.

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As with admissions, substantial variation can be found among the States in the percentage of the sentence served prior to release. Even within some States, substantial variation in the percentage of sentence served can be found over the 3-year period — some States evidencing a consistent increase in the percentage of sentence served while others showing no clear direction, perhaps indicative of changes in offense composition.

Table 1. New court commitments and first releases of violent State offenders, 1992-94

Region and jurisdiction	Number of violent new court commitments to State prison 1992	1993	1994	Percent change, 1992-94[a]	Number of violent first releases from State prison 1992	1993	1994	Percent change, 1992-94[a]
All participating States	84,598	84,559	81,535	-4.9%	60,753	61,347	61,282	-6.9
Northeast	14,822	15,999	16,420	-6.5%	11,281	11,843	11,583	-12.3%
Connecticut	1,090	993	965	-11.5	707	376	343	-51.5
Maine	282	262	197	-30.1	251	241	188	-25.1
Massachusetts	–	1,267	1,268	–	–	1,617	1,684	–
New Hampshire	203	244	253	24.6	130	188	138	6.2
New Jersey	2,401	2,287	2,406	.2	2,566	2,138	2,380	-7.2
New York	8,650	8,654	7,715	-10.8	6,174	5,833	5,533	-10.4
Pennsylvania	2,112	1,999	2,250	6.5	1,384	1,359	1,247	-9.9
Rhode Island	–	232	300	–	–	–	–	–
Vermont	84	71	66	-21.4	69	91	70	1.4
Midwest	17,916	18,986	19,087	-1.3%	7,570	10,598	12,522	6.6%
Illinois	6,494	6,429	5,681	1.6	4,224	4,448	4,674	10.7
Indiana	–	974	1,008	–	–	–	–	–
Iowa	495	495	532	7.5	512	522	558	9.0
Kansas[b]	–	–	395	–	–	–	38	–
Michigan	3,481	3,306	3,241	-6.9	–	–	1,828	–
Minnesota	355	358	356	.3	181	186	177	-2.2
Missouri	1,964	2,047	2,116	7.7	1,136	1,269	1,167	2.7
Nebraska	370	309	377	1.9	335	376	337	.6
North Dakota	61	81	112	83.6	64	65	66	3.1
Ohio	4,155	4,320	3,879	-6.6	–	2,508	2,585	–
South Dakota	244	231	236	-3.3	174	180	160	-8.0
Wisconsin	1,297	1,436	1,254	-3.3	944	1,045	932	-1.3
South	34,739	31,747	30,036	-8.4%	28,774	25,148	23,047	-15.5%
Alabama[c]	2,340	2,329	2,058	-12.1	–	–	–	–
Arkansas	1,014	873	1,031	1.7	765	817	978	27.8
Delaware	380	402	351	-7.6	430	378	388	-9.8
District of Columbia	540	427	354	-34.4	390	468	344	-11.8
Florida	8,781	7,701	6,931	-21.1	7,144	6,343	6,486	-9.2
Georgia	2,695	2,748	2,621	-2.7	2,397	2,248	1,420	-40.8
Kentucky	857	843	945	10.3	658	771	780	18.5
Louisiana	1,225	1,235	1,248	1.9	1,363	1,333	1,190	-12.7
Maryland	2,220	2,218	2,233	.6	2,393	2,451	2,421	1.2
Mississippi	1,103	1,037	1,112	.8	996	807	746	-25.1
North Carolina	2,455	2,568	2,521	2.7	2,366	2,871	1,882	-20.5
Oklahoma	1,577	1,610	1,634	3.6	727	830	867	19.3
South Carolina	1,407	1,418	1,450	3.1	1,239	1,217	1,205	-2.7
Tennessee	1,204	1,068	905	-24.8	1,421	1,267	992	-30.2
Texas	4,798	5,078	4,440	-7.5	4,851	3,204	3,201	-34.0
Virginia	1,956	–	–	–	1,495	–	–	–
West Virginia	187	192	202	8.0	139	143	147	5.8
West	17,121	17,827	16,992	-.8%	13,128	13,758	14,130	7.6%
Alaska	456	417	464	1.8	222	229	228	2.7
Arizona	1,417	1,697	1,383	-2.4	926	1,012	917	-1.0
California	10,683	11,182	10,308	-3.5	8,958	9,238	9,939	11.0
Colorado	835	870	1,052	26.0	549	611	600	9.3
Hawaii	180	219	251	39.4	135	186	170	25.9
Idaho	189	174	115	-39.2	97	104	75	-22.7
Montana	239	250	256	7.1	192	188	189	-1.6
Nevada	–	–	–	–	–	–	–	–
New Mexico	497	541	666	34.0	–	–	–	–
Oregon	719	691	682	-5.1	644	708	608	-5.6
Utah	224	240	209	-6.7	171	180	172	.6
Washington	1,555	1,562	1,507	-3.1	1,171	1,246	1,219	4.1
Wyoming	127	84	99	-22.0	63	66	13	-79.4

Note. See *Methodology* for definitions of new court commitments and first releases.
—Not reported.
[a]State total and regional totals based on States reporting data
[b]Includes only admissions and releases governed solely by determinate sentences under the Sentencing Guidelines Act.
[c]Includes data on all admissions and releases.

NEW / DRAFT 7/21

Table 2. New court commitments of violent State prisoners: Sentence length, minimum time to be served, and percent of sentence to be served before release, 1992-94

Regions and jurisdictions	Mean total maximum sentence length[a]			Mean minimum time to be served before release			Percent of maximum sentence to be served before release[b]		
	1992	1993	1994	1992	1993	1994	1992	1993	1994
All participating States	123 mo	121 mo	126 mo	54 mo	57 mo	59 mo	44%	47%	48%
Northeast	110 mo	112 mo	116 mo	55 mo	61 mo	61 mo	49%	53%	53%
Connecticut	69	70	70	–	–	–	–	–	–
Maine	210	189	147	161	144	112	77	76	76
Massachusetts	–	115	110	–	85	78	–	74	71
New Hampshire	100	116	117	44	54	52	44	47	44
New Jersey	128	134	134	44	46	45	34	34	34
New York[c]	98	101	103	54	59	60	55	58	58
Pennsylvania	149	146	167	61	60	71	41	41	43
Rhode Island	–	63	56	–	–	–	–	–	–
Vermont	133	146	118	–	–	–	–	–	–
Midwest	151 mo	154 mo	149 mo	52 mo	53 mo	55 mo	36%	36%	37%
Illinois	107	115	112	48	53	51	45	46	46
Indiana	–	–	–	–	–	–	–	–	–
Iowa	141	130	134	–	–	–	–	–	–
Kansas[d]	–	–	53	–	–	42	–	–	80
Michigan	204	199	203	77	74	76	38	37	37
Minnesota	111	113	125	80	82	88	72	72	70
Missouri	116	122	127	–	–	–	–	–	–
Nebraska	136	144	141	60	60	70	44	42	50
North Dakota	76	71	62	39	40	40	52	56	65
Ohio	201	208	198	42	43	42	21	21	21
South Dakota	–	–	–	–	–	–	–	–	–
Wisconsin	117	111	116	30	26	26	26	23	22
South	138 mo	134 mo	141 mo	56 mo	67 mo	68 mo	39%	51%	61%
Alabama	170	186	153	–	–	–	–	–	–
Arkansas	189	176	182	–	–	–	–	–	–
Delaware	72	60	74	64	54	65	89	90	89
District of Columbia	174	190	180	110	138	141	63	73	78
Florida	99	103	102	–	–	–	–	–	–
Georgia	123	129	132	–	–	–	–	–	–
Kentucky	139	137	143	–	–	–	–	–	–
Louisiana	148	141	144	80	83	86	54	59	60
Maryland	110	115	119	–	–	–	–	–	–
Mississippi	129	137	144	–	–	–	–	–	–
North Carolina	168	169	173	–	–	–	–	–	–
Oklahoma	177	160	150	–	–	–	–	–	–
South Carolina	125	127	126	36	37	37	29	29	29
Tennessee	141	148	134	–	–	–	–	–	–
Texas	–	–	190	–	–	–	–	–	–
Virginia	198	–	–	39	–	–	20	–	–
West Virginia	142	146	153	45	46	49	32	32	32
West	78 mo	81 mo	83 mo	50 mo	53 mo	57 mo	69%	59%	64%
Alaska	89	90	79	69	60	52	66	67	66
Arizona	90	87	84	54	52	66	60	60	78
California	70	72	74	–	–	–	–	–	–
Colorado	116	131	127	43	49	48	37	37	38
Hawaii	114	107	122	–	–	–	–	–	–
Idaho	129	122	130	43	44	48	33	36	37
Montana	175	215	163	44	54	41	25	25	26
Nevada	–	–	–	–	–	–	–	–	–
New Mexico	65	70	73	33	35	37	51	50	51
Oregon	67	73	75	51	56	58	76	77	77
Utah	118	108	114	/	/	/	/	/	/
Washington	76	85	91	53	61	70	70	72	77
Wyoming	72	69	70	42	40	40	58	58	57

Note: See *Methodology* for definition of total maximum sentence length and minimum time to be served before release.
–Not reported.
/Not applicable. Sentencing statutes do not require any minimum time to be served before release.
[a]Excludes inmates with sentences of life or death.
[b]Based on jurisdictions that reported data on minimum time to be served and total maximum sentence length.
[c]Minimum time to be served includes inmates with sentences of life or death.
[d]Data pertain only to offenders sentenced under the Sentencing Guidelines Act for offenses committed on or after July 1, 1993.

NEW / DRAFT 7/21

Table 3. First releases of violent State prisoners: Maximum sentence, time served, and percent of sentence served, 1992-94

Region and jurisdiction	1992 Mean maximum sentence	1992 Mean time served in prison/jail	1992 Percent of sentence served	1993 Mean maximum sentence	1993 Mean time served in prison/jail	1993 Percent of sentence served	1994 Mean maximum sentence	1994 Mean time served in prison/jail	1994 Percent of sentence served
All participating States	96 mo	40 mo	42%	97 mo	43 mo	44%	94 mo	43 mo	46%
Northeast	98 mo	45 mo	45%	101 mo	52 mo	51%	102 mo	54 mo	53%
Connecticut	61	–	–	68	–	–	84	–	–
Maine	–	–	–	–	–	–	–	–	–
Massachusetts	–	–	–	117	91	78	116	90	77
New Hampshire[a]	90	34	38	93	33	35	90	37	41
New Jersey	129	45	35	123	43	35	119	44	37
New York	83	43	61	86	45	53	87	47	54
Pennsylvania	127	52	41	122	57	47	121	69	49
Rhode Island	–	–	–	–	–	–	–	–	–
Vermont	90	46	51	89	44	49	97	54	56
Midwest	88 mo	38 mo	43%	123 mo	37 mo	30%	120 mo	37 mo	31%
Illinois	84	35	41	86	35	41	79	34	43
Indiana	–	–	–	–	–	–	–	–	–
Iowa[a,b]	126	34	27	132	32	24	107	34	32
Kansas[c]	–	–	–	–	–	–	–	–	–
Michigan	–	–	–	–	–	–	–	67	–
Minnesota	62	45	73	66	46	70	71	52	73
Missouri	107	56	52	106	55	62	96	49	51
Nebraska[a]	89	39	44	85	38	45	94	42	45
North Dakota[d]	62	27	44	52	22	42	54	25	46
Ohio	–	–	–	230	37	16	239	40	17
South Dakota	–	–	–	–	–	–	–	–	–
Wisconsin	68	29	43	87	28	42	66	25	38
South	115 mo	41 mo	36%	107 mo	44 mo	42%	105 mo	46 mo	43%
Alabama	–	–	–	–	–	–	–	–	–
Arkansas	140	51	36	152	55	36	168	61	36
Delaware[d]	66	36	55	67	36	62	56	33	69
District of Columbia	160	92	58	176	108	61	172	116	67
Florida	83	25	31	71	31	43	73	35	47
Georgia	112	47	42	117	60	43	102	49	48
Kentucky	106	34	32	128	37	29	96	36	38
Louisiana[c]	96	67	70	103	67	65	108	62	67
Maryland	118	62	53	118	63	63	110	69	54
Mississippi	100	40	40	93	34	37	93	37	40
North Carolina	124	35	28	129	32	25	106	32	30
Oklahoma	100	34	34	100	33	33	107	38	36
South Carolina[c]	113	41	36	109	40	37	117	43	37
Tennessee	144	44	31	142	48	34	108	38	35
Texas[d]	139	41	29	147	61	35	145	56	39
Virginia[d]	176	61	29	–	–	–	–	–	–
West Virginia	106	39	37	109	49	45	114	61	54
West	65 mo	36 mo	65%	56 mo	37 mo	65%	51 mo	36 mo	71%
Alaska	106	70	66	107	70	65	107	70	65
Arizona	76	44	69	75	45	59	74	46	62
California	42	33	78	42	33	77	39	33	85
Colorado	78	39	50	73	39	53	67	35	52
Hawaii	132	65	42	142	55	39	125	62	42
Idaho[d]	81	67	70	104	59	57	83	56	67
Montana	130	48	37	166	65	33	124	46	37
Nevada	–	–	–	–	–	–	–	–	–
New Mexico	–	–	–	–	–	–	–	–	–
Oregon[d]	123	40	33	109	42	39	103	43	42
Utah[d]	108	60	46	113	47	42	103	46	45
Washington[a]	50	35	70	57	38	67	58	39	67
Wyoming	59	36	61	66	41	63	96	45	47

Note: Maximum sentence length excludes sentences of life or death. Time served includes time served in jail and prison before release, unless otherwise noted. See *Methodology* for definitions.
--Not reported.
[a]Includes jail time for 1992 only.
[b]1992 data were estimated from data supplied to the National Corrections Reporting Program.
[c]Data that were reported pertained only to offenders sentenced under the Sentencing Guidelines Act for offenses committed on or after July 1, 1993, and are excluded for reasons of comparability.
[d]Excludes jail time for 1992, 1993, and 1994.

NEW / DRAFT 7/21

Methodology

The National Corrections Reporting Program (NCRP) was initiated in 1983 and annually collects individual-level data on all persons admitted to and released from State and Federal prisons. In 1992, 38 States and the District of Columbia reported 431,279 admissions to the program, representing an estimated 93% of all admissions to State prisons nationwide that year. Release data for 1992 were provided by 36 States, totalling 347,854 releases or an estimated 86% of all releases from State prisons.

In order to update the estimates of both sentences and time served for violent offenses for more recent years and to provide jurisdiction-level estimates, BJS contacted each State corrections agency to secure their participation. The 38 NCRP participants who reported 1992 data were asked to verify estimates from those data and to provide similar estimates for 1993 and 1994. States not participating in the NCRP in 1992 were asked to generate estimates of average sentences and time served for 1992, 1993, and 1994.

Limitations

For violent offenders admitted to prison, the minimum times to be served before becoming eligible for release are estimates for the future and not actual times. These estimates, determined from prison records, take into account good-time provisions, early release practices, parole policies, and other factors that may affect actual time served. These estimates may turn out to be higher or lower than the actual time served when these prisoners are eventually released.

For violent offenders released from prison, the average sentences and times served reflect the experiences of persons actually released for the first time on the current sentence. These figures do not include the time served by conditional release violators who are returned to prison. These figures also do not include persons given non-numeric sentences, such as life, life without parole, or death. These figures also exclude persons who will never get out of prison (those who will die in prison).

The sentences and time served statistics based on release data reflect sentences and correctional practices in the past. Because less serious offenders typically receive shorter sentences and serve less time, they will compose a larger percentage of the release population than would be the case for admissions. For example, those convicted of homicide accounted for 4.2% of admissions in 1992 but 2.6% of those released from prisons that year.

Definitions and coverage

Jurisdictions were provided with the following definitions and instructions for coverage used in the National Corrections Reporting Program (NCRP):

Sentenced prisoners — Report data for prisoners with a total maximum sentence of more than 1 year.

New court commitments Persons entering prison directly from court and not from any unsuccessful period of community supervision.

First releases — Persons released for the first time on the current sentence. Excludes persons who had previously been released for the same offense, returned to prison and then released again.

Violent offenses Crimes involving personal injury, and threat of injury, and theft of property or attempted theft by force or threat of force. Includes murder, manslaughter, rape, other sexual assault, robbery, assault, extortion, intimidation, criminal endangerment, child abuse, and other offenses involving confrontational force or threat of force.

Total maximum sentence length — The total maximum term of incarceration including all consecutive sentences.

Minimum time to be served — The shortest time that each admitted prisoner is expected to serve prior to the first release.

Explanatory notes by jurisdiction

Jurisdictions were instructed to provide estimates when exact numbers were not available. Jurisdictions were also asked to provide a explanation where their numbers differed from those defined in the NCRP.

The following jurisdiction notes summarize these differences. Unless otherwise noted, each jurisdiction used the NCRP definition to categorize offenses as violent. Exceptions to the definition are noted.

Alabama

New court commitments and first releases: Include all admissions and releases.

Alaska

All data were estimated.

Connecticut

Minimum time to be served and time served in prison and jail: Offenders serve 50% or more of the maximum sentence if the sentence is greater than 24 months.

Colorado

All data were estimated.

Violent offenses: Exclude simple robbery.

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Florida

Violent offenses: Include murder, manslaughter, sexual battery, lewd acts on children, robbery, aggravated assault, and aggravated battery.

Minimum time to be served: Cannot be accurately calculated, due to Florida's early release process and various gain-time. Recent changes in gain-time laws and the elimination of early release will make this evaluation possible for future prison admissions.

Hawaii

All data are estimates. Excludes inmates with missing charge information.

Maximum sentence: Should be considered as estimates since between a third and a half of admissions and release records had missing or incorrect data.

Time served in prison and jail: Includes jail time only for releases who were continuously incarcerated from the date of admission as pretrial felons until their date of release from prison.

Illinois

Minimum time to be served: All data were estimated.

Indiana

Violent offenses: Includes arson (class A), customer product tampering (class B), obstructing traffic (class D), and resisting law enforcement (class C and D).

New court commitments: Number of admissions were estimated for 1993 and 1994.

Iowa

1992 data were based on a BJS analysis of State data in NCRP.

First releases: Data for 1993 and 1994 were estimated based on release samples.

Maximum sentence length: Data are for the "lead" offense only.

Kansas

All figures pertain to offenders whose admission or release was governed solely by determinate sentences (that is, sentenced only for offenses committed on or after July 1, 1993, the effective date of the Sentencing Guidelines Act). All offenders with active "old law" sentences, as well as those with both "new" and "old" law sentences, have been excluded.

Minimum time to be served: The current law provides for a maximum of 20% good time, leaving a minimum of 80% of the sentence to be served.

First releases: Relatively few violent offenders with only determinate sentences have been released since the enactment of the Sentencing Guidelines Act.

Kentucky

Violent offenses: Exclude sex offenses.

Louisiana

Violent offenses: Include aggravated arson, aggravated criminal damage to property, intentional exposure of AIDS, and mingling of harmful substances. Exclude attempts and conspiracies to commit violent offenses.

Maryland

First releases: Include only parolees, mandatory releases to supervision, expirations of sentence, and commutations. Releases do not necessarily represent first releases. Logic was used to exclude offenders whose stay time was greater than or equal to their total sentence length.

Massachusetts

All data were estimated.

Michigan

Violent offenses: Include arson.

First releases: 1994 data were based on a sample of prisoners with first release or discharge in the 4th quarter, 1994, and extrapolated to the full year.

Minnesota

All data were estimated.

Good time was eliminated for inmates sentenced for crimes committed after August 1, 1993. The sentencing court now is required to pronounce a term of imprisonment, 100 percent of which must be served by the inmate. The term of imprisonment cannot be shortened but may be increased as a result of disciplinary infractions during incarceration.

Missouri

Violent offenses: Include family offenses and weapons offenses.

New court commitments and first releases: Exclude shock cases release to probation after 120 days.

Montana

Data are for fiscal years.

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New Mexico

Data are for fiscal years.

Violent offenses: Include bringing contraband into prison, escape, dangerous use of explosives, weapons possession, and sexual exploitation.

New York

Violent offenses: All data pertain to violent felony offenders as defined by New York State Penal Law. Include first and second degree arson and weapons offenses. Exclude manslaughter (2nd), other homicide, robbery (3rd), attempted assault (2nd), and coercive sex offenses other than rape (1st), sodomy (1st) and sexual abuse (1st).

Minimum time to be served and time served in prison and jail: Include inmates with sentences of life or death.

North Carolina

Data on admissions and releases were estimated.

Violent offenses: Include felonies only — misdemeanors are excluded. Violent offenses include arson, burning of property, incest, possession of weapon by inmate, riot and civil disorder, failure to disperse, looting, violation of emergency ordinance, and repeat felon with a deadly weapon.

First releases: General statutes impose a "cap" on the prison population. If a population emergency is declared, the Parole Commission must accelerate paroles to reduce population. During 1994 the Parole Commission slowed down the release of violent offenders as additional space became available.

Minimum time to be served and time served in prison and jail: For inmates with crimes prior to October 1994, North Carolina law grants day-for-day good-time credit; therefore, inmates usually serve 50% or less of their sentence. Inmates with crimes after October minimum sentences. They may also serve an additional 20% of their minimum sentence, if they violate prison rules.

North Dakota

Minimum time to be served: All data were estimated.

Oregon

Sentencing guidelines apply to convicted offenders who committed their crimes after November 1, 1989. These offenders must serve at least 80 percent of their sentence. Prior to the adoption of guidelines, the date of release was determined by a parole board.

During the 1992-94 period most new commitments of violent offenders were guideline cases and most releases were pre-guideline cases. As the size of the guidelines portion of the first release group increases, the effect will be a rising length of time actually served and a declining maximum sentence length.

Pennsylvania

Violent offenses: Include arson of occupied structure.

Rhode Island

Violent offenses: Exclude sex offenses.

New court commitments: 1993 and 1994 data represented total commitments with sentences of more than 6 months. Information based on the March 1995 monthly report and projected for each year.

South Carolina

Violent offenses: Include exposing other to HIV and felony DUI resulting in death.

Minimum time to be served: All data were estimated.

South Dakota

Violent offenses: Include rioting, burglary in the first or second degree, and other felonies in which a dangerous weapon or any explosive or destructive device was used.

Tennessee

Data are for prisoners with a total maximum sentence of 1 year or more.

Texas

Data are for fiscal years.

New court commitments: Exclude parole or mandatory release violators.

First releases: Include all violent parole, mandatory supervision releases, and discharges including violators (not just first releases).

Utah

Minimum time to be served: No statutory minimum time to be served before release exists under Utah's indeterminate sentencing system. All release decisions are made on an individual basis by Utah's Board of Pardons and Parole.

Vermont

Violent offenses: Include arson resulting in death, elderly abuse, habitual offender, hate crime, and lewd and lascivious conduct.

First releases: All data were estimated.

Virginia

Violent offenses: Include arson resulting in death, sex offenses against children, incest with child, bigamy, threats to bomb or burn, and firing into a dwelling, building, or occupied vehicle.

Washington

Minimum time to be served, maximum sentences of first releases, and time

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West Virginia

All data were estimated.

Wyoming

First releases: All 1994 data were estimated.

1. New Court Commitments of Violent Sentenced Prisoners During the Calendar Year —

	1992 •BJS analysis of State data	1992 •Your State's statistics	1993 •Your State's statistics 1993	1994 •Your State's statistics 1994
A. Number admitted	______	______ ☐Est.	______ ☐Est.	______ ☐Est.
B. Average total maximum sentence length (in months) •Exclude sentences of life or death.	______	______ ☐Est.	______ ☐Est.	______ ☐Est.
C. Average minimum time to be served (in months)	______	______ ☐Est.	______ ☐Est.	______ ☐Est.

2. First Releases of Violent Sentenced Prisoners During the Calendar Year —

	1992 •BJS analysis of State data	1992 •Your State's statistics	1993 •Your State's statistics	1994 •Your State's statistics
A. Number released	______	______ ☐Est.	______ ☐Est.	______ ☐Est.
B. Average total maximum sentence length (in months) •Exclude sentences of life or death.	______	______ ☐Est.	______ ☐Est.	______ ☐Est.
C. Average time served in prison and jail (in months)	______	______ ☐Est.	______ ☐Est.	______ ☐Est.
Is jail time included?	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No

Notes. *(Please provide an explanation, if possible, where your State numbers differ from those defined by BJS. For example, if your State's definition of violent offenses differs, indicate here.)*

The Committee understands that the Violent Crime Control and Law Enforcement Act of 1994 instructed the Department of Justice to develop and disseminate model juvenile handgun legislation. The Committee directs the Department to report to the Committees on Appropriations of both the House and the Senate by August 15, 1995, on the status and scope of this legislation and expected completion date.

Emergency Assistance.—The Committee recommendation provides no new budget authority for the Emergency Assistance program, as requested by the Department. This program offers Federal assistance to States in response to situations of an emergency nature.

Missing Children.—The Committee recommendation provides $5,971,000 for the Missing Children program for fiscal year 1996, which is the same amount provided in the current year appropriation. This program provides funds to combat crimes against children, particularly kidnapping and sexual exploitation.

Regional Information Sharing System.—The Committee recommendation provides $14,500,000 for fiscal year 1996 for the Regional Information Sharing System (RISS), which is the same amount provided for the current year appropriation. The RISS program provides funds to maintain six regionally-based information sharing centers throughout the United States to assist States in addressing major, multi-jurisdictional crimes.

National White Collar Crime Information Center.—The Committee recommends a total of $3,850,000 for the National White Collar Crime Information Center (NWCCC) for fiscal year 1996. This program provides assistance to State and local law enforcement and regulatory agencies in addressing multi-jurisdictional white collar crimes. Of the amount provided, $2,100,000 is for the ongoing operations of the NWCCC, and $1,750,000 is for the establishment of a State and local law enforcement support capability for computer crimes.

Management and Administration.—The Committee recommendation provides $24,277,000 for the management and administration of the Office of Justice Programs. In addition, reimbursable funding will be provided from the Juvenile Justice account and the Violent Crime Reduction programs for the administration of grants under these activities.

VIOLENT CRIME REDUCTION TRUST FUND PROGRAMS, JUSTICE ASSISTANCE

The Committee recommendation includes $75,400,000 for two programs authorized under the Violent Crime Control and Law Enforcement Act of 1994. These programs are as follows:

Violence Against Women Act.—The Committee recommends $74,500,000 for grants under the Violence Against Women Act. This amount represents an increase of $48,500,000 over the current year appropriation and $100,400,000 below the budget request. Grants provided under this recommendation are for the following programs:

Law Enforcement and Prosecution Grants to Combat Violent Crimes Against Women	$32,750,000
Grants to Encourage Arrest Policies	28,000,000
Rural Domestic Violence & Child Abuse Enforcement	7,000,000
Victims of Child Abuse Programs:	
Court-Appointed Special Advocate Program	6,000,000
Training for Judicial Personnel & Practitioners	750,000
Total	74,500,000

The Committee notes that Law Enforcement and Prosecution Grants may be used to assist States, Indian Tribal governments and units of local government by providing personnel, training, technical assistance, data collection and equipment, and victim services programs for more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women. In addition, grants are provided to encourage States, Indian Tribal governments, or units of local governments to implement mandatory arrest of domestic violence offenders, improve tracking and coordination of police enforcement and prosecution of offenders and strengthen legal advocacy service programs for victims. Grants for Rural Domestic Violence and Child Abuse Enforcement Assistance target similar initiatives to rural States.

The Committee also provides funding from the Violent Crime Reduction Trust Fund for the continuation of two programs that were previously funded under Juvenile Justice for Victims of Child Abuse—the Court Appointed Special Advocates Program and Child Abuse Training Programs for Judicial Personnel and Practitioners.

Safe Return Program.—The Committee recommendation includes $900,000 to continue and expand the national program to locate missing Alzheimer's patients.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

The Committee recommends a total of $3,260,743,000 for fiscal year 1996, of which $3,210,743,000 is provided from the Violent Crime Reduction Trust Fund. This amount represents an increase of $1,180,787,000 over fiscal year 1995 appropriations for State and Local Law Enforcement Assistance programs. These funds provide assistance to State and local governments in their drug control and other law enforcement efforts as follows:

Edward Byrne Grants to States.—The Committee recommendation provides $500,000,000 for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $50,000,000 is for discretionary grants and $450,000,000 is provided under the Violent Crime Reduction Trust Fund for formula grants.

Discretionary Grants.—The Committee recommendation provides $50,000,000 for discretionary grants under Chapter A of the Edward Byrne Memorial State and Local Assistance Program to be administered by the Bureau of Justice Assistance (BJA) to public or private agencies and nonprofit organizations, for educational and training programs, technical assistance, improvement of State criminal justice systems, and demonstration projects of a multi-jurisdictional nature. Within the amount provided for these discretionary grants, the Committee expects BJA to provide:

- $13,500,000 for the Weed and Seed program;
- $4,000,000 for State and local law enforcement activities related to the 1996 Olympic Games;

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NUMBER OF PAGES (EXCLUDING THIS COVER SHEET): 4

ADDITIONAL INFO: (1) Changes in latest prison grants draft.
(2) Chart concerning state allocations under latest draft.

NOTE: IF YOU DO NOT RECEIVE THE SPECIFIED NUMBER OF PAGES, PLEASE CALL THE TRANSMITTER AT THE NUMBER LISTED ABOVE.

The new prison grants draft, provided by Mark Murray, makes the following changes from the earlier conference draft: (1) The eligibility conditions of the earlier draft relating to persons convicted of "serious violent felonies" have been revised to impose the same conditions in relation to persons convicted of "Part I violent crimes" instead. (2) A victims rights funding eligibility condition has been restored. (3) The requirement that grantees have the ability to provide before-and-after statistics has been deleted. (4) The fallback provision for direct application by localities for funds has been deleted.

PRISON GRANTS ALLOCATION

The attached chart represents work-in-progress in estimating the allocation of funds among the states under the latest draft prison grants proposal. Additional work will supplement this chart in two respects:

First, the chart does not reflect additional SCAAP (criminal alien incarceration) funding for states under § 20110 of the proposal. Section 20110 provides that states which satisfy the eligibility criteria for truth in sentencing grants will have their shortfalls in direct SCAAP funding made up by diverting prison grants funds. This will make an additional $200 million available for SCAAP in 1996. Estimates are being developed of how this funding will be disbursed among the states.

Second, it is difficult to determine which determinate sentencing states will qualify for general grants under the proposal, because it is unclear how one determines whether a state (since 1993) has "increased the average prison time actually to be served in prison" and "increased the average percentage of time of sentence [sic] to be actually served in prison" by persons convicted of part 1 violent crimes. Information is available, however, on which states have increased mean minimum prison time to be served and percentage of the maximum sentence to be served since 1993. This data provides the best available basis for projecting compliance with the general grants criteria, and estimates will be developed in reliance on it.

Comparison of potential State awards under current Crime Act prison grants, S.3, and Nov. 28 Conference Bill at $500 million—DRAFT AND PRELIMINARY
(Grant amounts in thousands of dollars)

				Percent difference		
				Compared to current law		Conference bill vs. S.3
State	Current law grants:	S.3 grants	Conference Bill grants	S.3 grants	Conference bill	
Total for formula grants	$495,000	$495,000	$193,710	0%	-61%	-61%
Total awarded	495,000	$367,060	$193,710	-26%	-61%	-47%
Alabama*	$5,671	$0	***	**	**	**
Alaska	$1,495	$1,892	***	27%	**	**
Arizona	$8,617	$7,617	$6,186	-12%	-28%	-19%
Arkansas	$2,964	$2,789	***	-6%	**	**
California	$94,034	$74,780	$31,511	-20%	-66%	-58%
Colorado*	$3,822	$0	***	**	**	**
Connecticut	$3,038	$2,819	$5,102	-7%	68%	81%
Delaware	$1,532	$1,914	***	25%	**	**
Dist. of Columbia	$3,326	$2,962	***	-11%	**	**
Florida	$48,535	$37,432	$17,428	-20%	-63%	-53%
Georgia	$14,680	$5,950	***	-59%	**	**
Hawaii	$1,273	$1,758	***	38%	**	**
Idaho	$1,279	$1,761	***	38%	**	**
Illinois	$31,927	$25,946	$13,097	-19%	-59%	-50%
Indiana	$8,561	$7,573	$6,170	-12%	-28%	-19%
Iowa*	$2,179	$0	***	**	**	**
Kansas	$4,300	$4,223	$4,906	-2%	14%	16%
Kentucky	$3,422	$0	***	**	**	**
Louisiana	$13,455	$11,421	$7,621	-15%	-43%	-33%
Maine	$1,050	$1,624	***	55%	**	**
Maryland	$8,175	$5,907	***	-28%	**	**
Massachusetts	$8,004	$5,805	***	-27%	**	**
Michigan	$11,958	$8,182	$10,038	-32%	-16%	23%
Minnesota	$3,013	$2,804	$5,088	-7%	69%	81%
Mississippi	$3,996	$3,984	$4,816	-0%	21%	21%
Missouri	$11,616	$9,975	$3,874	-14%	-67%	-61%
Montana	$1,040	$1,618	***	56%	**	**
Nebraska	$2,329	$0	***	**	**	**
Nevada	$4,188	$1,564	$4,873	-63%	16%	212%
New Hampshire	$1,248	$0	***	**	**	**
New Jersey	$8,152	$5,884	$7,932	-28%	-3%	35%
New Mexico	$3,050	$2,826	***	-7%	**	**
New York	$54,953	$44,051	$19,924	-20%	-64%	-55%
North Carolina	$13,892	$11,765	$7,750	-15%	-44%	-34%
North Dakota	$963	$1,599	$3,917	66%	307%	145%
Ohio	$16,313	$13,668	$8,468	-16%	-48%	-38%
Oklahoma	$3,864	$0	***	**	**	**
Oregon	$5,046	$2,847	***	-44%	**	**
Pennsylvania	$14,756	$5,975	$8,006	-60%	-46%	34%
Rhode Island	$1,415	$0	$4,204	**	197%	**
South Carolina	$11,150	$9,608	$6,937	-14%	-38%	-28%
South Dakota	$1,040	$0	***	**	**	**
Tennessee	$6,617	$4,971	***	-25%	**	**
Texas	$21,224	$13,752	***	-35%	**	**
Utah	$1,650	$1,985	***	20%	**	**
Vermont*	$1,001	$1,544	***	54%	**	**
Virginia	$7,514	$6,749	$5,859	-10%	-22%	-13%
Washington	$8,312	$7,377	***	-11%	**	**
West Virginia	$1,382	$0	***	**	**	**
Wisconsin	$2,797	$0	***	**	**	**
Wyoming	$1,191	$173	***	**	**	**

*Data unavailable to determine eligibility for conference bill formula truth-in-sentencing grant awards.
** No grant is made under S.3, hence percent difference is meaningless; or it is unknown if the State is eligible for a general grant under the conference bill.
***Information unavailable to determine eligibility for conference bill general grant awards.

See next page for assumptions and notes.

Assumptions:
Current law assumes all formula grant funds awarded because of "reverter clause." One percent for administrative costs taken off top, but none for TA or DF.

Under S-3, one percent taken off top for administrative costs.

Under Conference Bill:
1. Total appropriation assumed to be $500 million.
2. Supplement to the Immigration and Nationality Act assumed to be $200 million based on House and Senate level of funding at $300 million.
3. Assumes that the Attorney General uses no program funds for housing Federal prisoners in non-Federal institutions.
5. Assumes that administrative cost set at one percent to be comparable with other formulas. Assumes grants to Indian tribes used at full authority.

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Comparison of potential State awards under current Crime Act prison grants, S.3, and Nov. 28 Conference Bill at $500 million PRELIMINARY
(Grant amounts in thousands of dollars)

State	Current law grants	S.3 grants	Truth in sentencing grants under the conference bill *	Percent difference** Compared to current law: S.3 grants	Percent difference** Compared to current law: Conference bill + TIS/INA	Percent difference** Conference bill + TIS/INA vs. S.3	Percent difference excluding TIS/INA grants: Conference bill vs. current law	Percent difference excluding TIS/INA grants: Conference bill vs. S.3
Total for formula grants	$495,000	$495,000	$293,500	0%	-0%	-0%	-41%	-41%
Total awarded	495,000	$367,060	$190,513	-26%	-21%	6%	-62%	-48%
Alabama	$5,671	$0	NA	--	--	--	--	--
Alaska [1,3]	$1,495	$1,892	$0	27%	-100%	-100%	-100%	-100%
Arizona	$8,617	$7,617	$7,629	-12%	70%	92%	-11%	0%
Arkansas	$2,954	$2,769	—	-6%	--	--	--	--
California	$94,034	$74,780	$0	-20%	15%	44%	-100%	-100%
Colorado [3]	$3,822	$0	$0	-100%	-100%	0%	-100%	0%
Connecticut	$3,038	$2,819	$5,991	-7%	97%	113%	97%	113%
Delaware [3]	$1,532	$1,914	$0	25%	-100%	-100%	-100%	-100%
Dist. of Columbia	$3,326	$2,962	—	-11%	--	--	--	--
Florida	$46,535	$37,432	$25,876	-20%	-19%	1%	-44%	-31%
Georgia	$14,680	$5,950	$0	-59%	--	--	--	--
Hawaii [3]	$1,273	$1,768	$0	38%	-100%	-100%	-100%	-100%
Idaho [3]	$1,279	$1,761	$0	38%	-100%	-100%	-100%	-100%
Illinois	$31,927	$25,946	$0	-19%	-78%	-73%	-100%	-100%
Indiana	$8,661	$7,573	$7,829	-12%	-9%	3%	-9%	3%
Iowa	$2,179	$0	NA	-100%	--	--	--	--
Kansas	$4,300	$4,223	$5,611	-2%	30%	33%	30%	33%
Kentucky [3]	$3,422	$0	$0	-100%	-100%	0%	-100%	0%
Louisiana	$13,455	$11,421	$9,776	-15%	-27%	-14%	-27%	-14%
Maine [1,3]	$1,050	$1,624	$0	55%	-100%	-100%	-100%	-100%
Maryland [3]	$8,175	$5,907	$0	-28%	-100%	-100%	-100%	-100%
Massachusetts [3]	$8,004	$5,805	$0	-27%	-100%	-100%	-100%	-100%
Michigan	$11,958	$8,182	$13,839	-32%	32%	94%	16%	69%
Minnesota	$3,013	$2,804	$6,000	-7%	99%	114%	99%	114%
Mississippi	$3,996	$3,984	$5,509	-0%	38%	38%	38%	38%
Missouri	$11,616	$9,975	$3,915	-14%	-66%	-61%	-66%	-61%
Montana [3]	$1,040	$1,618	$0	56%	-100%	-100%	-100%	-100%
Nebraska	$2,329	$0	***	-100%	--	--	--	--
Nevada	$4,188	$1,564	$5,536	-63%	32%	254%	32%	254%
New Hampshire	$1,248	$0	—	-100%	--	--	--	--
New Jersey	$8,152	$5,894	$10,518	-28%	63%	126%	29%	78%
New Mexico	$3,050	$2,826	—	-7%	--	--	--	--
New York	$54,953	$44,051	$29,760	-20%	-19%	2%	-46%	-32%
North Carolina	$13,892	$11,765	$10,222	-15%	-26%	-13%	-26%	-13%
North Dakota	$963	$1,599	$3,986	66%	314%	149%	314%	149%
Ohio	$16,313	$13,668	$11,468	-16%	-30%	-16%	-30%	-16%
Oklahoma	$3,864	$0	—	-100%	--	--	--	--
Oregon [3]	$5,046	$2,847	$0	-44%	-100%	-100%	-100%	-100%
Pennsylvania	$14,756	$5,975	$10,803	-60%	-27%	81%	-27%	81%
Rhode Island	$1,415	$0	$4,443	--	214%	100%	214%	100%
South Carolina	$11,150	$9,608	$0	-14%	-100%	-100%	-100%	-100%
South Dakota	$1,040	$0	—	--	--	--	--	--
Tennessee	$6,617	$4,971	—	-25%	--	--	--	--
Texas	$21,224	$13,752	***	-35%	--	--	--	--
Utah	$1,650	$1,985	$4,666	20%	183%	135%	183%	135%
Vermont	$1,001	$1,544	NA	54%	--	--	--	--
Virginia	$7,514	$5,749	$7,134	-10%	-5%	6%	-5%	6%
Washington	$8,312	$7,377	$0	-11%	--	--	--	--
West Virginia	$1,382	$0	—	-100%	--	--	--	--
Wisconsin [3]	$2,797	$0	$0	-100%	-100%	0%	-100%	0%
Wyoming	$1,191	$173	***	-85%	--	--	--	--

NA: Data are not available to determine eligibility for conference bill truth in sentencing grant awards for Alabama, Iowa, and Vermont.

* Dollar amounts listed indicate the estimated award for truth in sentencing grants. Zeroes indicate that the state failed to meet the necessary requirements as stated in the conference bill for both general grant awards and truth in sentencing grant awards.

** Totals include projected 1996 award funds based on estimated 1995 distributions for Truth in Sentencing and the Immigration and Nationality Act (TIS/INA) diverted from prison grants under Section 20110 (b) and does not reflect direct SCAAP appropriations.

— State is ineligible for truth-in-sentencing grant awards under the provisions of the conference bill.
Sufficient data are not available to determine eligibility for conference bill general grant awards at this time.

States underlined and bold are ineligible for truth-in-sentencing grant awards because the state's offense codes affected by truth in sentencing legislation are more restrictive than the part one violent crime requirements. See notes for further explanation.

-- No grant is made under S.3, hence percent difference is meaningless; or it is unknown if the State is eligible for a general grant under the conference bill.

TIS dollar amounts were derived from the model in file "tis-23e."
See next page for assumptions and notes.

ASSUMPTIONS

Under all scenarios, total appropriation is $500,000,000.

CURRENT LAW (Column 1): Current law assumes all formula grant funds are awarded because of "reverter clause." One percent for administrative costs has been taken off the top, but none for technical assistance or discretionary funding.

S.3 GRANTS (Column 2): Under S.3, 1% is taken off the top for administrative costs.

TRUTH IN SENTENCING GRANTS UNDER THE CONFERENCE BILL (Column 3):

1. The Attorney General uses no program funds for housing Federal prisoners in non-Federal institutions.

2. From the intial $500 million appropriated for truth in sentencing and general grants, Section 20109 (a) (1) allocates 0.3% ($1.5 million) for payments for the incarceration of offenders under Indian tribe jurisdiction. Administrative costs are set at one percent ($5 million) to be comparable with other formulas.

Direct SCAAP appropriations comprise $300,000,000. The conference bill requires that the difference between the initial appropriation for SCAAP grants ($500 million) and direct SCAAP appropriations ($300 million) be diverted to awards under truth in sentencing and the Immigration and Nationality Act.

TRUTH IN SENTENCING/IMMIGRATION AND NATIONALITY ACT AWARDS (Column 4):

These states fulfill truth in sentencing provisions and are therefore eligible to receive additional funds under the Immigration and Nationality Act.

FOOTNOTES FROM THE TABLE

[1] These states are expected to be ineligible for both types of prison grants under the conference bill - general grants and truth in sentencing grants. The states are not eligible for general grants because they fail to meet the parameters established by Section 20103 (a) (2), which requires that states "increase[d] the average prison time actually to be served in prison" since 1993 for part 1 violent crimes. According to the 1995 Bureau of Justice Statistics report, "Violent Offenders in State Prison: Sentences and Time Served," (p.4) the average minimum time for violent offenders to serve before release has not increased since 1993 for the indicated states.

[2] These states are expected to be ineligible for both types of prison grants under the conference bill - general grants and truth in sentencing grants. The states are not eligible for general grants because they fail to meet the parameters established by Section 20103 (a) (3), which requires that states "increase[d] the average percentage of time of the sentence to be actually served in prison" since 1993 for part 1 violent crimes. The above BJS report indicates that the percent of the average maximum sentence to be served for violent offenses has not increased since 1993 for these states.

[3] These states are expected to be ineligible for both types of prison grants under the conference bill - general grants and truth in sentencing grants. The states are not eligible for general grants because they fail to meet the parameters established by Section 20103 (b) (2) (B), which requires that states "increase[d] the average time served in the state for the offenses of murder, rape, and robbery" since 1993. The above BJS report indicates that the average time served for violent offenses has not increased above 1993 levels for the indicated states.

States underlined and in bold were listed as ineligible for truth in sentencing grants because the state statutes do not encompass the relevant FBI part one violent crimes specified in the conference report Sec 20101(murder, nonnegligent manslaughter, forcible rape, robbery, and aggravated assault). Analysis of each state's statute follows:

California. Assembly Bill 2716 (signed 9/21/94) states that CA's 85% requirement applies only to those "violent felonies" defined in PC 667.5. The CA code's definition of robbery is much more restrictive than the definition used by the FBI. The FBI's definition reads, "The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear." 1994 UCR, p. 383. California only employs the 85% minimum in those robberies committed in a home where the defendant used a deadly weapon.

Georgia. Georgia's Sentencing Reform Act of 1994 (The "Seven Deadly Sins Act") lists 7 offenses to which they apply an 85% requirement. Georgia fails to meet the part one violent crime offense requirements for three reasons, 1) aggravated assault is not included, and 2) the only offense relating to robbery is armed robbery, and 3) attempts to commit the 7 offenses are treated separately.

Illinois. Senate Bill 1187 (signed August 20, 1995, effective immediately) also contains a very restrictive definition of robbery. The 85% requirement in Illinois applies only to armed robbery leading to great bodily harm. See FBI definition of robbery in California's note above.

South Carolina. Act 83 which passed in 1995 exempts the offenses of common law robbery and attempted robbery from the 85% requirement. Included are robbery with a deadly weapon, robbery of operators of vehicles for hire, attempted armed robbery, and train robbery.

Washington. RCW 9.94A.150 (Revised Code of Washington) does not include robbery in its list of serious violent offenses which are subject to 85% minimum.

State Prison Corruption:

Federal Money to Improve Prisons

The President is trying to improve the quality of state prisons and provide additional funding to fight crime. The 1994 Crime Bill authorizes for $7.9 billion dollars to be given to states to improve, expand and maintain correctional facilities. The Attorney General shall provide grants to eligible State to" build, expand, and operate space in correctional facilities in order to increase the prison bed capacity for convicted felons." The grants also provide money " to build, expand and operate temporary or permanent correctional facilities."

Drug and Gang Problems in State Prisons

Instead of using the money to ameliorate our crime rate, state prisons might be a conduit to further crime. Guards become involved with gangs and violate other laws. Illegal substances circulate through prisons, in some state prisons such as Parchman, Mississippi drug abuse is rampant. Corrections officers are often times let off the hook after blatantly violating the law and abusing their roles. And finally, many state prison administrators admit that inmates control their prisons. All of these indicate that prison systems not teaching criminals how to behave better, they are teaching inmates how to perpetuate crime.

Drug Problems

"People have the perception of a prison as a tightly sealed place. It's not even close." ---The New York Times, October 30, 1995

"Drugs are seeping, and in some cases flowing, into the nation's prisons as the war on drugs has packed them with drug dealers and drug users." ---The New York Times, July 2, 1995.

Many states such as New York , California, and Texas, which together have about one quarter of the entire prison population, do not do broad, random testing of inmates. Most of the states, test just 5 percent of their prisoners a month. "But the trafficking and use of drugs behind bars is particularly striking because it is the same criminal activity that is overcrowding the prisons. The number of inmates nationwide has more than tripled since 1980, pushing the nation's annual corrections budget to more than 39 billion. And 800,000 of the nation's 1 million inmates have a history of drug use." (New York Times, July 2, 1995.)

Case Studies:

Mr. Lewis, who runs the Federal inmates testing program, said that "there little doubt in my mind that if we started a drug testing program today, we could expect a hit rate over 30 percent." ---The New York Times, July 2, 1995.

"there is also a thriving underground economy in most prisons that enables inmates with cash

or clout to get their hands on justa bout anything that's available in the "free world." The prison economy in Illinois and nationwide is dominant ed by powerful and ruthless inmates often connected to street gangs or organized crime." ---Chicago Tribune, November 14, 1995.

Mississippi:

"The bottom line is the inmates are running the penitentiaries," --State Auditor Steven Patterson. Referring to the corrupt and notorious Parchman Prison in Mississippi Patterson said: "It's the corporate headquarters of crime in Mississippi. Much of the drug activity and much of the gang activity in the sate is being conducted and led from Parchman under the auspices of the state of Mississippi."---Los Angeles Times, February 4, 1995

According to Patterson, who completed a detailed audit of Parchman in Mississippi, "illicit drug trafficking, and the presence of pervasive gang activities at all facilities are undermining state's efforts to control the prison populations and street crime in the local communities and neighborhoods throughout Mississippi." (The Commercial Appeal, February 3, 1995) Among the problems that Patterson found were that inspection of incoming and outgoing visitors was insufficient, inmates and personnel admit that gangs had a large influence in prison facilities, and job applicants did not have thorough investigations or background checks. (The Commercial Appeal, February 3, 1995)

At Parchman, inmates have access to prison pharmaceutical supplies and personnel records, which allows them to control and blackmail prison employees. After lengthy interviews of 76 guards, administrators and inmates, Patterson found that every inmate and prison employee admitted about the pervasive drug abuse, drug trafficking, and gang activity in state prison systems. Last year, six officers pleaded guilty to assaulting inmates.

New York

In 1994, the inspector general of the Department of Correctional Services conducted 248 narcotic s investigation in prisons statewide, leading to the arrest of 8 employees, 23 visitors and 20 inmates. (New York Times, July 2, 1995). In 1994, the inspector general of the Department of Correctional Services conducted 248 narcotic s investigation in prisons statewide, leading to the arrest of 8 employees, 23 visitors and 20 inmates.-(New York Times, July 2, 1995.)

At Great Meadow State prison in upstate New York, there are a series of drug problems. Between 1992 to 1994 there were six deaths due to drug overdose there. Mr. Duff, who conducts investigations at Great Meadow, said there is a near-constant drug activity there. "It gets there all the time....It gets in there every day. I do 200 cases at the prison a year; probably 50 or 60 are drug cases."----New York Times, July 2, 1995.

Gang Problems:

It is hard to estimate the extent of gangs in prisons. Some estimates say 3 to 6 percent, others say it's closer to 30 percent. According to Knox, a gang expert, inmate power begins to get stronger when gang membership exceeds 30 percent. In illinois, of 40,000 inmates, 80 percent belong to gangs.In such a case, an inmate either must join the gang or pay the gang protection money. (The Times-Picayune, April 7, 1996)

"The problem is that they just continue their criminal enterprise once they're inside." --- The New York Times, July 2, 1995.

California:

In California, the Mexican Mafia, known as La EME in Los Angeles, control a series of street gangs in Los Angles. The two main gang leaders are now both imprisoned at the state maximum-security facility at Pelican Bay. Even though these men are imprisoned, they are still helping to plot actions of street gangs in Los Angeles. The Mexican Mafia was actually formed in the late 1950s when a series of inmates of East side barrios joined behind bars to form a "gang of gangs. Currently the Mexican Mafia has about 400 to 600 members in the penal system. "For years, the gang has controlled narcotics distribution, gambling and prostitution in many state prisons."(1995 los angeles times)

Illinois

"A lot of young gang members that don't have records get a bonus from the gang once they get hired as guards," said one former guard. "It can be anywhere up to $5,000 cash. That's how they get a lot of control, because gang members are corrections officers. When they get hired, they turn their heads." ---Chicago Sunday Times, July 14, 1996

In the case of the state prison of Illinois, half the prison inmates are members of gangs. In some state prison systems, almost 80% of prison inmates are gang members.(Chicago Sunday Times, July 14, 1996) Gangs often have control in a roundabout way, and if officers do not comply with gangs they may lose control of food deliveries, social visits and phone calls. Guards are also intimidated into working with gangs. Guards feel threatened since they may live in the same neighborhoods or have the same social network as gang members. In other words, gangs have a considerable amount of influence over guards, since many guards are strapped for funds and may resort to becoming a gang member just to earn more. "If you are in debt and having financial problems, the money inducement gangs offer can look good," said another guard. "If you go for the inducement, you are locked into the gang."(Chicago Sunday Times, July 14, 1996)

Furthermore, gangs in Illinois may have very elaborate organization. For instance, the Gangster Disciples from Chicago run like a fortune 500 company, and they extend the influence of their organization behind prison walls. They have a lengthy constitution, a numerical code, a pledge of allegiance and an emblem. The majority of their revenues come from the sale of cocaine, exceeding more than $100 million. According to one female guard, "The gangs are given too much leeway. As soon as they come int they are identified with certain affiliations. The reasoning is, if we put them together they won't fight each other. But when they do come together, they come in a mass movement." (Chicago Sunday Times, July 14, 1996) Furthermore, gang members may constitute such a large proportion of prisons that they make it difficult to fully eradicate prisons of gang corruption. Last month, a guard named Rodriguez, hanged himself after charges that he tried to smuggle up to 500 grams of marijuana. He was paid $1,500 by gang members to deliver the contraband. (Chicago Sunday Times, July 14, 1996) Another problem is that there is no rigid background check to find out if corrections officers are affiliated with gangs, even during their six week training program.

AFCSME, which represents correctional officers, estimates that nearly 1 percent of 8,000 officers is discharged annually for reasons that could not be disclosed. Obviously many more guards commit infractions which are not accounted for or punished. In the past two years, 25 prison guards have been accused of trafficking in drugs, alcohol or weapons. Of those 25, only 4 lost their jobs and 21 were suspended. (Chicago Sunday Times, July 14, 1996)

Administration Problems

"the prisoners run the prison, let's face it And if they don't run it, then they definetly have too much control over it." ---Philadelphia Inquirer, September 29, 1995

As Dave Wilson, a senior correctional officer says, "who really cares if an inmates gets his hands on some drugs and uses it? Who really cares? That would be a correctional officer's point of view."---The New York Times, July 2, 1995

New Jersey

Last fall, state inspectors found at the Hudson County Correctional Center "a jail seemingly without rules, where a steady traffic of drugs and weapons was overlooked or even aided by corrections officers."---The New York Times, January 21, 1996. Part of the problem is that new corrections officers have no written procedures for basic security measures, counting inmates, or searching visitors and employees for illegal substances. Most of the time new corrections officers are trained by former officers, most of whom had not received any formal training. One of the main problems is that there is overcrowding in correctional facilities. "You have significant crowding, it becomes more difficult to manage....stress becomes higher." The State recently have major breakdown in security, sending 160 officers in riot gear into the jail to lock inmates in the cells and spend the next 72 hours searching for weapons and drugs. A corrections Commissioner said that "There is contraband in every jail and prison, but this was excessive---drugs, weapons, booze."

Texas:

Andy Collins, who head the agency that runs Texas' prisons blames the state problems on the inability to control tougher inmates: "We are seeing a larger group of tougher, more violent inmates who are predatory---and who we are going to have to keep isolated from themselves and others....They see themselves as invincible. They face long sentences for violent crimes. They have nothing to lose." (Houston Chronicle, January 24, 1996) .In other words, in past years violent criminals accoutered for only 3 percent of the total prison population. Whereas now, dangerous inmates account for 10 percent of the total amount of violent criminals.

In 1985, rampaging prison gangs were responsible for the death of 26 convicts, a record. At Terrell Unit, convicts tend to cluster in groups, either by race, street gang or hometown. About 80 percent of the Terrell Unit's guards had less thana year's experience, a business where 21.5 users is considered the minimum for working expertise. Even now, as much as a third of Texas' prison guards have less than a year's experience. Prison violence charts show that the number of homicides in Texas prisons has increased slightly over the past five years, as the prison population more than doubled. Furthermore, the use of force by prison guards to stop inmate crime also increased. (The Austin-American Statesman, October 5, 1996).

Corruption

"Prison is just a deranged microcosm of the outside world. You can get anything there." --- Chicago Tribune, November 14, 1995.

Officials have found inmates with smuggled laptop computers, cellular phones and pagers, all linked to the larger criminal network on the street. In some cases, that network is so extensive that inmates have been bale to intimidate guards simply by threatening to harm the guards' families.

Pennsylvania's Graterford:

Pennsylvania's Graterford prison shows the dismal state of corruption in the State prison systems. Due to the widespread mismanagement, drug trade and corruption state correction officials decided to conduct a nightmare surprise assault on Graterford. In 72 hours, 650 state troopers and corrections officers from other prisons searched all 3,500 inmates and the 1,700 acre grounds looking for drugs and weapons. Immediately afterwards, nine ranking officers at the prison quit or were transferred, and 21 inmates suspected for drug trafficking were moved to other prisons. (New York Times, October 30, 1995)

Graterford, Pennsylvania's biggest maximum security prison, had an unprecedented search, one of the largest raids of its kind in history. This search was very costly for the state, the three-day search cost came to $738,000, enough most to pay for 300 student scholarships. The raid was a systematic search of cells where they found more than 200 handmade weapons and 60 caches of cocaine, marijuana and other drugs. Two high-placed officers quit immediately after the raid. Four inmates also testified before the Pennsylvania Senate Judiciary Committee and named guards who routinely dealt in drugs, extortion and money laundering. Several disciplinary actions by the state have been taken to fire four officers. (The Morning Call, February 2, 1996)

There is a serious drug problem at Graterford. Mainly, 20% of the inmates who are administered drug tests show signs of illicit drug use. Furthermore, at least 13 Graterford guards have been arrested on drug charges since 1989, mostly for smuggling drugs. At least 11 inmates have died of overdoses in the past six years. One inmate claims that "there are probably more drugs floating around here than on the street." The conduit for the majority of the drugs must be from corrections officers. (Philadelphia Inquirer, September 29, 1995) Even with a new top warden, Commissioner Horn, his zero tolerance policy and drug crackdown have not eliminated the drug problem. According to inmates, drugs are still easy to find, but now the prices are slightly higher. However, some inmates still have the audacity to trade drugs or smoke marijuana in full view of officers. Still about 20% of inmates show drug use in random urine sampling. Essentially, "the prisoners run the prison, let's face it And if they don't run it, then they definetly have too much control over it." (Philadelphia Inquirer, September 29, 1995) The FBI launched an investigation into rampant drug trafficking inside Graterford State Prison, looking specifically at the inmate gangs and corrupt guards. One theory why Graterford has so many problems with its corrections staff is that they are too close to those that they are guarding, since most of the guards grew up in the same areas as the inmates in Philadelphia.

Inmates testified at a Pennsylvania State Senate hearing that many prisoners pay officers to alter their records and avoid punishment. Simon paid up to $1,500 in bribes to Graterford Guards during 1993 to cover up his disciplinary infractions and so he would not be punished for four separate conduct violations.(The New York Times, October 30, 1995) This brings up the most critical question: who runs the state prison system? Many corrections officers believe that controlling prisons has become very difficult because of increasing inmate populations, hard-core prisoners and tighter budgets.

Solutions to End Corruption

One new solution, in many states, is to keep gangs fragmented by moving the leaders from prison to prison. Illinois, much like California, is spending $60 million on "Supermax" prison designed to break gang leaders' power by isolating them in the souther tip of the state, far from Chicago. the supermax will hold just 500 of Illinois' 40,000 inmates. To be effective, it would hold 10,000. (The Times-Picayune, April 7, 1996)

Regardless of the difficulty with mitigating corruption, it must be addressed. Current state prisons put inmates into an abysmal environment fraught with corruption and violence, just as bad if not worse than what they experienced on the street. Toleration of corruption and crime in state prison systems teaches gang members that there is no real punishment for crime. Furthermore, prisons allow gang members to expand their network and perpetuate crime. Substance abuse by inmates also must be addressed, and a tighter control system to prevent the transfer of drugs must be initiated. Loose administration, insufficient background checks of those who have the role to discipline inmates and failing to punish corrections officers for inappropriate behavior are all great problems. State prison administrators must work harder to end pervasive corruption.

John Cohen
Baltimore Sun →
911 tomorrow
not today.

Bob Cummins called –
will call back –

Patricia Schubert
out of town –

Department of Justice

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BJS
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ALMOST 1.6 MILLION MEN AND WOMEN IN THE NATION'S PRISONS AND JAILS

WASHINGTON, D.C. -- There were almost 1.6 million men and women in the nation's jails and prisons last year, an increase of 66,843 in state prisons and 5,216 in federal prisons from 1994, the Department of Justice announced today.

The increase of 6.8 percent in the combined prison population was slightly lower than the average annual growth (8.4 percent) recorded since 1985. During the 12 months preceding June 30, 1995, the jail population grew 4.2 percent--less than the 7 percent average annual increase from 1985 through 1995.

Since 1985, the total number of inmates in state and federal prisons and local jails has increased by 113 percent.

State and federal prisons, which primarily house convicted felons serving sentences of more than a year, held about two-thirds of the incarcerated population (1,078,357 inmates) at the end of 1995. The other third was confined in locally operated jails, which normally hold people awaiting trial or

(MORE)

serving sentences of a year or less.

On June 30, 1995, the most recent date for which jail data are available, 507,044 people were in local jails and another 34,869 were under jail supervision in such programs as electronic monitoring, house detention, community service or alternative work programs.

These data are from an annual bulletin published by the Bureau of Justice Statistics (BJS), a Department agency. Bulletin highlights included:

Bed Space Needs

The increasing inmate population has required federal, state and local corrections officials to find bed space for 841,200 additional people since 1985, or more than 1,618 new beds every week. In 1995 state prison systems reported operating between 14 percent and 25 percent above capacity. The Federal Bureau of Prisons reported operating 26 percent over capacity.

Local jails reported operating at 7 percent below their rated capacity. As a consequence of adding bed space for more than 41,000 additional inmates in the year ending June 30, 1995, which was an 8 percent increase, local jails recorded the lowest occupancy rates in 10 years.

Per Capita Growth

Since 1985 the nation's prison and jail population has nearly doubled on a per capita basis. At the end of 1995, there were 600 inmates per 100,000 United States residents--up from 313 inmates per 100,000 in 1985. On December 31, 1995, one in every 167 U.S. residents was incarcerated.

State Rankings

In 1995, a third of the nation's state prisoners were in California (135,646), Texas (127,766) and New York (68,484). Seventeen states, each with fewer than 5,000 prisoners, together held 4 percent of all state prison inmates. In 1995, Texas also led the nation with 653 prisoners with sentences of more than a year per 100,000 state residents, followed by Louisiana (568 per 100,000), Oklahoma (552) and South Carolina (515). The states with the lowest prison incarceration rates were North Dakota (85 per 100,000 state residents), Minnesota (105), and Maine (111).

Women and Juveniles

Women accounted for 6.1 percent all state and federal inmates and 10.2 percent of those in local jails. There were 63,998 women held in state or federal prisons at the end of 1995, and 52,452 in local jails at midyear.

An estimated 7,888 youths under 18 years old were being held in local jails last year--a 17 percent increase over the year before. More than three-quarters of these juveniles had been tried or were awaiting trial as adults.

Single copies of the BJS bulletin, "Prison and Jail Inmates, 1995," (NCJ-161132) by BJS statisticians Darrell K. Gilliard and Allen J. Beck may be obtained from the BJS fax-on-demand system by dialing 301/251-5550 or calling the BJS Clearinghouse number 1-800/732-3277. Fax orders to 410/792-4358. BJS's home page address on the Internet is:

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Prison and Jail Inmates, 1995

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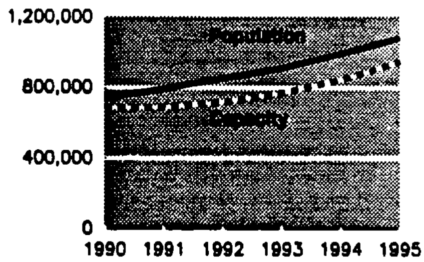
An estimated 1,585,400 persons were incarcerated in the United States in 1995. Correctional authorities held in the Nation's prisons and jails 600 persons per 100,000 U.S. residents. Prisoners in the custody of the 50 States, the District of Columbia, and the Federal Government accounted for two-thirds of the incarcerated population (1,078,357 inmates). The other third was held in local jails (507,044 inmates).

On December 31, 1995, 1,127,132 prisoners were under Federal or State jurisdiction, a measure that, unlike custody, includes persons under the legal authority of a prison system held elsewhere or outside its facilities. The total increased 6.8% from yearend 1994. The States and the District of Columbia added 66,843 prisoners; the Federal system, 5,216.

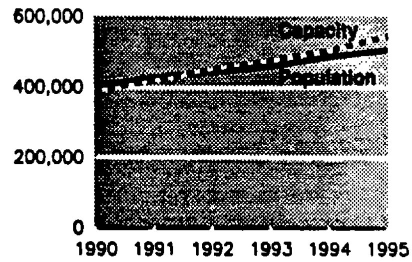
On June 30, 1995, local jail authorities held or supervised an estimated 541,913 offenders. Six percent of these offenders (34,869) were supervised outside of a jail facility in an alternative program such as electronic monitoring, house detention (without electronic monitoring), or day reporting. In 1995 local jail authorities held an estimated 507,044 offenders in their facilities, an increase of 4.2% during the 12 previous months.

Highlights

In 1995 the Nation's prisons and jails held nearly 1.6 million inmates, or 600 inmates per 100,000 U.S. residents



Federal and State prisons
(holding persons with longer sentences)



Local jails
(holding unconvicted persons and those with shorter sentences)

On December 31, 1995 —

- 1,127,132 prisoners were under the jurisdiction of correctional authorities of the 50 States and the District of Columbia (together holding 1,026,882) and of the Federal Government (100,250).

- Over the 12 preceding months, the Nation's prison population grew 72,059 prisoners — an increase of 6.8% since yearend 1994.

- State prison systems were operating between 14% and 25% over their reported capacity; the Federal system, 26% over the reported capacity.

- Nearly 30% of all prisoners in the U.S. were incarcerated in California (135,646), Texas (127,766), and New York (68,484).

On June 30, 1995 —

- The Nation's local jails held or supervised an estimated 541,913 persons. Of that total, 34,869 were in community supervision programs such as electronic monitoring, house detention, and day reporting.

- From midyear 1994, the number of persons held in local jails grew 4.2% — from 486,474 to 507,044.

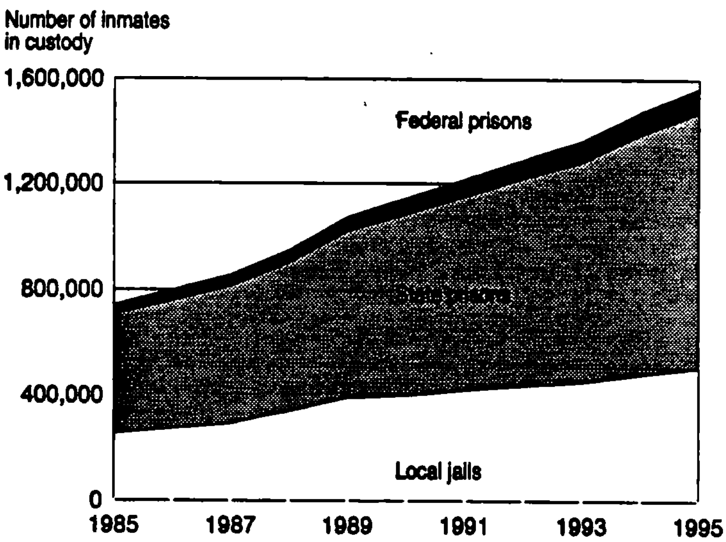
- An estimated 7,888 juveniles (under age 18) were held in local jails; an increase of 17% from 12 months before. Nearly a quarter were tried or awaiting trial as adults.

- Over the 12 preceding months, local jails added space for 41,439 inmates, an annual increase of 8%. This added space allowed local jails to operate at 7% below their rated capacity.

Table 1. Number of inmates held in State or Federal prisons or in local jails, 1985, 1990-95

Year	Total inmates in custody	Number of State and Federal prisoners on December 31: Jurisdiction[a]	Custody	Number of inmates held in local jails on June 30[b]	Incar-ceration rate, 1995[c]
1985	744,208	502,507	487,593	256,615	313
1990	1,148,702	773,919	743,382	405,320	461
1991	1,219,014	825,559	792,535	426,479	483
1992	1,295,150	882,500	850,566	444,584	508
1993	1,369,185	969,301	909,381	459,804	528
1994	1,478,086	1,055,073	991,612	486,474	562
1995	1,585,401	1,127,132	1,078,357	507,044	600
Percent change, 1994-95	7.3%	6.8%	8.7%	4.2%	
Percent change, 1985-95	113.0%	124.3%	121.2%	97.6%	
Annual average increase, 1985-95	7.9%	8.4%	8.3%	7.0%	

[a]Includes prisoners in custody, prisoners in local jails because of prison crowding, and prisoners supervised elsewhere, such as in treatment centers.
[b]Counts for 1994 and 1995 exclude persons who were supervised outside of a jail. See *Methodology*.
[c]Total of persons in custody of State, Federal, or local jurisdictions per 100,000 U.S. residents.



• Since 1985 the total number of inmates in the custody of State and Federal prisons and local jails has more than doubled to nearly 1.6 million — an increase of 113%.

• On average, the incarcerated population has grown 7.9% annually since 1985. The State and Federal prison population has grown 8.3% annually, while the local jail population has grown 7.0%.

• Over the 10-year period correctional authorities have found beds for nearly 841,200 additional inmates or the equivalent of almost 1,618 inmates per week.

• At yearend 1985, 1 in every 320 United States residents were incarcerated. By yearend 1995 that ratio had increased to 1 in every 167.

• Since 1985 the Nation's prison and jail population has nearly doubled on a per capita basis. In 1995 the number of inmates per 100,000 U.S. residents was 600 — up from 313 in 1985.

Nearly 1.6 million inmates were held in the Nation's prisons and local jails

On December 31, 1995, an estimated 1,078,357 inmates were in the custody of State and Federal prison authorities (table 1). On June 30, 1995, an estimated 507,044 inmates were in the custody of local jail authorities. These data were collected in the 1995 National Prisoner Statistics (NPS) program and the 1995 Annual Survey of Jails.

The total incarcerated population increased 7.3% from 12 months prior. During 1995 the number of inmates in State and Federal prisons increased 8.7%, and the number held in local jails increased 4.2%. In the last 5 years, the incarcerated population has grown on average 6.7% annually. The State and Federal prison population has grown 7.7% annually while the local jail population has grown 4.6%.

During 1995 the number of inmates in the Nation's prisons and jails rose an estimated 107,300 inmates or 2,064 inmates per week. In the last 5 years, the total custody population has risen more than 436,700 inmates, the equivalent of 1,680 inmates per week.

Relative to the number of U.S. residents, the rate of incarceration in 1995 was 600 inmates per 100,000 U.S. residents — up from 461 per 100,000 in 1990. On December 31, 1995, 1 in every 167 U.S. residents were incarcerated.

The population of State and Federal prisons rose 6.8% during 1995

The 1995 growth rate of 6.8% was smaller than the percentage increase recorded during 1994 (8.8%) and below the average annual growth rate for the past 10 years (8.4%). In absolute numbers, the total increase of 72,059 prison inmates during 1995 was the third largest yearly increase on record. The increase in 1995 was surpassed only in 1989 (an increase of 84,764 prisoners) and 1994 (an increase of 84,629).

Prisoners with a sentence of more than 1 year (referred to as "sentenced prisoners") accounted for 96% of the total prison population at the end of 1995, growing 6.3% during the year (table 2). The remaining prisoners had sentences of a year or less or were unsentenced (for example, those awaiting trial in States with combined prison-jail systems).

The sentenced Federal prison population experienced slower growth than the State prison population during 1995 (4.8% versus 6.4%). Compared to previous years, the rate of growth of sentenced Federal prisoners declined during 1995, down from 7.3% in 1994 and below the 10.7% annual average growth rate between 1990 and 1995. In absolute numbers, sentenced Federal prisoners increased by 3,868 during 1995, compared to an increase of 5,394 during 1994.

During 1995 the total prison population increased at least 10% in 14 States. North Carolina reported the largest increase (24.2%), followed by Mississippi (19.0%), Idaho (18.4%), Wyoming (15.4%), and Nebraska (14.8%). Three States and the District of Columbia experienced a decline in their prison population. The District of Columbia had the largest decline, -10.5%; followed by Maine, -1.8%; Rhode Island, -0.6%; and New Hampshire, -0.3%.

Forty-three percent of the increase during 1995 was accounted for by Texas (9,571), Florida (6,711), North Carolina (5,726), the Federal system (5,216), and Pennsylvania (4,108). These jurisdictions incarcerated nearly a third of the Nation's prison population.

Table 2. Prisoners under the jurisdiction of State or Federal correctional authorities, by region and jurisdiction, yearend 1994 and 1995

	Total			Sentenced to more than 1 year			
Region and jurisdiction	Advance 1995	Final 1994	Percent change, 1994-95	Advance 1995	Final 1994	Percent change, 1994-95	Incarceration rate, 1995[a]
U.S. total	1,127,132	1,055,073	6.8%	1,080,728	1,017,059	6.3%	409
Federal	100,250	95,034	5.5%	83,663	79,795	4.8%	32
State	1,026,882	960,039	7.0	997,065	937,264	6.4	378
Northeast	161,815	153,072	5.7%	155,071	146,834	5.6%	301
Connecticut[b]	14,801	14,380	2.9	10,418	10,500	-.8	318
Maine	1,447	1,474	-1.8	1,377	1,401	-1.7	111
Massachusetts[e]	11,619	11,293	2.9	10,633	10,401	2.2	175
New Hampshire	2,014	2,021	-.3	2,014	2,021	-.3	174
New Jersey	27,066	24,632	9.9	27,066	24,632	9.9	340
New York	68,484	66,750	2.6	68,484	66,750	2.6	378
Pennsylvania	32,410	28,302	14.5	32,404	28,294	14.5	268
Rhode Island[b]	2,902	2,919	-.6	1,833	1,854	-1.1	186
Vermont[b,d]	1,072	1,301	–	842	981	–	143
Midwest	193,325	184,508	4.8%	192,252	183,830	4.6%	310
Illinois[e]	37,658	36,531	3.1	37,658	36,531	3.1	317
Indiana	16,125	15,014	7.4	16,046	14,916	7.6	275
Iowa[e]	5,906	5,437	8.6	5,906	5,437	8.6	207
Kansas	7,054	6,371	10.7	7,054	6,371	10.7	274
Michigan[e]	41,112	40,631	1.2	41,112	40,631	1.2	429
Minnesota	4,863	4,575	6.3	4,863	4,575	6.3	105
Missouri	19,139	17,898	6.9	19,139	17,898	6.9	358
Nebraska	3,113	2,711	14.8	3,045	2,667	14.2	185
North Dakota	608	536	13.4	544	501	8.6	85
Ohio	44,677	43,074	3.7	44,677	43,074	3.7	400
South Dakota	1,871	1,708	9.5	1,871	1,708	9.5	256
Wisconsin	11,199	10,022	11.7	10,337	9,521	8.6	201
South	455,143	422,455	7.7%	442,471	415,354	6.5%	478
Alabama	20,718	19,573	5.8	20,130	19,074	5.5	471
Arkansas	9,401	8,643	8.8	9,011	8,517	5.8	360
Delaware[b]	4,802	4,466	7.5	2,980	2,844	4.8	413
Dist. of Col.[b]	9,800	10,949	-10.5	9,042	10,085	-10.3	1,650
Florida[e]	63,879	57,168	11.7	63,866	57,157	11.7	447
Georgia[e]	34,266	33,425	2.5	34,160	32,523	5.0	470
Kentucky	12,060	11,066	9.0	12,060	11,066	9.0	311
Louisiana	25,427	24,063	5.7	24,755	24,063	2.9	568
Maryland	21,453	20,998	2.2	20,450	19,854	3.0	404
Mississippi[c]	13,008	10,930	19.0	12,575	10,606	18.6	464
North Carolina	29,374	23,648	24.2	27,716	23,046	20.3	382
Oklahoma	18,151	16,631	9.1	18,151	16,631	9.1	552
South Carolina	19,611	18,999	3.2	19,015	18,168	4.7	515
Tennessee[c]	15,206	14,401	5.6	15,206	14,401	5.6	287
Texas	127,766	118,195	8.1	123,349	118,195	4.4	653
Virginia	27,710	26,968	2.8	27,523	26,792	2.7	414
West Virginia	2,511	2,332	7.7	2,482	2,332	6.4	136
West	216,599	200,004	8.3%	207,271	191,246	8.4%	357
Alaska[b]	3,505	3,292	6.5	2,045	1,934	5.7	339
Arizona[e]	21,341	19,746	8.1	20,291	19,005	6.8	473
California	135,646	125,605	–	131,745	121,084	–	416
Colorado	11,063	10,717	3.2	11,063	10,717	3.2	292
Hawaii[b]	3,560	3,333	6.8	2,590	2,392	8.3	217
Idaho	3,328	2,811	18.4	3,328	2,811	18.4	283
Montana	1,788	1,764	1.4	1,788	1,764	1.4	204
Nevada	7,826	6,993	11.9	7,545	6,993	7.9	482
New Mexico	4,195	3,712	13.0	3,925	3,533	11.1	231
Oregon	7,886	6,936	13.7	6,515	5,935	9.8	206
Utah	3,448	3,045	13.2	3,423	3,028	13.0	173
Washington	11,608	10,833	7.2	11,608	10,833	7.2	212
Wyoming	1,405	1,217	15.4	1,405	1,217	15.4	291

Note: The advance count of prisoners is conducted in January and may be revised. Prisoner counts for 1994 may differ from those reported in previous publications.
–Not calculated because of a change in reporting methods. See *NPS jurisdiction notes* on page 15.
[a]The number of prisoners with a sentence of more than 1 year per 100,000 in the resident population.
[b]Prison and jails form one integrated system. All NPS data include jail and prison populations.
[c]Reference date is not December 31. See *NPS jurisdiction notes.*
[d]Since December 31, 1995, only custody counts were reported.
[e]Population figures are based on custody counts.

Rates of prison incarceration rise

On December 31, 1995, the number of sentenced prisoners per 100,000 U.S. residents was 409. Of the 14 States with rates greater than the rate for the Nation, 10 were in the South, 3 were in the West, and 1 was in the Midwest. Four States — North Dakota (85), Minnesota (105), Maine (111), and West Virginia (136) — had rates that were less than a third of the national rate. The District of Columbia, a wholly urban jurisdiction, held 1,650 sentenced prisoners per 100,000 residents at yearend 1995.

Table 3. Changes in the number of sentenced prisoners under the jurisdiction of State or Federal correctional authorities, 5-year and 10-year population differences

	Prisoners with a sentence of more than 1 year			
	1990-95		1985-95	
Region and jurisdiction	Population difference	Percent change	Population difference	Percent change
U.S. total	334,732	44.9%	600,160	124.9%
Federal	33,260	66.0%	50,968	155.9%
State	301,472	43.3	549,192	122.6
Northeast				
Connecticut	2,647	34.1%	6,375	157.7%
Maine	(103)	-7.0	150	12.2
Massachusetts	--	--	--	--
New Hampshire	672	50.1	1,331	194.9
New Jersey	5,938	28.1	--	--
New York	13,589	24.8	33,977	98.5
Pennsylvania	10,123	45.4	18,285	129.5
Rhode Island	247	15.6	870	90.3
Vermont	--	--	--	--
Midwest				
Illinois	10,142	36.9%	19,024	102.1%
Indiana	3,431	27.2	6,279	64.3
Iowa	1,939	48.9	3,219	119.8
Kansas	1,279	22.1	2,322	49.1
Michigan	6,845	20.0	23,357	131.6
Minnesota	1,687	53.1	2,520	107.6
Missouri	4,196	28.1	9,343	95.4
Nebraska	759	33.2	1,312	75.7
North Dakota	109	25.1	169	45.1
Ohio	12,855	40.4	23,813	114.1
South Dakota	530	39.5	834	80.4
Wisconsin	2,899	39.0	4,942	91.6
South				
Alabama	4,765	31.0%	9,381	87.3%
Arkansas	1,737	23.9	4,400	95.4
Delaware	739	33.0	1,221	69.4
District of Columbia	2,244	33.0	4,438	96.4
Florida	19,486	43.9	35,384	124.2
Georgia	12,489	57.6	18,797	122.4
Kentucky	3,037	33.7	7,079	142.1
Louisiana	6,156	33.1	10,865	78.2
Maryland	3,716	22.2	8,147	66.2
Mississippi	4,491	55.6	6,367	102.6
North Carolina	9,952	56.0	11,709	73.1
Oklahoma	5,866	47.7	9,821	117.9
South Carolina	2,807	17.3	9,107	91.9
Tennessee	4,818	46.4	8,079	113.4
Texas	67,291	120.0	85,817	228.7
Virginia	10,105	58.0	15,806	134.9
West Virginia	--	--	--	--
West				
Alaska	--	--	--	--
Arizona	6,510	47.2%	12,018	145.3%
California	--	--	--	--
Colorado	3,392	44.2	7,677	226.7
Hawaii	882	51.6	1,162	81.4
Idaho	--	--	--	--
Montana	363	25.5	659	58.4
Nevada	2,223	41.8	3,774	100.1
New Mexico	858	28.0	1,813	85.8
Oregon	--	--	--	--
Utah	949	38.4	1,800	110.9
Washington	3,613	45.2	4,689	67.8
Wyoming	295	26.6	643	84.4

Note: Totals include data for States otherwise excluded because of reporting changes.
( ) Indicates a decline in the number of sentenced prisoners.
--Not available because of reporting changes. See *NPS jurisdiction notes.*

Since 1985 the number of sentenced inmates per 100,000 residents has risen from 200 to 409. During this 10-year period prison incarceration rates rose the most in the South (from 236 to 478) and West (from 176 to 357). The rate in the Northeast rose from 145 to 301, and the rate in the Midwest from 161 to 310. The number of sentenced Federal prisoners per 100,000 U.S. residents increased from 14 to 32 over the same period.

Prison populations in Western States grew the fastest

During 1995 the average growth in the number of sentenced State and Federal prisoners was equal to a demand for 1,224 additional beds per week, about 410 fewer than the average weekly growth in 1994.

In 1995 the percentage increase in the number of sentenced prisoners was highest in the Western States, a gain of 8.4%. The number of sentenced prisoners grew by 6.5% in the South, 5.6% in the Northeast, and 4.6% in the Midwest.

Eighteen States recorded higher growth rates in 1995 than in 1994. Among these jurisdictions, 9 had increases of at least 10%; they were led by North Carolina (20.3%), Mississippi (18.6%), and Idaho (18.4%).

Table 4. The prison situation on December 31, 1995

10 largest and smallest prison populations	Number of inmates	10 highest and lowest rates of prison incarceration	Prisoners per 100,000 residents*	10 largest and smallest percentage changes in the prison population: 1-year growth, 1994-95	Percent change	5-year growth, 1990-95	Percent change
10 Highest:							
California	135,646	Texas	653	North Carolina	24.2%	Texas	127.9%
Texas	127,766	Louisiana	568	Mississippi	19.0	North Carolina	59.5
Federal system	100,250	Oklahoma	552	Idaho	18.4	Virginia	57.5
New York	68,484	South Carolina	515	Wyoming	15.4	Mississippi	55.3
Florida	63,879	Nevada	482	Nebraska	14.8	Minnesota	53.1
Ohio	44,677	Arizona	473	Pennsylvania	14.5	Federal system	53.0
Michigan	41,112	Alabama	471	Oregon	13.7	Georgia	52.9
Illinois	37,658	Georgia	470	North Dakota	13.4	New Hampshire	50.1
Georgia	34,266	Mississippi	464	Utah	13.2	Wisconsin	50.0
Pennsylvania	32,410	Florida	447	New Mexico	13.0	Arizona	49.6
10 Lowest:							
North Dakota	608	North Dakota	85	District of Col.	-10.5%	Maine	-5.0%
Vermont	1,072	Minnesota	105	Maine	-1.8	District of Col.	-1.5
Wyoming	1,405	Maine	111	Rhode Island	-.6	South Carolina	13.2
Maine	1,447	West Virginia	136	New Hampshire	-.3	Michigan	20.0
Montana	1,788	Vermont	143	Michigan	1.2	Maryland	20.2
South Dakota	1,871	Utah	173	Montana	1.4	Rhode Island	21.3
New Hampshire	2,014	New Hampshire	174	Maryland	2.2	Kansas	22.1
West Virginia	2,511	Massachusetts	175	Georgia	2.5	New York	24.8
Rhode Island	2,902	Nebraska	185	New York	2.6	Montana	25.5
Nebraska	3,113	Rhode Island	186	Virginia	2.8	North Dakota	25.9

*Prisoners with a sentence of more than 1 year. The Federal Bureau of Prisons and the District of Columbia are excluded.

During 1995 Michigan and Montana reported an increase of less than 2% in the number of sentenced prisoners. Connecticut, Maine, New Hampshire, and Rhode Island reported slight declines. The District of Columbia reported a decrease of more than 1,000 sentenced inmates (down 10.3%).

Since 1990 the average net gain in the number of sentenced prisoners has been about 1,287 prisoners per week — a gain of about 1,160 State prisoners and 128 Federal prisoners per week over the period (table 3). Texas (up 120%) and the Federal system (up 66%) have the largest percentage increases in sentenced prisoners since 1990.

In 1995 the 10 States with the largest prison populations held 61% of the total prison population nationwide, with California, Texas, and the Federal system accounting for nearly 32% (table 4). Texas had the highest prison incarceration rate — 653 sentenced inmates per 100,000 residents, followed by Louisiana (568) and Oklahoma (552). At yearend 1995 North Dakota had the lowest rate of incarceration (85 sentenced prisoners per 100,000 residents), followed by Minnesota (105), Maine (111) and West Virginia (136).

Seventeen States, each reporting fewer than 5,000 inmates, together held 4% of all prisoners in 1995.

Maine and the District of Columbia were the only jurisdictions that had a decline in the number of inmates from 1990 to 1995 (-5.0% and -1.5%, respectively). Among States with increasing prison populations, South Carolina was the only State with a 5-year increase of less than 20%. The largest 5-year increases occurred in Texas (127.9%), North Carolina (59.5%), Virginia (57.5%), Mississippi (55.3%), and Minnesota (53.1%).

Growth rates nearly equal for male and female prison populations

During 1995 the number of women under the jurisdiction of State or Federal prison authorities increased from 64,340 to 68,544, an increase of 6.5% (table 5). The number of women held in the custody of State or Federal prisons in 1995 was 63,998, up from 56,895 in 1994. The number of men under the jurisdiction of State or Federal prison authorities rose 6.8%, from 990,733 to 1,058,588. The number of men held in custody increased from 934,718 to 1,014,359.

Table 5. Prisoners under the jurisdiction of State or Federal correctional authorities, by sex of inmate, yearend 1994 and 1995

	Men	Women
Total		
Advance 1995	1,058,588	68,544
Final 1994	990,733	64,340
Percent change, 1994-95	6.8%	6.5%
Sentenced to more than 1 year		
Advance 1995	1,017,466	63,262
Final 1994	956,990	60,069
Percent change, 1994-95	6.3%	5.3%
Incarceration rate, 1995*	789	47

Note: In 1995, 1,014,359 men and 63,998 women were in prison custody; in 1994, 934,718 men and 56,895 women. The number under jurisdiction includes prisoners in custody, prisoners in local jails because of prison crowding, and prisoners supervised elsewhere, as in a treatment center.
*The number of prisoners with a sentence of more than 1 year per 100,000 residents on December 31, 1995.

Table 6. Women under the jurisdiction of State or Federal correctional authorities, yearend 1995

Region and jurisdiction	Number of female inmates	Percent of all inmates	Percent change in female inmate population, 1994-95	Prison incarceration rate, 1995[a]
U.S. total	68,544	6.1%	6.5%	47
Federal	7,398	7.4%	3.6%	4
State	61,146	6.0	6.9	43
Northeast	8,397	5.2%	3.3%	29
Connecticut	975	6.6	-2.4	34
Maine	46	3.2	-4.2	6
Massachusetts	657	5.7	-6.9	13
New Hampshire	107	5.3	-2.7	18
New Jersey	1,307	4.8	11.9	32
New York	3,615	5.3	1.1	39
Pennsylvania	1,501	4.6	13.5	24
Rhode Island	157	5.4	4.7	10
Vermont[b]	32	--	--	6
Midwest	10,852	5.6%	9.7%	34
Illinois	2,196	5.8	21.1	36
Indiana	892	5.5	8.0	30
Iowa	425	7.2	21.1	29
Kansas	449	6.4	30.5	34
Michigan	1,842	4.5	-8.9	37
Minnesota	223	4.6	-5.9	9
Missouri	1,174	6.1	12.7	43
Nebraska	194	6.2	10.2	21
North Dakota	29	4.8	81.3	8
Ohio	2,793	6.3	9.3	49
South Dakota	133	7.1	29.1	35
Wisconsin	502	4.5	21.8	18
South	27,471	6.0%	4.2%	55
Alabama	1,295	6.3	6.7	56
Arkansas	544	5.8	-6.2	42
Delaware	357	7.4	26.6	44
Dist. of Col.	487	5.0	-29.1	133
Florida	3,660	5.7	19.3	49
Georgia	2,036	5.9	1.2	54
Kentucky	734	6.1	15.2	37
Louisiana	1,464	5.8	13.1	62
Maryland	1,079	5.0	3.9	38
Mississippi	827	6.4	27.6	55
North Carolina	1,709	5.8	44.5	41
Oklahoma	1,815	10.0	12.9	108
South Carolina	1,045	5.3	2.3	51
Tennessee	637	4.2	8.5	23
Texas	7,935	6.2	-10.2	77
Virginia	1,718	6.2	9.8	50
West Virginia	129	5.1	41.8	13
West	14,426	6.7%	12.5%	45
Alaska	232	6.6	6.4	40
Arizona	1,432	6.7	12.5	60
California[c]	9,082	6.7	--	52
Colorado	713	6.4	6.4	37
Hawaii	312	8.8	21.4	39
Idaho	212	6.4	23.3	35
Montana	65	3.6	-30.1	15
Nevada	565	7.2	28.1	70
New Mexico	297	7.1	55.5	27
Oregon	465	5.9	22.7	18
Utah	161	4.7	22.9	16
Washington	793	6.8	13.6	29
Wyoming	97	6.9	18.3	40

--Not calculated.
[a]The number of female prisoners with a sentence of more than 1 year per 100,000 female residents on December 31, 1995.
[b]Custody only counts were reported for the first time in 1995.
[c]Jurisdiction counts were reported for the first time in 1995.

At the end of 1995, women accounted for 6.1% of all prisoners nationwide (table 6). Relative to the number of women in the resident population in the United States in 1995, Oklahoma (with 108 female prisoners per 100,000 female residents) led the Nation, followed by Texas (with 77) and Nevada (with 70). Vermont and Maine (with 6 female inmates per 100,000 female residents each) and North Dakota (with 8) had the lowest female incarceration rates in prison.

In 1995, 19 States and the Federal system had more than 1,000 female inmates. Among these jurisdictions 9 had increases of at least 10%, led by North Carolina with an increase of 44.5% (from 1,183 female inmates in 1994 to 1,709 in 1995).

Five States held fewer than 100 female inmates at yearend 1995. Women represented fewer than 4% of all prisoners in Maine and Montana. In 1995, 7.4% of inmates in the Federal system were female — higher than all State systems except for Oklahoma (10.0%), Hawaii (8.8%), and Delaware (7.4%).

Table 7. State prisoners held in local jails because of prison crowding, by State, yearend 1994 and 1995

States housing prisoners in local jails	State prisoners held in local jails: Number, 1995	Number, 1994	As a percent of all State inmates, 1995	As a percent of all State inmates, 1994
U.S. total	32,739	45,618	2.9%	4.3%
Louisiana	8,671	8,081	34.1%	33.6%
New Jersey	4,258	3,413	15.7	13.9
Virginia	3,588	2,063	12.9	7.6
Mississippi	2,357	1,569	18.1	14.4
Tennessee[a]	2,057	1,829	13.5	12.7
North Carolina	1,949	248	6.6	1.0
Colorado	1,563	1,135	14.1	10.6
Massachusetts[a]	1,189	966	10.2	8.6
Indiana	1,139	903	7.1	6.0
Arkansas	971	301	10.3%	3.5%
Alabama	800	1,547	3.9	7.9
Kentucky	559	632	4.6	5.7
New Mexico	416	0	9.9	--
South Carolina	399	359	2.0	1.9
Michigan[b]	393	--	1.0	--
Wisconsin	354	377	3.2	3.8
Arizona[b]	322	118	1.5	.6
Hawaii	300	0	8.4	--
Idaho	297	330	8.9%	11.7%
Oklahoma[b]	291	375	1.6	2.2
Utah	270	169	7.8	5.6
Oregon	249	0	3.2	--
Montana[b]	135	0	7.0	--
West Virginia	134	398	5.3	17.1
Minnesota	63	85	1.3	1.9
Nevada	15	0	.2	--
Texas	0	20,720	--	17.5

--Not calculable.
[a]Reference date is not December 31. See *NPS jurisdiction notes.*
[b]For States not including jail backups in their jurisdiction counts, the percent of jurisdiction population was calculated using the total number of State inmates in jail or prison.

Local jails held over 32,000 prisoners because of State prison crowding

At the end of 1995, 26 jurisdictions reported a total of 32,739 State prisoners held in local jails or other facilities because of crowding in State facilities (table 7). Louisiana accounted for 27% of the prisoners sentenced to prison but incarcerated locally. Eight States — Louisiana, New Jersey, Virginia, Mississippi, Tennessee, Colorado, Massachusetts, and Arkansas — held more than 10% of their prison population in local jails. Overall, because of prison crowding, 2.9% of the State prisoners were confined in local jails, down from 4.3% in 1994.

Table 8. Reported Federal and State prison capacities, yearend 1995

Region and jurisdiction	Rated capacity	Operational capacity	Design capacity	Population housed as a percent of capacity[a]: Highest capacity	Lowest capacity
Federal	72,145	...	...	126%	126%
Northeast					
Connecticut	...	...	...	--	--
Maine	1,353	1,353	1,353	107	107
Massachusetts[b]	...	...	7,603	137	137
New Hampshire	1,358	1,913	1,716	105	148
New Jersey[b]	...	...	13,869	164	164
New York	67,712	64,585	52,475	101	131
Pennsylvania[c]	...	20,970	...	154	154
Rhode Island	3,349	3,349	3,349	87	87
Vermont	1,052	1,052	991	102	108
Midwest					
Illinois	27,376	27,376	23,714	138%	159%
Indiana[b]	12,539	15,490	...	97	120
Iowa	3,603	3,603	3,603	164	164
Kansas	7,452	...	...	95	95
Michigan	...	41,371	...	99	99
Minnesota[b]	4,554	4,554	4,554	105	105
Missouri	...	19,132	...	100	100
Nebraska	...	2,517	2,013	124	155
North Dakota	600	600	600	101	101
Ohio	26,058	...	26,058	171	171
South Dakota	...	1,565	...	120	120
Wisconsin[b]	7,499	7,499	7,499	145	145
South					
Alabama[b,c]	19,262	19,262	19,262	103%	103%
Arkansas[b]	8,060	8,060	8,060	105	105
Delaware	...	4,206	3,192	114	150
District of Columbia	7,251	11,099	9,419	88	135
Florida	68,996	...	50,801	93	126
Georgia	35,659	35,659	35,659	96	96
Kentucky[b]	10,411	10,164	...	110	113
Louisiana[a]	17,231	17,804	...	94	97
Maryland	...	21,589	13,384	99	160
Mississippi[b]	10,535	10,535	10,535	101	101
North Carolina[b]	27,305	27,500	27,305	100	100
Oklahoma	11,369	14,151	...	128	160
South Carolina[b]	17,586	18,864	15,333	102	125
Tennessee[b]	13,605	13,328	...	97	99
Texas	132,707	132,707	136,891	93	96
Virginia[b]	16,166	16,166	16,166	149	149
West Virginia[b]	2,438	2,377	2,485	100	96
West					
Alaska	2,603	...	...	106%	106%
Arizona	...	18,486	...	115	115
California	...	...	71,641	189	189
Colorado[b]	...	8,543	7,050	110	134
Hawaii[b]	...	2,646	1,750	123	186
Idaho[b]	...	2,908	2,203	104	138
Montana	900	1,414	900	126	199
Nevada[b]	...	7,342	5,842	106	134
New Mexico[b]	4,636	4,636	4,645	81	82
Oregon[b]	...	7,202	...	106	106
Utah[b]	...	3,509	3,893	82	91
Washington[b,c]	7,231	9,916	9,916	108	148
Wyoming	981	1,244	1,035	113	143

Note: States were asked to report their rated, operational, and design capacities. Tabulations reflect the highest and lowest of the reported capacities.
. . .Data not available.

[a]Excludes inmates sentenced to State prison but in local jails because of crowded State facilities.
[b]Excludes prisoners housed in contract facilities or local jails.
[c]Excludes capacity of community programs.

Prison capacity estimates are difficult to compare

The extent of crowding in the Nation's prisons is difficult to determine because of the absence of uniform measures for defining capacity. The 52 reporting jurisdictions apply a wide variety of capacity measures to reflect both the available space to house inmates and the ability to staff and operate an institution. To estimate the capacity of the Nation's prisons, jurisdictions were asked to supply three measures for yearend 1995: rated, operational, and design capacities. These measures were defined as follows:

Rated capacity is the number of beds or inmates assigned by a rating official to institutions within the jurisdiction.

Operational capacity is the number of inmates that can be accommodated based on a facility's staff, existing programs, and services.

Design capacity is the number of inmates that planners or architects intended for the facility.

Of the 52 reporting jurisdictions, 34 supplied a rated capacity, 43 provided an operational capacity, and 37 submitted a design capacity (table 8). As a result, estimates of total capacity and measures of the relationship to population are based on the highest and lowest capacity figures provided. Twenty-four jurisdictions reported one capacity measure or gave the same figure for each capacity measure they reported.

Most jurisdictions were operating above capacity

Prisons generally require reserve capacity to operate efficiently. Dormitories and cells need to be maintained and repaired periodically, special housing is needed for protective custody and disciplinary cases, and space may be needed to cope with emergencies.

At the end of 1995, 12 States and the District of Columbia reported that they were operating at or below 99% of their highest capacity. Thirty-nine States, the District of Columbia, and the Federal prison system reported operating at 100% or more of their lowest capacity. By yearend the Federal system was estimated to be operating at 26% over capacity. State prisons were estimated to be operating at 114% of their highest capacity and 125% of their lowest capacity (table 9).

Table 9. State prison population as a percent of reported capacity, 1995

	State prisons[a]
Highest capacity	854,804
Lowest capacity	780,226
Net change in capacity, 1994-95	
Highest	82,053
Lowest	76,222
Population housed as a percent of capacity[b]	
Highest	
1990	115%
1991	116
1992	118
1993	118
1994	117
1995	114
Lowest	
1990	127%
1991	131
1992	131
1993	129
1994	129
1995	125

Note: States were asked to report their rated, operational, and design capacities. Tabulations reflect the highest and lowest of the 3 capacities reported from 1990 to 1995.
[a]Data include estimated capacity figures for Connecticut at yearend 1995.
[b]Excludes inmates sentenced to State prison but held in local jails because of crowding.

Prisoners in custody of correctional authorities in the U.S. territories, yearend 1995

Territory/commonwealth	Prisoners in custody: Total	Prisoners in custody: Sentenced to more than 1 year	Resident population, 1995[a]	Prison incarceration rate, 1995[b]
Total	12,807	9,288	4,172,000	223
American Samoa	79	43	57,366	75
Guam	379	286	153,307	187
Commonwealth of the Northern Mariana Islands	70	65	51,033	127
Commonwealth of Puerto Rico	11,810	8,660	3,818,000	227
U.S. Virgin Islands	469	234	97,229	241

[a]Midyear population estimates were provided by the U.S. Bureau of the Census, International Data Base.
[b]The number of prisoners with a sentence of more than 1 year per 100,000 persons in the resident population.

Prisoners held in U.S. territories counted for the first time

The U.S. territories and comonwealths — American Samoa, Northern Mariana Islands, Guam, Puerto Rico, and Virgin Islands — reported 12,807 inmates in custody of their prison systems at yearend 1995. Prisoners with a sentence of more than 1 year totaled 9,288 (or nearly three-quarters of the total territorial prison population). Relative to the resident populations in the territories, the rate of incarceration was 223 prisoners per 100,000 residents — about half the combined rate of the 50 States and the District of Columbia.

Of the five territories, American Samoa had the lowest prison incarceration rate — 75 inmates per 100,000 residents, followed by the Northern Mariana Islands with 127. The U.S. Virgin Islands had the highest rate, 241 prisoners per 100,000 residents, followed by Puerto Rico with 227.

Puerto Rico, the largest of the territories, had the most sentenced prisoners (8,660). At yearend 1995, 21 States had fewer sentenced inmates than Puerto Rico; 16 States had lower incarceration rates.

For the first time, at yearend 1995, BJS collected counts of inmates held in territorial prisons. The Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322) established the Residential Substance Abuse Treatment Formula Grant Program. This program, administered by the Corrections Program Office in the Office of Justice Programs, U.S. Department of Justice, requires from each territory and commonwealth a count of its prison population. Beginning in fiscal year 1996, grant funds will be allocated to each territory based on these counts.

At midyear the Nation's jails supervised 541,913 offenders

On June 30, 1995, an estimated 541,913 offenders were held in or supervised by the Nation's local jails (table 10). Six percent of these offenders (34,869) were supervised by jail authorities in alternative programs outside of the jail facilities. An estimated 507,044 offenders were housed in local jails.

Table 10. Persons under jail supervision, by confinement status and type of program, midyear 1995

	Number of persons under jail supervision
Total	541,913
Held in jail	507,044
Supervised outside of a jail facility[a]	34,869
Electronic monitoring	6,788
Home detention[b]	1,376
Day reporting	1,283
Community service	10,253
Weekender program	1,909
Other alternative work programs[c]	9,144
Other pretrial supervision	3,229
Other	887

[a]Excludes persons supervised by a probation or parole agency.
[b]Includes only those without electronic monitoring.
[c]Includes persons in work release programs, work gangs/crews, and other work alternative programs administered by the jail jurisdiction.

As defined in this report, jails are locally-operated correctional facilities that confine persons before or after adjudication. Inmates sentenced to jail usually have a sentence of a year or less, but jails also incarcerate persons in a wide variety of other categories. (See box below.)

For the first time in 1995 the Annual Survey of Jails obtained counts of the number of offenders under community supervision. Respondents were asked if their jail jurisdiction operated any community-based programs and how many persons participated in them. Offenders under the supervision of a probation, parole, or other correctional agency were excluded from these counts. (See *Methodology,* page 14.)

Jails —

- receive individuals pending arraignment and hold them awaiting trial, conviction, or sentencing
- readmit probation, parole, and bail-bond violators and absconders
- temporarily detain juveniles pending transfer to juvenile authorities
- hold mentally ill persons pending their movement to appropriate health facilities
- hold individuals for the military, for protective custody, for contempt, and for the courts as witnesses
- release convicted inmates to the community upon completion of sentence
- transfer inmates to Federal, State, or other authorities
- house inmates for Federal, State, or other authorities because of crowding of their facilities
- relinquish custody of temporary detainees to juvenile and medical authorities
- sometimes operate community-based programs as alternatives to incarceration.

Among persons under community supervision by jail staff, more than a third were required to perform community service (10,253) or participate in an alternative work program (9,144). Almost a quarter were under home detention with electronic monitoring (6,788) or without electronic monitoring (1,376). An estimated 1,909 offenders under jail supervision were in a weekend reporting program. Another 1,283 were in day reporting programs.

Jail population grew by 4.2% during 12-month period

Between July 1, 1994, and June 30, 1995, the number of persons held in local jail facilities grew 4.2% — from 486,474 to 507,044. Although the 12-month increase was much lower than the 6.7% increase in the previous 12-month period, it nearly equaled the average annual increase since 1990.

12-month period	Percent increase*
1994-95	4.2%
1993-94	6.7
1992-93	3.4
1991-92	4.2
1990-91	5.2
1989-90	2.4%
1988-89	15.1
1987-88	16.1
1986-87	7.8
1985-86	6.9
Annual average,	
1990-95	4.6%
1985-95	7.0

*Percent increases before 1995 are based on inmate counts that include a small but unknown number of offenders under community supervision.

Table 11. Average daily population and number of men, women, and juveniles in local jails, midyear 1985, 1990-95

	1985	1990	1991	1992	1993	1994	1995
Average daily population[a]	265,010	408,075	422,609	441,889	466,155	479,757	509,828
Number of inmates, June 30[b]	256,615	405,320	426,479	444,584	459,804	490,442	515,122
Adults	254,986	403,019	424,129	441,780	455,500	483,717	507,234
Male	235,909	365,821	384,628	401,106	411,500	434,838	455,098
Female	19,077	37,198	39,501	40,674	44,100	48,879	52,136
Juveniles[c]	1,629	2,301	2,350	2,804	4,300	6,725	7,888
Held as adults[d]	--	--	--	--	3,300	5,139	6,018
Held as juveniles	1,629	2,301	2,350	2,804	1,000	1,586	1,870

Notes: Detailed data for 1993 were estimated and rounded to the nearest 100.
--Not available.
[a]The average daily population is the sum of the number of inmates in a jail each day for a year, divided by 365.
[b]Inmate counts for 1985 and 1990-94 include an unknown number of persons who were under jail supervision but not confined. The 1995 count includes 8,078 persons under community supervision. See *Methodology.*
[c]Juveniles are persons defined by State statue as being under a certain age, usually 18, and subject initially to juvenile court authority even if tried as adults in criminal court. In 1994 the definition was changed to include all persons under age 18.
[d]Includes juveniles who were tried or awaiting trial as adults.

Since 1985 the Nation's jail population has nearly doubled on a per capita basis. During this period the number of jail inmates per 100,000 residents rose from 108 to 193. Including offenders under community supervision by jail authorities, the rate totaled 206 offenders per 100,000 U.S. residents at midyear 1995.

An estimated 7,888 persons under age 18 were housed in adult jails on June 30, 1995 (table 11). Over three-quarters of these young inmates had been convicted or were being held for trial as adults in criminal court. (See *Methodology*, page 14, for changes in the definition of *juvenile.*)

The average daily population for the year ending June 30, 1995, was 509,828, an increase of 6.3% from 1994.

Demographic characteristics of jail inmates were unchanged

Male inmates made up almost 90% of the local jail inmate population at midyear 1995, about the same percentage as in 1990 (table 12). An estimated 1 in every 205 adult men and 1 in every 1,936 adult women were held in a local jail on June 30, 1995.

At midyear 1995 a majority of local jail inmates were black or Hispanic. White non-Hispanics made up 40.1% of the jail population; black non-Hispanics, 43.5%; Hispanics, 14.7%; and other races, 1.7%.

Table 12. Sex, race, and Hispanic origin of local jail inmates, midyear 1985, 1990-95

	Percent of jail inmates						
Characteristic	1985	1990	1991	1992	1993	1994	1995
Total	100%	100%	100%	100%	100%	100%	100%
Sex							
Male	92.0%	90.8%	90.7%	90.8%	90.4%	90.0%	89.8%
Female	8.0	9.2	9.3	9.2	9.6	10.0	10.2
Race/Hispanic origin[a]							
White, non-Hispanic	--	41.8%	41.1%	40.1%	39.3%	39.1%	40.1%
Black, non-Hispanic	--	42.5	43.4	44.1	44.2	43.9	43.5
Hispanic	--	14.3	14.2	14.5	15.1	15.4	14.7
Other[b]	--	1.3	1.2	1.3	1.3	1.6	1.7

Note: Detail may not add to total because of rounding.
--Not available.
[a]Data on race/Hispanic origin were reported for 89.7% of all inmates in 1990, 91.1% in 1991, 97.6% in 1992, 85.1% in 1993, 95.8% in 1994, and 97.1% in 1995.
[b]Includes American Indians, Alaska Natives, Asians, and Pacific Islanders.

Fewer than half of jail inmates were convicted

On June 30, 1995, an estimated 44% of the Nation's adult jail inmates had been convicted on their current charge. An estimated 223,200 adult jail inmates were serving a sentence, awaiting sentencing, or serving time in jail for a probation or parole violation (table 13). Between 1985 and 1995 the number of convicted inmates rose by nearly 100,000 — up from 123,409 During the same period, the number of unconvicted jail inmates, including those on trial or awaiting arraignment or trial, doubled (from 127,059 to an estimated 284,100).

In 1995 male inmates were somewhat more likely than female inmates to have been convicted. Among adult male inmates, 44.2% had been convicted on their current charge, compared to 41.8% of the female inmates.

Jail capacity rose at record pace — up 41,400 beds in 12 months

At midyear 1995 the rated capacity of the Nation's local jails totaled an estimated 545,763, an increase of 41,439 in 12 months (table 14). Rated capacity is the maximum number of beds or inmates allocated by State or local rating officials to each jail facility. The growth in jail capacity during the 12-month period ending on June 30, 1995, was greater than in any previous 12-month period on record. More than a quarter million beds have been added since 1985.

At midyear 1995, 93% of jail capacity was occupied

As of June 30, 1995, 93% of the local jail capacity was occupied. As a ratio of all inmates housed in jail facilities to total capacity, the percentage occupied increased considerably after 1983, reaching a record 108% in 1989 and then falling to 93% in 1995. Since 1989, rated capacity has risen nearly 178,000 beds, while the number of inmates has increased almost 112,000.

Jail jurisdictions with the largest average daily populations reported the highest occupancy rates. At midyear 1995 occupancy was 97% of rated capacity in jail jurisdictions with an average daily population of 1,000 or more inmates, compared to 77% in those with fewer than 50 inmates.

Size of jurisdiction*	Percent of capacity occupied
Total	93%
Fewer than 50 inmates	77
50-99	87
100-249	88
250-499	92
500-999	97
1,000 or more	97

*Based on the average daily population in the year ending June 30, 1995.

Table 13. Conviction status of adult jail inmates, by sex, midyear 1985, 1990-95

	Percent of jail inmates					
	1985	1990	1991	1992	1993*	1995*
Total	250,468	403,019	424,129	441,780	455,500	507,200
Convicted	123,409	195,661	206,458	217,940	226,600	223,200
Male	114,131	177,619	185,947	196,656	203,900	201,600
Female	9,278	18,042	20,511	21,284	22,700	21,600
Unconvicted	127,059	207,358	217,671	223,840	228,900	284,100
Male	117,560	188,202	198,681	204,450	207,600	254,000
Female	9,499	19,156	18,990	19,390	21,300	30,100

Note: The number of convicted inmates may be undercounted because some jail records do not distinguish between inmates who are unconvicted and those who are convicted but waiting to be sentenced. Data for 1994 are not available.
*Data on conviction status by sex were reported for 88.9% of all adult inmates in 1993 and 96.3% in 1995. Totals were estimated using known data and rounded to the nearest 100.

Table 14. Rated capacity of local jails and percent of capacity occupied, 1983-95

Year	Rated capacity[a]	Amount of capacity added[b]	Percent of capacity occupied[c]
1995	545,763	41,439	93%
1994	504,324	29,100	96
1993	475,224	26,027	97
1992	449,197	27,960	99
1991	421,237	32,066	101
1990	389,171	21,402	104
1989	367,769	28,136	108
1988	339,633	38,435	101
1987	301,198	15,472	98
1986	285,726	12,896	96
1985	272,830	11,398	94
1984	261,432	(124)	90
1983	261,556	--	85

Note: Capacity data for 1984-87, 1989-92, and 1994-95 are survey estimates subject to sampling error. Negative numbers are in parentheses. See appendix table 2 for sampling errors.
--Not available.
[a]Rated capacity is the number of beds or inmates assigned by a rating official to facilities within each jurisdiction.
[b]The number of beds added during the 12 months before June 30 of each year.
[c]The number of inmates divided by the rated capacity times 100. For 1983-93 the ratio may include some inmates under supervision who were not confined in a jail facility. For 1994 and 1995 the ratio includes only those held in jail.

The 25 largest jail jurisdictions housed more than a quarter of all jail inmates

In 1995 the Nation's 25 largest jail jurisdictions accounted for 28% of all jail inmates. The jurisdictions were in 12 States: 7 in California; 5 in Florida; 4 in Texas; and 1 each in New York, Illinois, Louisiana, Arizona, Tennessee, Pennsylvania, Maryland, Michigan, and Wisconsin (table 15).

The 2 jurisdictions with the most inmates, Los Angeles County and New York City, together held more than 36,300 inmates, or 7% of the national total.

Overall, the 25 largest jurisdictions on June 30, 1995, held a total population of 144,230 inmates — 2.5% fewer than the 148,001 a year earlier. A total of 18 jurisdictions reported increases in their populations.

Four jurisdictions in Texas reported sharp declines in the 12 months ending June 30, 1995. These jails recorded a 28% decline in the inmate count from midyear 1994. These declines resulted from the opening of State jails, which are classified as prisons in the National Prisoner Statistics program. Among all jail jurisdictions in Texas, the backlog of 20,720 State inmates, with a delayed transfer to State facilities because of prison crowding at yearend 1994, was eliminated by yearend 1995.

As a ratio of all inmates housed in jail facilities to total capacity, jails in Orange County, California, and Philadelphia City, Pennsylvania, had the highest percents occupied (135%), followed by jails in Baltimore City, Maryland (129%). Jail facilities in Dallas County, Texas, had the lowest percent occupied (66%) on June 30, 1995.

Table 15. The 25 largest local jail jurisdictions: Number of inmates, average daily population, and rated capacity, midyear 1993-95

Jurisdiction	Number of inmates			Average daily population[a]			Rated capacity[b]			Percent of capacity occupied on June 30[c]		
	1993	1994	1995	1993	1994	1995	1993	1994	1995	1993	1994	1995
Los Angeles County, CA	20,065	20,113	18,236	23,232	19,725	19,896	14,372	13,340	20,049	140%	151%	91%
New York City, NY	17,307	18,171	18,143	17,488	18,091	18,200	20,556	18,696	19,033	84	97	95
Cook County, IL	9,054	9,092	10,398	8,851	8,950	10,837	7,831	8,032	9,317	116	113	112
Harris County, TX	9,472	10,716	8,825	11,637	10,282	8,962	9,800	8,698	8,698	97	123	101
Dallas County, TX	7,592	9,715	5,721	6,747	9,321	7,151	4,808	6,676	8,629	158	146	66
Dade County, FL	5,553	6,338	6,653	5,489	6,656	6,728	4,874	6,752	6,604	114%	94%	101%
San Diego County, CA	5,374	5,487	6,197	5,350	5,651	5,820	3,675	8,672	5,670	146	63	109
Orleans Parish, LA	--	5,351	5,558	--	5,231	5,549	--	7,174	7,174	--	75	77
Maricopa County, AZ	4,478	5,170	5,717	4,641	4,862	5,503	4,232	4,910	4,910	106	105	116
Shelby County, TN	6,451	5,124	5,247	6,426	4,891	5,091	6,411	6,344	5,512	101	81	95
Orange County, CA	4,659	4,987	5,157	4,672	4,836	5,074	3,954	3,821	3,821	118%	131%	135%
Philadelphia City, PA	4,836	4,696	5,076	4,912	4,799	4,968	3,750	5,349	3,750	129	88	135
Tarrant County, TX	4,408	5,317	3,865	4,508	5,167	4,468	3,952	4,996	4,369	112	106	88
Santa Clara County, CA	4,237	4,303	4,174	4,451	4,103	4,161	4,132	4,088	3,774	103	105	111
San Bernardino County, CA	2,999	3,136	4,025	3,146	3,188	4,100	2,709	3,744	4,930	111	84	82
Alameda County, CA	3,281	3,330	3,881	3,604	3,098	3,903	3,434	3,552	4,063	96%	94%	96%
Bexar County, TX	3,740	4,301	3,099	3,400	3,882	3,569	2,397	3,640	3,640	156	118	85
Broward County, FL	2,921	3,367	3,573	2,892	3,165	3,546	3,656	3,654	3,656	80	92	98
Orange County, FL	3,096	3,470	3,530	3,386	3,162	3,441	3,229	3,329	3,329	96	104	106
Baltimore City, MD	3,112	3,350	3,777	3,011	3,160	3,380	2,833	2,833	2,933	110	118	129
Sacramento County, CA	2,741	2,954	3,125	2,976	2,852	3,094	2,769	2,749	2,749	99%	107%	114%
Duval County, FL	2,423	2,775	2,628	2,366	2,383	2,688	3,300	3,300	3,300	73	84	80
Wayne County, MI	2,280	2,499	2,598	2,160	2,400	2,600	2,585	2,545	2,628	88	98	99
Milwaukee County, WI	2,292	2,247	2,491	1,977	2,165	2,501	1,904	1,854	2,274	120	121	110
Hillsborough County, FL	2,126	1,992	2,536	2,240	2,108	2,384	2,276	2,445	2,649	93	81	96

Notes: Jurisdictions are ordered by their average daily population in 1995.
--Not available.
[a]Based on the average daily population for the year ending June 30. The average daily population is the sum of the number of inmates in jail each day for a year, divided by 365.
[b]Rated capacity is the number of beds or inmates assigned by a rating official to facilities within each jurisdiction.
[c]The number of inmates divided by the rated capacity multiplied by 100. For 1993 the ratio may include some inmates under supervision who were not confined in a jail facility. For 1994 and 1995 the ratio includes only those held in jail.

Methodology

National Prisoner Statistics (NPS)

Since 1926 the Federal Government has conducted an annual collection of prisoner statistics. Currently the Bureau of Justice Statistics, with the U.S. Bureau of the Census as its collection agent, obtains a yearend and midyear count of prisoners from departments of correction in each of the 50 States, the District of Columbia, and the Federal Bureau of Prisons. This report is based on the advanced yearend count (NPS-1B) and are subject to revision when the final counts become available (NPS-1).

In an effort to collect comparable data from all jurisdictions, NPS distinguishes between prisoners in *custody* from those under *jurisdiction.* To have custody of a prisoner, a State must hold that person in one of its facilities. A State may have custody of a prisoner over whom another State maintains jurisdiction. To have jurisdiction, a State has legal authority over the prisoner. Prisoners under a State's jurisdiction may be in the custody of a local jail, another State's prison, or other correctional facility. Some States are unable to provide both custody and jurisdiction counts. (See *NPS jurisdiction notes.*)

The NPS counts include persons in the custody or jurisdiction of State or Federal correctional authorities. Excluded from NPS counts are persons confined in locally administered confinement facilities who are under the jurisdiction of local authorities. NPS counts include all inmates in State-operated facilities in Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont, which have combined jail-prison systems.

Annual Survey of Jails

In each of the 4 years between the full censuses, a survey of jails is conducted to estimate baseline characteristics of the Nation's jails and the inmates housed in these jails. The 1995 Annual Survey of Jails is the 11th such survey in a series begun in 1982. The reference date for the 1995 survey was June 30.

Using information from the 1993 Census of Jails, a sample of jail jurisdictions was selected for the 1994 and 1995 surveys. A *jurisdiction* is a county (parish in Louisiana) or municipal government that administers one or more local jails. The sample included all jails in 796 selected jail jurisdictions and 23 multi-jurisdiction jails. A *multi-jurisdiction jail* is one in which two or more jurisdictions have a formal agreement to operate the facility.

In drawing the sample for 1994 and 1995, jail jurisdictions were first stratified into two groups: single-jurisdiction jails and multi-jurisdiction jails. All of the multi-jurisdiction jails were included in the survey. The remaining jurisdictions were then further stratified into two groups: jurisdictions with jails authorized to hold juveniles and jurisdictions with jails holding adults only. Jurisdictions were then selected based on the average daily population in the 1993 census.

All jails in 203 jurisdictions were automatically included if the jurisdiction held juveniles and had an average daily population of 250 or more inmates in 1993 or if it held only adults and had an average population of 500 or more. The other jurisdictions (593) were then selected based on stratified probability sampling.

Data were obtained by mailed questionnaires. After followup phone calls to nonrespondents, the response rate for the survey was 100%.

National estimates for the inmate population on June 30, 1995, were produced by sex, race/Hispanic origin, and age group and for the average

Appendix table 1. Standard error estimates for the Annual Survey of Jails, 1995

Characteristic	Estimate	Standard error	Relative standard error (percent)
Total number under supervision	541,913	3,299	0.61%
Number held in jail	507,044	2,931	0.58%
One-day count[a]			
All inmates	515,122	2,985	0.58%
Adults	507,234	2,945	0.58
Male	455,098	2,657	0.58
Female	52,136	474	0.91
Juveniles	7,888	283	3.59
Held as adults	6,018	242	4.02
Held as juveniles	1,870	148	7.91
Average daily population	509,828	2,725	0.53%
Rated capacity	545,763	3,788	0.69%
Sex			
Male	462,670	2,694	0.58%
Female	52,452	480	0.92
Race/Hispanic origin			
White non-Hispanic	200,460	2,181	1.09%
Black non-Hispanic	217,573	2,148	0.99
Hispanic	73,372	969	1.32
Other[b]	35,441	416	1.17
Total conviction status			
Convicted	214,981	1,991	0.93%
Male	194,181	1,841	0.95
Female	20,797	302	1.45
Unconvicted	273,889	1,983	0.72
Male	244,883	1,812	0.74
Female	29,006	281	0.97

[a]Includes 8,078 persons supervised outside jail facilities.
[b]Includes American Indians, Alaska Natives, Asians, and Pacific Islanders.

daily population during the year ending June 30, 1995. National estimates were also produced for rated capacity.

Sampling error

Survey estimates have an associated sampling error because jurisdictions with smaller average daily populations were sampled for the survey. Estimates based on the sample survey may differ somewhat from the results of conducting a complete census.

Different samples could yield somewhat different results. *Standard error* is a measure of the variation among the estimates from all possible samples, stating the precision with which an estimate from a particular sample approximates the average of all possible samples. The estimated relative sampling error for the total inmate population of 507,044 on June 30, 1995, was 0.58%. (See appendix tables 1 and 2.)

Results presented in this Bulletin were tested to determine whether differences between estimates in different years were statistically significant. All differences mentioned in the report meet or exceed the 95-percent confidence level.

Appendix table 2. Standard error estimates for the number of inmates and rated capacity for the Annual Survey of Jails, midyear 1985-95

	Number of inmates			Rated capacity		
Year	Number	Estimated standard error	Relative standard error (percent)	Number	Estimated standard error	Relative standard error (percent)
1995[a]	541,913	3,299	.61%	545,763	3,788	.69%
1995[b]	515,122	2,985	.58%	--	--	--
1994	490,442	2,471	.50%	504,324	3,221	.64%
1992	444,584	2,076	.47	449,197	2,693	.60
1991	426,479	2,151	.50	421,237	2,522	.60
1990	405,320	1,778	.44	389,171	2,249	.58
1989	395,553	1,583	.40	367,769	2,042	.56
1987	295,873	1,687	.57	301,198	2,192	.73
1986	274,444	1,465	.53	285,726	2,093	.73
1985	256,615	1,459	.57	272,830	2,062	.76

[a]Includes 34,869 offenders supervised outside of jail facilities.
[b]Includes 8,078 offenders supervised outside of jail facilities.
--Not applicable.

Measures of population

Two measures of inmate population are used: the average daily population for the year ending June 30 and the inmate count on June 30 of each year. The average daily population balances out any extraordinary events that may render atypical the inmate count on June 30. The June 30 count provides data on characteristics of inmates, such as race, Hispanic origin, and age, that may not be available on an annual basis.

For the first time in 1995 the Annual Survey of Jails obtained separate counts of the total number of offenders under jail jurisdiction, those held in jail facilities, and those supervised outside of jail facilities. Previous surveys and censuses included a small but unknown number of offenders under community supervision. To estimate the percent change from 1994 to 1995 in the jail population, the 1995 survey included a count of inmates held at midyear 1994. Based on the 1995 survey results, the 1994 survey total (490,442) included an estimated 3,968 persons under community supervision.

Survey estimates in 1995 by sex, adults and juveniles, and conviction status include 8,078 offenders under community supervision by jail authorities. These offenders could not be excluded from the detailed estimates.

Juveniles

State statutes and judicial practices allow juveniles to be incarcerated in adult jails under a variety of circumstances. Because of the differing statutes and practices, however, accurate and comparable data on juveniles are difficult to collect. Beginning in 1994 the Annual Jail Survey provided estimates of the total number of jail inmates under age 18, the number held as adults, and the number held as juveniles. New sampling procedures were also introduced in 1994 to minimize the standard errors of these estimates. By stratifying jurisdictions based on the authority to house juveniles, the precision of the juvenile counts was improved.

NPS jurisdiction notes

Federal —The rated capacity of Federal facilities on December 31, 1995, was 72,145 inmates. This does not include contract bed spaces.

Alabama —The capacity of the community programs is not included in the capacity data.

Population counts include 800 inmates housed in local jails due to crowding.

Alaska — Prisons and jails form one integrated system. All NPS data include jail and prison populations housed in-State and out-of-State.

Population counts were based on jurisdiction data starting in 1994.

Arizona — Population counts are based on custody data.

Population counts exclude 322 inmates housed in local jails due to crowding.

Arkansas — Population counts include 971 inmates housed in local jails due to crowding.

The Department of Correction has one type of capacity which is determined by the Board of Corrections and Community Punishment. This figure is reported for operational, rated, and design capacity.

California — Population counts were based on jurisdiction data starting in 1995.

Colorado — Population counts for inmates "Sentenced to more than 1 year" include an undetermined number of inmates with a sentence of 1 year or less.

Population counts include 1,563 inmates housed in local jails and in facilities out-of-State (Minnesota and Texas) due to crowding in State prison facilities.

Population counts include 174 inmates in the Youthful Offender System, which is a program primarily established for violent juvenile offenders. Of these 174 inmates, 78 inmates are located in contract facilities.

Population counts include 976 inmates in community-based programs.

Design and operational capacities do not include the Bent County Correctional Facility (Las Animas, CO), Minnesota Prairie Correctional Facility (Appleton, MN), and Bowie County Jail (Texarkana, TX), which are contracted and do not include community-based programs.

Connecticut — Prisons and jails form one integrated system. All NPS data include jail and prison populations.

Legislation in July 1995 abolished the capacity law so that Connecticut's prisons no longer have rated or operational capacities. Design capacity is recorded separately for each facility.

Delaware — Prisons and jails form one integrated system. All NPS data include jail and prison populations.

Capacity counts include the halfway houses under the Department of Corrections.

District of Columbia — Prisons and jails form one integrated system. All NPS data include jail and prison populations.

Florida — Population counts are based on custody data.

Florida now reports rated capacity and defines it as the maximum safe capacity as decided by the Department of Corrections.

Georgia — Population counts are based on custody data.

Population counts exclude an undetermined number of inmates housed in local jails awaiting transfer to prison. Inmates housed in local jails are not considered part of the prison population until they are admitted.

Hawaii — Prisons and jails form one integrated system. All NPS data include jail and prison populations.

Population counts include 300 inmates who were housed in out-of-State facilities (Newton Co., TX, and Dickens Co., TX) due to crowding in State prison facilities.

Idaho — Population counts include 297 inmates housed in local jails due to crowding.

Population counts were based on jurisdiction data starting in 1993.

Idaho no longer has a rated capacity. The reported operational capacity is actually their maximum capacity; that is, double celling every housing unit where it is legally or operationally possible.

Illinois — Population counts are based on custody data.

Population counts for inmates "Sentenced to more than 1 year" include an undetermined number of inmates with a sentence of 1 year.
Capacity figures include 887 inmates on electronic detention.

Indiana — Population counts include 1,139 inmates housed in local jails due to crowding.

Iowa — Population counts are based on custody data.

Kentucky — Population counts include 559 inmates housed in local jails due to crowding.

Louisiana — Population counts include 8,671 inmates housed in local jails due to crowding.

The rated and operational capacities now include 478 beds in contractual work release facilities.

Maine — Population counts do not include inmates serving concurrent sentences.

Massachusetts — Populations counts were based on jurisdiction data starting in 1994.

Population counts are as of January 1, 1996 and capacity counts are as of January 2, 1996.

Population counts include 1,189 inmates housed in local jails and in out-of-State contracted facilities due to crowding.

Population counts were based on jurisdiction data starting in 1994.

Michigan — Population counts are based on custody data.

Population counts include adult prisoners in all institutions, camps, and community corrections centers or under electronic monitoring.

Population counts exclude 393 prisoners housed in county jails and awaiting return to prison.

"Operational capacity" includes institutions, camps, and community programs.

Minnesota — Population counts include 63 inmates housed in local jails due to crowding.

Mississippi — Population counts are as of December 29, 1995.

Missouri — Missouri defines operational capacity as the number of beds.

Montana — Population counts for inmates "Sentenced to more than 1 year" include an undetermined number of inmates with a sentence of 1 year or less. Population counts exclude 135 inmates housed in local jails due to crowding.

Nebraska — Operational capacity is defined as the stress capacity, which is 125% of design capacity. This is a newly reported capacity ordered set by the Department of Corrections.

Nevada — Population counts include 15 inmates housed in out-of-State facilities due to crowding.

New Jersey — Population counts for inmates "Sentenced to more than 1 year" include an undetermined number of inmates with a sentence of 1 year.

Population counts include 4,258 inmates housed in local jails due to crowding.

New Mexico — Population counts include 416 inmates housed in local jails and in out-of-State contracted facilities (49 in Dallas Co., TX) due to crowding.

North Carolina — Population counts include 1,949 inmates housed in local jails and in out-of-State contracted facilities due to crowding.

Ohio — Population counts for inmates "Sentenced to more than 1 year" include an undetermined number of inmates with a sentence of 1 year or less.

Oklahoma — Population counts for inmates "Sentenced to more than 1 year" include an undetermined number of inmates with a sentence of 1 year.

Population counts exclude 291 inmates housed in local jails due to crowding.

Oregon — Population counts include 249 inmates housed in local jails or in out-of-State contracted facilities due to crowding.

Rhode Island — Prisons and jails form one integrated system. All NPS data include jail and prison populations

Population counts for inmates "Sentenced to more than 1 year" include inmates with partially suspended sentences only if the prison portion of the sentence exceeds one year. As a result, the number of inmates "Sentenced to more than 1 year" is understated.

South Carolina — Population counts include 399 inmates housed in local jails due to crowding.

South Dakota — Population counts for inmates "Sentenced to more than 1 year" include an undetermined number of inmates with a sentence of 1 year or less.

Tennessee — Population counts are for December 28, 1995.

Population counts for inmates "Sentenced to more than 1 year" include an undetermined number of inmates with a sentence of 1 year.

Population counts include 2,055 inmates housed in local jails as of December 15, 1995, due to crowding and exclude an undetermined number of felons sentenced to serve their time in local jails.

Utah — Population counts include 270 inmates housed in local jails and in contracted out-of-State facilities (100 inmates in Texas) due to crowding.

Design capacity is defined as the maximum number of beds facilities can hold.

Vermont — Prisons and jails form one integrated system. All NPS data include jail and prison populations.

Populations counts were based on custody data (housed inmates) starting in 1995.

Population counts exclude 511 inmates on furlough or intermediate sanctions.

Virginia — Population counts include 3,588 inmates housed in local jails and in contracted out-of-State facilities (628 inmates in Texas) due to crowding as of January 2, 1996.

Washington — Reported capacities exclude State work release and pre-release facilities which housed 907 inmates. The facilities' capacity of 1,070 is not specifically reserved for State inmates; capacity within these facilities for inmates, parolees, probationers, and offenders serving partial confinement sentences is indistinguishable.

West Virginia — Population counts include 134 inmates housed in local jail facilities due to crowding.

Population counts were based on jurisdiction data starting in 1994.

Wisconsin — Population counts include 354 inmates housed in local jail facilities due to crowding.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

BJS Bulletins present the first release of findings from permanent data collection programs such as the National Prisoner Statistics Program and the Annual Survey of Jails. State, local, and Federal corrections officials have cooperated in reporting the data presented.

Allen J. Beck, Ph.D., and Darrell K. Gilliard wrote this report. Doris James Wilson and Caroline Wolf Harlow provided statistical review. Yvonne Boston and Priscilla Middleton edited the report. Marilyn Marbrook, assisted by Yvonne Boston, administered final production.

Data collection and processing for the National Prisoner Statistics program were carried out by Elizabeth Griffin under the supervision of Gertrude Odom and Kathleen Creighton, Demographic Surveys Division, U.S. Bureau of the Census.

Data collection and processing for the Annual Survey of Jails were carried out by Lisa McNelis, with assistance from Pamela Butler, Henrietta Herrin, Martha Greene, and Charline Watz, under the supervision of Alan Stevens, Governments Division, U.S. Bureau of the Census.

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Data from the Annual Survey of Jails may be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The report and NPS data are available on the Internet:

http://www.ojp.usdoj.gov/bjs/

THE WASHINGTON POST
THURSDAY, AUGUST 1, 1996

Dennis

Cleaning Up Corrections

DIRECTOR MARGARET Moore's move to rid the D.C. Corrections Department of drug- and alcohol-abusing workers is drawing as many howls as her recent initiative to identify and separate workers with criminal pasts. Mrs. Moore should insert a pair of earplugs and get on with her mission. If corrections is to regain the public's trust, a serious housecleaning is in order.

If all goes well, the department hopes to start a program of mandatory drug and alcohol testing for all employees, including the director and her top managers, by the end of August. The only hurdle is to complete the competitive bidding process in time to select an independent contractor to administer the program. Once a contract is in place, each employee will be given a number that will be selected randomly by a computer for testing. Under this program, the much-touted but weakly administered "zero tolerance" policy of Mrs. Moore's predecessors gets real bite.

This will not happen immediately. Before the testing program kicks in, employees will be formally notified of the policy. Those with drug or drinking problems will be encouraged to seek treatment and abstain from that point forward. Corrections even will help workers through its Employee Assistance Program. But workers testing positive for drugs or alcohol *after* the notification period will be shown the door. Workers caught circumventing the process or who refuse to be tested will lose their jobs, too. It is a strict response to a bad situation in corrections.

Employees upset with the prospect of mandatory random drug and alcohol testing should keep in mind who helped bring on this tough approach. In recent years, dozens of corrections officers have been charged with taking bribes from inmates, dealing drugs on duty, aiding prisoner escapes and smuggling contraband. One day alone in 1993, 16 correctional employees were arrested and charged with possession and conspiracy with intent to distribute illegal drugs. They are among the reasons Mrs. Moore is moving to clean up the department. They are the reasons the D.C. Council passed and the mayor approved a law authorizing the new drug-testing program. Through their recklessness, they put themselves, their hard-working co-workers and the public at risk.

Mrs. Moore's initiative has the strong support of City Administrator Michael Rogers. His advice to corrections staff was equally unambiguous. "If you are caught, you are going to lose your job," he said. "That's the message people have to clearly understand." At last.

Armenia Lobby

THE UNITED STATES continues to intervene mischievously in the appalling conflict between Armenia and Azerbaijan. Its particular contribution is to increase the misery of a million Azeri refugees, and in that way to draw out hopes for a settlement. Why would Washington wish to conduct such a policy, which runs against its own substantial strategic, economic and political interests? It's a policy thrust upon a reluctant president by a Congress heavily influenced by Armenian Americans. This lobby has forced tough restrictions on direct American humanitarian and other aid to Azerbaijan.

The pro-Armenians argue that Azerbaijan and its regional patron Turkey are squeezing Armenia in a cruel joint embargo. But look at the situation on the ground. First—though the Turks lack similar cause—Azerbaijan is at war with Armenia: You wouldn't expect them to trade with each other right now. Then, it is not only that Karabakh Armenians seized and hold the long-sovereign Azeri enclave of Nagorno Karabakh, whose turmoil sparked this war between the two formerly Soviet republics. Armenians also now occupy 20 percent of Azerbaijan proper. In short, the United States is punishing the loser and comforting the conqueror, occupier and evident winner of the war.

Is there an American interest in denying normal humanitarian aid to a small country that—though not especially democratic—is reaching to the West and is critical to its region's political stability and economic promise (Caspian oil)? The American Armenian community and its supporters, led by former senator Robert Dole, make no such showing. Rather, what is on display is ethnic political power. The irony is that its wielding may not even be to the advantage of the Armenians. They would be better served, as would the Azeris, by enlisting the United States as an impartial moderator as they traded off territory for security for Karabakh and prosperity for themselves. But instead the Armenian lobby tends to tip American policy and to invite political intervention by an imperially inclined Moscow.

The question is due to be fought out again today in a foreign operations appropriations conference. Senate members seem inclined to widen the way for the humanitarian aid. House members are more split. But an opening is there to benefit Azeris, Armenians and, not least, Americans as well.

Department of Justice

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MORE PROSECUTIONS AND TOUGHER SENTENCING GUIDELINES PROMPT INCREASED INCARCERATIONS OF NON-CITIZENS

WASHINGTON, D.C. -- An increase in the number of prosecutions and convictions for federal drug and immigration offenses, as well as changes in mandatory time-served provisions, prompted a four-fold increase in the number of non-citizens incarcerated in federal prisons between 1984 and 1994, according to a Department of Justice report released today.

About 55 percent of the non-citizens prosecuted in the federal system during 1994 were in the United States legally. Most were charged with drug or immigration offenses. Drug offenses climbed an average 13 percent a year during the 1984-1994 period and immigration offenses rose an average 10 percent annually. The number of prosecutions for other offenses, including property and violent crimes, remained relatively stable.

The Department's Bureau of Justice Statistics began

(MORE)

collecting the data in 1984. The latest data available are from 1994.

Almost 19,000 non-citizens were incarcerated in federal prisons in 1994--up from 4,088 during 1984. In a corresponding manner, the number of non-citizens prosecuted increased from 3,462 during 1984 to 10,352 during 1994. The sharpest increase in the number of alien prosecutions occurred between 1986 and 1989. Since 1989 the number has been relatively stable.

Of those aliens convicted of a federal drug offense who were subject to a mandatory minimum prison sentence, 25 percent were subject to a 5-year mandatory minimum and 32 percent were subject to a 10-year mandatory minimum. The available data indicate that aliens convicted of a federal drug offense were more likely than citizens to have played a minor role in the offense.

Aliens were less likely to be prosecuted for violent federal offenses (murder, rape, robbery and assault) than were citizens--1.4 percent versus 8.5 percent during 1994.

During 1994, the majority (67 percent) of aliens convicted of an immigration offense were charged with illegally entering (or reentering) the United States. Of those convicted of

(MORE)

illegally entering the United States, 79 percent had a prior criminal conviction: 55 percent had a prior conviction for an offense other than an aggravated felony and 24 percent had a prior conviction for an aggravated felony.

Approximately 19 percent of those aliens convicted of an immigration offense were charged with alien smuggling. Of those, 26 percent were sentenced for smuggling fewer than 6 aliens, 49 percent were sentenced for smuggling between 6 and 24 aliens, 17 percent were sentenced for smuggling between 25 and 99 aliens and 8 percent were sentenced for smuggling 100 or more aliens.

The 8,594 aliens convicted in federal courts during 1994 were citizens of more than 75 countries--almost half (48.6 percent) were from Mexico, 14.6 percent from South America, 14.2 percent from the Caribbean Islands and 2.2 percent from Canada.

In 1994, more than 39,000 non-citizens were deported and over 1 million voluntarily departed. INS is authorized to apprehend and deport non-citizens convicted of deportable offenses. Deportable offenses include crimes of moral turpitude (murder, manslaughter, rape), drug trafficking, certain firearms

(MORE)

offenses, and offenses relating to national security. Once a deportable alien is identified, INS issues a detainer. An alien under an INS detainer is deported after the criminal proceeding or sentence has been completed.

During 1994 the federal government spent an estimated $400 million to incarcerate 18,929 aliens convicted of federal crimes.

Single copies of the special report, "Noncitizens in the Federal Criminal Justice System, 1984-94" (NCJ-160934), written by BJS statistician John Scalia, may be obtained from the BJS fax-on-demand system by dialing 301/251-5550 or by writing the BJS Clearinghouse, Box 179, Annapolis Junction, Maryland 20701-0179. The telephone number is 1-800/732-3277. Fax orders to 410/792-4358. BJS's home page address on the Internet is:

http://www.ojp.usdoj.gov/bjs/

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BJS96145
After hours contact: Stu Smith at 301/983-9354

U.S. Department of Justice
Office of Justice Programs

Bureau of Justice Statistics
Special Report

Federal Justice Statistics Program

July 1996, NCJ-160934

Noncitizens in the Federal Criminal Justice System, 1984-94

By John Scalia
BJS Statistician

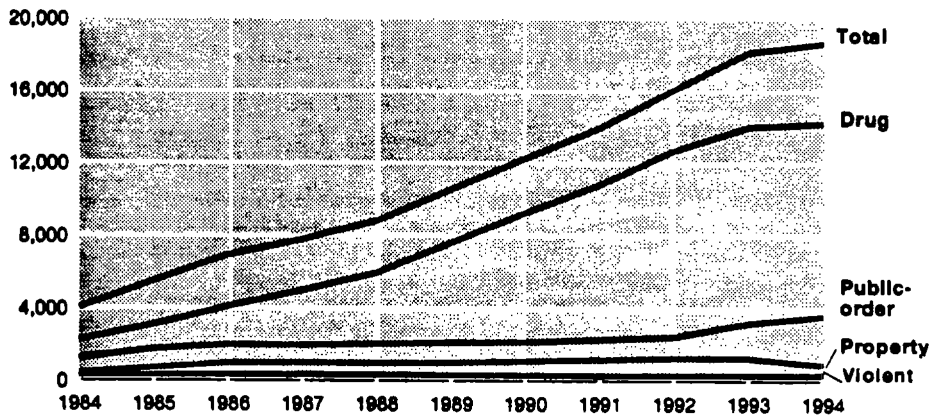
The number of noncitizens processed in the Federal criminal justice system increased an average 10% annually from 1984 to 1994. During 1984, 3,462 noncitizens were prosecuted in U.S. district courts; during 1994, more than 10,000 were prosecuted. The greatest part of this increase occurred between 1986 and 1989, when the number increased by almost 6,000. Since 1989 the number has remained fairly stable.

In contrast to the substantial increase in the number of noncitizens prosecuted, the overall Federal criminal caseload increased at a much slower rate between 1984 and 1994 — an average of less than 2% annually. During 1984 approximately 49,000 defendants were prosecuted in U.S. district courts; during 1994 approximately 59,000 were prosecuted.

The increase in the overall number of noncitizens prosecuted is primarily the result of the increase in the number of noncitizens charged with drug offenses — particularly between 1986 and 1989. The number of noncitizens charged with a Federal drug offense increased at an average 13% annually

Highlights

Noncitizens in Federal prisons, 1984-94



• Between 1984 and 1994, the number of noncitizens serving a sentence of imprisonment in a Federal prison increased an average of 15% annually — from 4,088 to 18,929; the overall Federal prison population, by contrast, increased an average 10% annually — from 31,105 to 87,437.

• 55% of the noncitizens prosecuted in Federal court during 1994 were in the United States legally.

• During 1984 about 35% of noncitizens prosecuted in Federal court were charged with a drug offense. By 1994 the proportion charged with a drug offense had increased to 45%.

• Nearly all (93%) prosecutions for immigration offenses involved noncitizens.

• 1.4% of noncitizens prosecuted in Federal court were charged with a violent crime compared with 8.5% of citizens.

• Noncitizens convicted of a Federal drug offense were more likely than citizens to have played a minor role in the drug conspiracy. Approximately 29% of noncitizens convicted of a drug offense received a downward sentencing adjustment for "mitigating role," compared with 14% of U.S. citizens.

from 1984 to 1994. During 1984, 1,204 noncitizens were charged with a drug offense; during 1994 more than 4,600 were charged with a drug offense.

Noncitizens convicted of a Federal drug offense were more likely than citizens to have played a minor role in the drug conspiracy. Approximately 29% of noncitizens convicted of a drug offense received a downward sentencing adjustment for "mitigating role," compared with 14% of U.S. citizens. Similarly, among Federal prison inmates serving a sentence for a drug conspiracy, 69% of noncitizens, compared with 56% of U.S. citizens, identified their role in the conspiracy as low-level.

During 1994, 4,322 noncitizens convicted of a Federal drug offense received a prison sentence with an average term of 69.9 months (table 9). U.S. citizens convicted of a Federal drug offense received prison sentences with an average term of 85.2 months. By law, Federal prisoners must serve at least 85% of the sentence before being released.[1] Therefore, a noncitizen convicted of a drug offense and sentenced to the average term of imprisonment could expect to serve 61 months before being released and deported.

[1]The 85% rule applies to all defendants sentenced pursuant to the Sentencing Reform Act of 1984. Of all defendants convicted of a felony offense during 1993, approximately 96% were sentenced pursuant to the Sentencing Reform Act.

Because of the increases in the number of noncitizens convicted and in time served by offenders, the number of noncitizens serving a sentence in Federal prison increased an average 15% annually between 1984 and 1994. During 1984, 4,088 noncitizens were serving a sentence of imprisonment — 56% for a drug offense; during 1994, 18,929 were incarcerated — 75% for a drug offense.

The number of noncitizens serving a sentence of imprisonment increased at a faster rate than the overall Federal prison population. While the number of noncitizens incarcerated increased an average 15% annually, the overall population increased by 10% annually — from 31,105 during 1984 to 87,437 during 1994.

The average cost to incarcerate an inmate in a Federal correctional institution during 1994 was approximately $21,300. Therefore, the U.S. Government expended an estimated $400 million during 1994 to incarcerate 18,929 noncitizens who were convicted of a Federal offense.

Types of noncitizens

Federal law identifies three major types of noncitizens:
(1) *immigrants* — persons who migrate to the United States and who are granted legal permanent residence
(2) *refugees* and *asylees* — persons who are outside of their country of nationality and are unable or unwilling to return to that country for fear of persecution
(3) *nonimmigrants* — persons who are admitted to the United States for a temporary period but not for permanent residence, for example, tourists, students, foreigners working in the United States, and Mexican and Canadian citizens with Border Crossing Cards.

The vast majority of noncitizens legally admitted to the United States are nonimmigrants. Excluding *border crossers*, many of whom make numerous entries annually, about 23 million noncitizens were admitted during 1994: approximately 800,000 were immigrants, 126,000 were refugees and asylees, and more than 22 million were nonimmigrants (table 1). The majority (78%) of nonimmigrants admitted to the United States were tourists. The number of noncitizens legally admitted to the United States increased at an average of 8% annually from approximately 10 million during 1984 to 23 million during 1994.

Status of noncitizens

The U.S. Immigration and Naturalization Service (INS) assigns a status to identify the legality of a noncitizen's presence in the United States. The two statuses used include:
(1) *legal aliens* — noncitizens who enter the United States after inspection and have not violated the terms of their admission;
(2) *illegal aliens* — noncitizens who (a) enter the United States without having been admitted after inspection or without presenting themselves for inspection or

Table 1. Number of noncitizens admitted to the United States, 1984-94 (in thousands)

Type of entry	1984	1985	1986	1987	1988	1989	1990	1991[c]	1992[c]	1993[c]	1994
Total	9,917	10,179	11,135	12,947	15,322	17,346	19,226	20,850	22,012	22,580	23,048
Immigrants	544	570	602	602	643	1,091	1,536	1,827	974	904	804
Refugees and asylees	80	69	62	72	87	110	116	103	127	120	126
Refugees[a]	68	62	58	67	80	101	110	100	123	113	114
Asylees[b]	12	7	4	5	7	9	6	3	4	7	12
Nonimmigrants	9,293	9,540	10,471	12,273	14,592	16,145	17,574	18,920	20,911	21,556	22,118
Tourists	6,595	6,609	7,342	8,887	10,821	12,115	13,418	14,618	16,441	16,918	17,154
Business	1,623	1,797	1,938	2,132	2,376	2,553	2,661	2,616	2,788	2,961	3,164
Other	1,075	1,134	1,191	1,254	1,395	1,477	1,495	1,686	1,682	1,677	1,800

[a]The number of refugees reported represents the number admitted.
[b]The number of asylees reported represents the number of individuals granted asylum by INS district directors and asylum officers.
[c]The number of nonimmigrants admitted during 1991-93 reflects the revised numbers published by INS in the 1994 *Statistical Yearbook*.
Source: United States Department of Justice, Immigration and Naturalization Service, *Statistical Yearbook*, annual.

(b) legally enter the United States but who subsequently violate a condition of their visa, for example, by remaining in the United States beyond the period authorized or by committing a criminal offense.

Criminal aliens are noncitizens who have been convicted of certain felonies, such as, for example, crimes of moral turpitude (like murder, manslaughter, rape), drug trafficking offenses, certain firearms offenses, or certain offenses relating to national security.[2]

By law, noncitizens classified as *criminal aliens* are deportable once criminal proceedings against them have been terminated or after they have completed serving their sentence.

Fifty-five percent of the noncitizens prosecuted in U.S. district courts were identified by pretrial service officers as *legal aliens* at the beginning of their prosecution.

Processing illegal aliens

The vast majority of noncitizens entering the United States from 1984 to 1994 were *legal aliens* — primarily tourists. While the exact number of *illegal aliens* in the United States is not known, INS estimates their number to be between 3 and 4 million.[3] During a 4-year period beginning October 1988, the estimated number of *illegal aliens* in the United States increased approximately 299,000 per year.[4] INS apprehends and expels more than 1 million *illegal aliens* annually. Approximately 97% of those apprehended during 1994 were Mexican nationals intercepted at the border attempting to enter without inspection.[5] Additionally, approximately 5,500 persons were denied entry into the United States for cause: 47% for prior criminal convictions and 47% for entry without inspection.[6]

INS has several options for removing an *illegal alien* from the United States. Fewer than 3% of those apprehended are actually deported. The most commonly used method for removing an illegal alien is *voluntary return with safeguards*. Under this method, aliens admit to their illegal status and agree to leave the United States voluntarily. Unlike deportation, voluntary departure does not require adjudication by an immigration judge. Aliens who are voluntarily returned at no expense to the

[2]A *criminal alien* is defined by statute at 8 U.S.C § 1251(a)(2). The statute describes specific offenses for which noncitizens can be deported.

[3]Robert Warren, "Estimates of the Unauthorized Immigrant Population Residing in the United States, by Country of Origin and State of Residence: October 1992," U.S. Immigration and Naturalization Service (April 29, 1994) as cited in Rebecca L. Clark, Jeffrey S. Passel, Wendy N. Zimmermann, and Michael E. Fix, *Fiscal Impacts of Undocumented Aliens: Selected Estimates for Seven States*, The Urban Institute (September, 1994).
[4]Warren (1994).
[5]United States Immigration and Naturalization Service, *Statistical Yearbook*, 1994.
[6]INS (1994).

Table 2. Country of citizenship of noncitizens convicted of an offense in U.S. district courts, 1994

Country of citizenship	Number	Percent
Total	8,594	100.0%
Mexico	4,178	48.6
Colombia	879	10.2
Dominican Republic	493	5.7
Nigeria	340	4.0
Cuba	337	3.9
Jamaica	284	3.3
Canada	188	2.2
China	84	1.0
El Salvador	82	1.0
Vietnam	77	.9
Great Britain	77	.9
Guyana	64	.7
Philippines	59	.7
Venezuela	56	.7
Korea	54	.6
Trinidad	52	.6
Other	1,290	15.0

Notes: Of the 8,784 noncitizens convicted in U.S. district courts during 1994, 200 were excluded due to missing data describing country of origin.
Data source: United States Sentencing Commission, Monitoring data file, annual.

Apprehending and deporting criminal aliens

The Immigration and Nationality Act of 1990 authorizes the INS to apprehend and deport *criminal aliens*.* The number of criminal aliens living in the United States is unknown. Identification of criminal aliens who are deportable requires cooperation between the INS and Federal, State, and local law enforcement agencies. INS generally relies upon these other law enforcement agencies to identify individuals who have come in contact with the criminal justice system and whom the agencies believe to be aliens.

While aliens can be identified at different stages of the criminal justice process, INS tends to concentrate attention on those aliens who have been charged with, or convicted of, a deportable crime. Once a deportable alien is identified, INS issues a detainer. An alien under an INS detainer is deported after the criminal proceeding or sentence has been completed. INS reported that nearly 32,000 criminal aliens were deported during 1995.

To address the increasing number of *criminal aliens*, INS developed a comprehensive strategy. INS's *Criminal Alien Apprehension Program*, implemented in 1991, was designed (1) to improve INS's reactive approach to identifying aliens charged with, or convicted of, a crime, and (2) to develop a more proactive approach for identifying criminals who are aliens by focusing law enforcement resources in areas of criminal activity with high concentrations of alien participants.

In addition, INS submits information to the Federal Bureau of Investigation's National Crime Information Center (NCIC). NCIC is a national database for information on crime, particularly whether a person is wanted by law enforcement. INS reports information to NCIC on aliens under deportation orders for previous criminal activity as well as aliens who have entered the United States without inspection and for whom a warrant of deportation has been issued. Because these aliens are included in the NCIC system, many apprehensions result from routine traffic stops or relatively minor offenses. As of March 1994, INS had entered 2,640 aliens into the NCIC database. Of these 2,640 aliens, 344 were arrested by State and local police officers — 199 were deported and 8 were placed under an INS detainer.

*See 8 USC § 1252(h).

United States are not prohibited from legally entering at a later time. During 1994 more than 39,000 aliens were deported and more than 1 million voluntarily departed.[7]

Under Federal law a *deported* alien may not be admitted to the United States for 5 years after deportation. Entry by a previously deported alien within 5 years of deportation is a criminal offense subject to a maximum term of 2 years' imprisonment.[8] Entry by a previously deported alien with a criminal history including a drug offense is a criminal offense subject to a maximum term of 10 years' imprisonment. Entry by a previously deported alien with a criminal history including an aggravated felony is a criminal offense subject to a maximum term of 20 years' imprisonment.[9] During 1994, 1,450 noncitizens were convicted for illegal entry into the United States after a previous deportation: 54.8% of these noncitizens had a criminal history including a drug offense but not including an aggravated felony, and 23.8%, a criminal history including an aggravated felony.

Characteristics of noncitizens prosecuted in U.S. district courts

Country of citizenship

Noncitizens convicted of a Federal offense during 1994 were from more than 75 countries. Nearly half (48.6%) of all noncitizens convicted were from Mexico (table 2). Additionally, 14.6% of the noncitizens convicted were from South America, 14.2% were from the Caribbean Islands, and 2.2% were from Canada. (Not all countries are shown in the table.)

Demographic characteristics

Most noncitizens prosecuted in U.S. district courts were from Latin America. Hispanics comprised 75.7% of noncitizens prosecuted (table 3). Eleven percent of the noncitizens prosecuted were black non-Hispanic; 7.9% were white non-Hispanic; and 5.3% were Asian. Those noncitizens identified as black were primarily from Nigeria (31.3%) and Jamaica (29.9%), and those noncitizens identified as Asian were primarily from China (16.5%), Vietnam (15.3%), Korea (11.1%), and the Philippines (10.3%) (not shown in a table).

Among defendants prosecuted in U.S. district courts, noncitizens tended to be younger and less educated than citizens: 51% of noncitizens were under age 30, compared with 42% of citi-

Table 3. Selected demographic characteristics of citizen and noncitizen defendants prosecuted in U.S. district courts, 1994

	U.S. citizens		Noncitizens	
	Number	Percent	Number	Percent
Total[a]	32,401	100.0%	10,352	100.0%
Race/ethnicity[b]				
White	15,998	49.6	814	7.9
Black	11,121	34.5	1,135	11.1
Hispanic	4,009	12.4	7,760	75.7
Other[c]	1,119	3.5	548	5.3
Age[d]				
Under 19 years	548	1.7%	183	1.8%
19 to 20 years	1,719	5.5	457	4.6
21 to 30 years	11,059	35.1	4,433	44.4
31 to 40 years	9,132	29.0	3,347	33.5
41 years or older	9,030	28.7	1,557	15.6
Educational level[e]				
College graduate	2,805	9.6%	550	7.2%
Some college	6,944	23.7	982	12.9
High school graduate	10,916	37.3	1,593	20.9
Not high school graduate	8,627	29.5	4,483	58.9

Note: Of the 59,351 defendants prosecuted in U.S. district courts and terminating pretrial supervision or detention during 1994 data were available for 45,169. An additional 2,416 were excluded because of missing data describing citizenship.
[a]Includes cases for which demographic characteristics were unavailable.
[b]Excludes 95 noncitizens and 154 citizens for whom information describing race/ethnicity was unavailable.
[c]Noncitizens in the "other" racial group were primarily Asian.
[d]Excludes 175 noncitizens and 913 citizens for whom information describing age was unavailable.
[e]Excludes 2,744 noncitizens and 3,109 citizens for whom information describing educational level was unavailable.
Data source: Administrative Office of the U.S. Courts, Pretrial Services Agency.

Table 4. Criminal history of citizen and noncitizen defendants prosecuted in U.S. district courts, 1994

	U.S. citizens		Noncitizens	
	Number	Percent	Number	Percent
Total[a]	32,401	100.0%	10,352	100.0%
No known criminal history	10,707	38.6%	4,975	56.3%
Prior criminal history				
Misdemeanor only	5,765	20.8%	1,153	13.0%
Felony	11,245	40.6	2,714	30.7
Nonviolent	6,336	22.9	1,891	21.4
Violent	4,909	17.7	823	9.3
Number of prior convictions				
1	5,582	32.8%	1,444	37.3%
2 to 4	7,008	41.2	1,595	41.2
5 or more	4,420	26.0	828	21.4

Note: Of the 59,351 defendants prosecuted in U.S. district courts and terminating pretrial supervision or detention during 1994 data were available for 45,169. An additional 2,416 were excluded because of missing data describing citizenship.
[a]Includes 1,510 noncitizens and 4,684 citizens for whom information describing criminal history was unavailable.
Data source: Administrative Office of the U.S. Courts, Pretrial Services Agency data file, annual.

[7]INS (1994).
[8]*See*, 8 U.S.C. § 1326(a).
[9]*See*, 8 U.S.C. § 1326(b).

zens. (The median age of noncitizens prosecuted was 30 years; the median age of citizens was 33 years.) Almost 60% of noncitizens did not have a high school education, or its equivalent, compared with less than 30% of citizens.

Criminal history

Noncitizens prosecuted in U.S. district courts are less likely to have a *known* criminal history than U.S. citizens (table 4). Approximately 44% of noncitizens and 60% of U.S. citizens had a known criminal history. This difference in criminal histories may be attributable to incomplete or unavailable records describing convictions for criminal offenses in other countries.

Because of the possibility that a noncitizen will have a foreign arrest and/or conviction, Federal probation officers are instructed to request an arrest check from INTERPOL — the coordinating group for international law enforcement.[10]

Of those noncitizens with known criminal histories, less than 30% had a prior conviction for only a misdemeanor offense: 48.9% had a prior conviction for a nonviolent felony; and 21.3% had a prior conviction for a violent felony (table 4).

Prosecution of noncitizens in U.S. district courts

The number of noncitizens whose cases were terminated in U.S. district courts tripled from 1984 to 1994 (table 5). Between 1984 and 1994, the number of noncitizens increased an average 10% annually — from 3,462 to 10,352. The number of noncitizens prosecuted increased at a faster rate than the overall Federal caseload. Over the same period the overall Federal caseload (both citizens and noncitizens) increased an average 2% annually — from approximately 49,000 during 1984 to more than 59,000 during 1994. (BJS, *Federal Criminal Case Processing, 1982-93,* NCJ-160088)

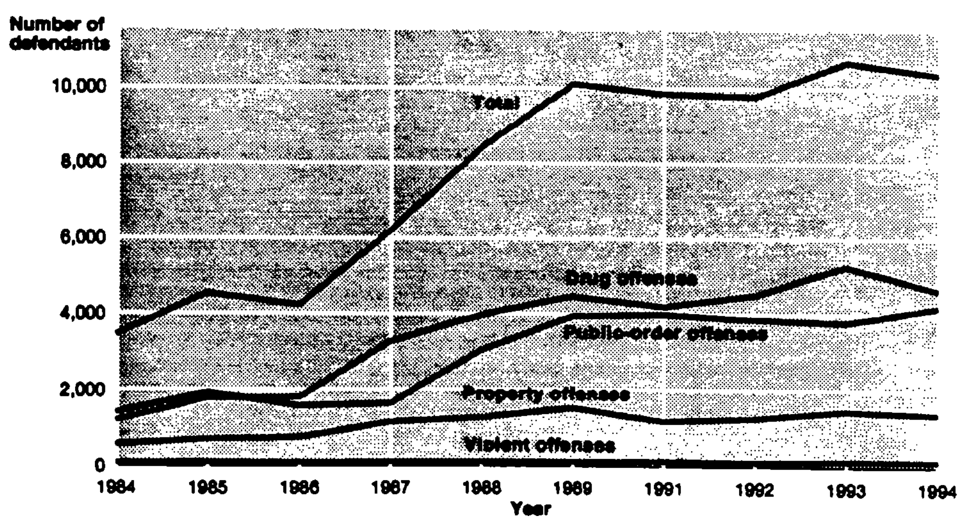
The greatest part of the increase in the number of noncitizens prosecuted occurred between 1986 and 1989, when the number increased by almost 6,000. Since 1989 the number of noncitizens prosecuted has remained fairly stable. The growth in the number of

[10] *See,* Administrative Office of the U.S. Courts, *The Presentence Investigation Report,* II-58 (July, 1995).

Table 5. Noncitizens prosecuted in U.S. district courts, 1984-94

Most serious offense charged	1984	1985	1986	1987	1988	1989	1991	1992	1993	1994
Total[a]	3,462	4,539	4,230	6,215	8,419	10,087	9,583	9,761	10,679	10,352
Violent offenses	88	108	92	116	111	120	142	114	150	144
Property offenses	564	697	744	1,152	1,274	1,541	1,172	1,263	1,463	1,378
Fraudulent	431	558	594	1,009	1,102	1,356	1,024	1,112	1,279	1,163
Other	133	139	150	143	172	185	148	151	184	215
Drug offenses	1,204	1,799	1,805	3,287	3,980	4,473	4,182	4,506	5,274	4,633
Public-order offenses	1,406	1,935	1,589	1,660	3,054	3,953	4,087	3,878	3,789	4,177
Regulatory	49	96	138	178	212	256	207	185	197	173
Other	1,357	1,839	1,451	1,482	2,842	3,697	3,880	3,693	3,592	4,004
Immigration[b]	1,186	1,636	1,240	1,166	2,474	3,309	3,453	3,183	3,022	3,477

[a]Includes cases for which data describing offense charged were unavailable.
Because of changes in the structure of the Pretrial Services Agency database during 1990, data describing defendants processed during 1990 were unavailable.
[b]Includes only those noncitizens charged with felonies and class A misdemeanors. Approximately 7,000 noncitizens are prosecuted annually for class B and C immigration violators — primarily illegal entry.
Data source: Administrative Office of the U.S. Courts, Pretrial Services Agency, data file, annual.



noncitizens prosecuted between 1986 and 1989 was generally attributable to an increase in the number of noncitizens charged with drug and immigration offenses.

Drug and immigration offenses account for the majority of the offenses for which noncitizens are prosecuted.

During 1984 drug and immigration offenses accounted for 69% of the offenses for which noncitizens were prosecuted. By 1994 these two offenses accounted for over 78% of theoffenses for which noncitizens were prosecuted.

Table 6. Type of drug involved in drug offenses committed by noncitizens sentenced in U.S. district courts, 1994

Type of drug	Number	Percent
Total	4,491	100.0%
Cocaine powder	1,604	35.7
Crack cocaine	271	6.0
Heroin	793	17.7
Marijuana	1,556	34.6
Methamphetamine	203	4.5
Other	64	1.4

Data source: United States Sentencing Commission, Monitoring data file, annual.

Noncitizens prosecuted in U.S. district courts were primarily concentrated in the judicial districts near the Southwestern border (figure 1, page 6).

The District of Arizona (15.3% of all noncitizens prosecuted), the Southern District of California (10.0%), the Southern District of Texas (9.4%), the Western District of Texas (7.2%), the Central District of California (7.1%), and the District of New Mexico (4.0%) together accounted for more than half of the total noncitizen federal caseload during 1994. The other judicial districts where a substantial number of noncitizens were prosecuted included the following: the Southern District of Florida (6.8%), the Eastern District of New York (3.5%), the Southern District of New York (2.9%), the Eastern District of California (2.2%), and the District of Oregon (2.0%).

Offense committed

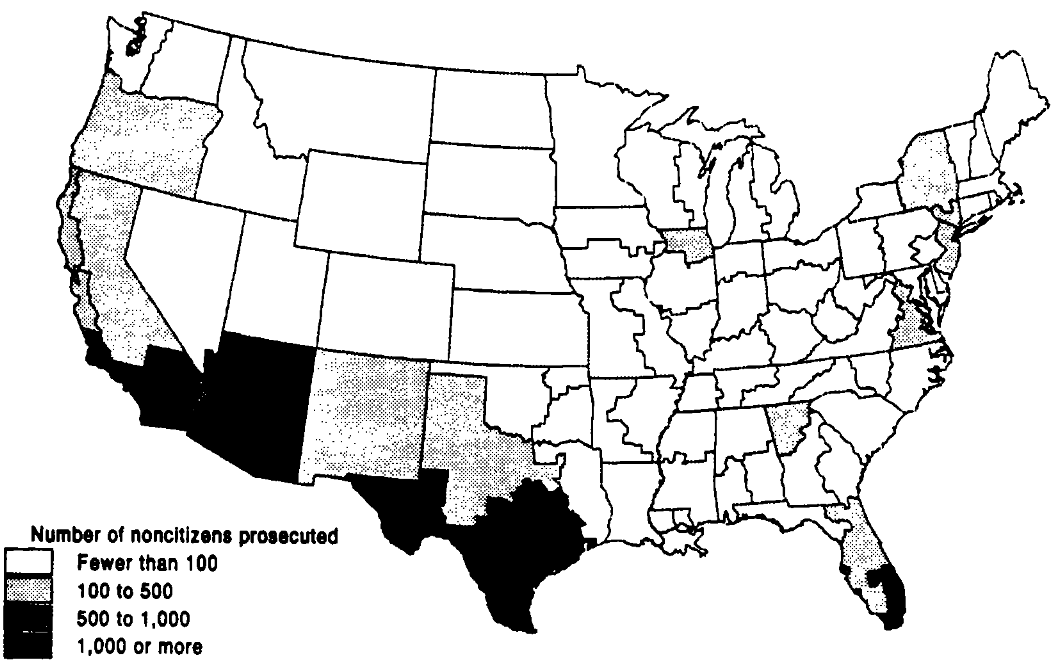
Drug offenses

Between 1984 and 1994 the number of noncitizens who were charged with drug offenses and whose cases were terminated increased at an average 13% annually — increasing from 1,204 to 4,633 (table 5). The number of noncitizens charged with drug offenses increased at a faster rate than the overall number of Federal drug prosecutions. Over the same period, the overall number of Federal drug prosecutions increased 7% annually — from approximately 10,000 during 1984 to more than 20,000 during 1994. (BJS, *Federal Criminal Case Processing, 1982-93,* NCJ-160088)

Noncitizens convicted of a drug offense were primarily involved with the distribution or importation of cocaine powder (35.7%), marijuana (34.6%), and heroin (17.7%) (table 6). Few (6%) noncitizens were involved with crack cocaine.

Among noncitizens convicted of drug offenses, about 41% involved with cocaine powder were sentenced for having less than 5 kilograms; 62% involved with heroin, having less than 1 kilogram; and 72% involved with marijuana, less than 100 kilograms.

Noncitizens prosecuted in U.S. district courts, 1994



Note: Alaska, Hawaii, the Commonwealth of Puerto Rico, and the U.S. territories are not depicted.

Figure 1

These drug quantities correspond to the minimum quantity necessary to invoke a 10-year mandatory minimum sentence.[11]

Few data are available describing the defendant's role in a drug offense, as, for example, whether the defendant was a dealer or a "mule" or "courier." However, the available data indicate that noncitizens were more likely than citizens to have played a minor role in drug offenses. Approximately 29% of the noncitizen Federal drug defendants who were convicted received a downward sentencing adjustment for a "mitigating role," compared with 14% of U.S. citizen drug defendants (not shown in a table).

Additionally, noncitizen Federal inmates identifying themselves as being involved in drug conspiracies were more likely than citizens to describe their role as low-level: approximately 69% of noncitizens compared with 56% of U.S. citizens, identified their role in the drug offense as low-level. (BJS, *Comparing Federal and State Prison Inmates, 1991*, NCJ-145864)

Immigration offenses

Between 1984 and 1994 the number of noncitizens who were charged with an immigration offense and whose cases were terminated increased an average 10% annually — from 1,186 to 3,477 (table 5).

Noncitizens prosecuted for an immigration offense are typically charged with illegally reentering the United States. Although any illegal entry into the United States is a criminal offense, illegal entry cases are rarely prosecuted unless the noncitizens had made multiple illegal entries.

Illegal reentry into the United States is a criminal offense if the noncitizen was previously deported by INS for illegally entering the United States or for being a *criminal alien*. Illegal reentry by a noncitizen who had previously been deported is a criminal offense subject to a maximum penalty of 2-years' imprisonment.[12] Illegal entry by a noncitizen who is a *criminal alien* (as defined by statute) is a criminal offense subject to a maximum penalty of 10-years' imprisonment, or 20-years' imprisonment if the noncitizen was previously convicted of an aggravated felony.[13] Approximately 67% of noncitizens convicted of an immigration offense were convicted of illegally entering the United States or reentry after deportation (table 7).

Of those noncitizens convicted of illegally entering the United States, 78.6% had a prior criminal conviction: 54.8% had a prior conviction for a criminal offense other than an aggravated felony, and 23.8% had a prior conviction for an aggravated felony (not shown in a table).

Smuggling, transporting, or harboring illegal aliens is a criminal offense subject to a maximum penalty of 10 years' imprisonment for each alien smuggled.[14] During 1994, 18.7% of the noncitizens convicted of an immigration offense were convicted of alien smuggling. Of those noncitizens convicted of alien smuggling, 26.4% were sentenced for smuggling fewer than 6 aliens; 49.2%, for smuggling between 6 and 24 aliens; 16.8%, for between 25 and 99 aliens; and 7.7%, for 100 or more aliens (not shown in a table).

Other offenses

Apart from drug and immigration offenses, noncitizens were generally not prosecuted for other criminal conduct within Federal jurisdiction. During 1994, 1.4%, 13.3%, and 6.8% of noncitizens were prosecuted for violent offenses, property offenses, and public-order offenses other than immigration offenses, respectively (table 5).

Disposition

Of the noncitizens adjudicated in U.S. district courts during 1994, 87.3% were convicted (not shown in a table). Of those noncitizens convicted, 92.3% pleaded guilty to the offense charged and 7.6% were convicted at trial. Of the 12.7% who were not convicted, the charges were dismissed in 91.3% of the cases, and the defendant was acquitted at trial in 8.7% of the cases.

Sanctions imposed

During 1994, 87.9% of noncitizens convicted of a Federal offense received a sentence that included a term of imprisonment; 11% received a sentence of probation (including probation imposed in conjunction with community

[11]*See*, 21 U.S.C. § § 841(a) and 960(a). Proportions of noncitizens subject to a mandatory minimum sentence are presented in table 10 on page 8.

[12]*See*, 8 U.S.C. § 1326(a).

[13]*See*, 8 U.S.C. § 1326(b). According to statute, an *aggravated felony* means murder; any illicit trafficking in controlled substances; any illicit trafficking in any firearms or destructive devices; any offense relating to the laundering of monetary instruments; a fraud involving a loss of $200,000 or more; or any crime of violence for which a term of imprisonment imposed was at least 5 years (8 U.S.C. § 1101(a)(43)).

[14]*See*, 8 U.S.C. § 1324(a).

Table 7. Type of immigration offense committed by noncitizens sentenced in U.S. district courts, 1994

Type of drug	Number	Percent
Total	2,182	100.0%
Illegal entry or re-entry	1,450	66.5
Harboring, transporting, or smuggling noncitizens	409	18.7
Trafficking in, or acquiring, fraudulent passports	52	2.4
Trafficking in, or acquiring, fraudulent entry documents	271	12.4

Data source: United States Sentencing Commission, Monitoring data file, annual.

Table 8. Sentence imposed on noncitizens in U.S. district courts, 1994

Type of sentence imposed	Number	Percent
Total	8,766	100.0%
Imprisonment only	7,532	85.9
Split sentence	171	2.0
Probation only	676	7.7
Probation with community confinement	290	3.3
No prison or probation	97	1.1

Notes: Of the 8,794 noncitizens convicted in U.S. district court during 1994, 28 were excluded due to missing data describing the type of sentence imposed.
Data source: United States Sentencing Commission, Monitoring data file, annual.

Table 9. Imprisonment imposed on noncitizens sentenced in U.S. district courts, 1994

Most serious offense of conviction	Number of defendants	Prison term imposed: Mean	Prison term imposed: Median
Total	7,647	50.1 mos.	27 mos.
Violent offenses	96	81.1	52
Property offenses	689	14.2	10
Fraudulent	581	13.5	10
Other	108	17.6	12
Drug offenses	4,283	69.9	51
Public-order offenses	2,579	25.6	21
Regulatory	62	11.0	6
Other	2,577	26.6	24
Immigration	1,978	22.6	21

Note: Of the 7,703 noncitizens convicted in U.S. district courts during 1994 who received a sentence that included a term of imprisonment, 11 were excluded because of missing data describing the term of imprisonment and 45 were excluded because the defendant received a sentence of life imprisonment.
Data source: United States Sentencing Commission, Monitoring data file, annual.

confinement);[15] and 1.1% received a sentence that included neither imprisonment nor probation (table 8).

Noncitizens received prison sentences with an average term of 50.1 months (table 9). Noncitizens convicted of violent offenses and drug offenses received the longest prison sentences, with an average of 81.1 months and 69.9 months, respectively. Noncitizens convicted of immigration offenses received prison sentences with an average term of 22.6 months.

The Anti-Drug Abuse Act of 1986 requires that defendants convicted of distributing or importing controlled substances be sentenced to a mandatory minimum 5- or 10-year term of imprisonment depending upon the quantity of drugs involved.[16] Almost 60% of the noncitizens convicted of a drug offense during 1994 were subject to a mandatory minimum prison sentence: 0.3% were subject to a mandatory minimum of 1 year; 25.4% were subject to a mandatory minimum of 5 years; and 32.4% were subject to a mandatory minimum of 10 years or more (table 10).[17]

Departures from the Federal sentencing guidelines

Approximately 27% of the noncitizens sentenced during 1994 received a departure from the applicable sentencing range established by the Federal sentencing guidelines (table 11). The most common reason cited for departing from the guidelines was substantial assistance to the Government: 16.3% of noncitizens sentenced received a substantial assistance departure. (A substantial assistance departure is awarded when the defendant assists the Government in the prosecution or investigation of another individual.[18]) Almost 10% received a downward departure for reasons other than substantial assistance and less than 1% received an upward departure. The most frequently cited reason for the "other" downward departures was "pursuant to a plea agreement"; the most frequently cited reasons for the upward departures were the defendant's extensive criminal history and the large quantity of drugs (not shown in a table).

[15]Sentences of community confinement include home detention, work release, and intermittent confinement. (*See*, U.S.S.G., § 5C1.1)

[16]*See*, Pub. L. No. 99-308 100 Stat 449 *as codified, in relevant part, at* 21 U.S.C. §§ 841 and 960.

[17]Pursuant to 21 U.S.C. §§ 859, 860, and 861, defendants convicted of employing a minor or distributing drugs to pregnant women or near schools are subject to a 12-month mandatory minimum term of imprisonment.

[18]*See*, 18 U.S.C. § 3553(e) and U.S.S.G. § 5K1.1.

Table 10. Noncitizen drug defendants sentenced in U.S. district courts subject to a mandatory term of imprisonment, 1994

	Number	Percent
Total	4,491	100.0%
No mandatory minimum applicable	1,881	41.9%
Mandatory minimum applicable	2,610	58.1%
Minimum of 1 year	13	.3
Minimum of 5 years	1,140	25.4
Minimum of 10 years or more	1,457	32.4

Data source: United States Sentencing Commission, Monitoring data file, annual.

Table 11. Noncitizens sentenced in U.S. district courts who received a departure from the Federal sentencing guidelines, 1994

			Departures		
				Downward	
Most serious offense of conviction	Number of defendants	No departure	Upward	Substantial assistance	Other
Total	8,125	73.4%	.8%	16.3%	9.5%
Violent offenses	89	75.3%	2.2%	9.0%	13.5%
Property offenses	1,070	83.8%	.7%	11.4%	4.0%
Fraudulent	903	84.5	.4	11.2	3.9
Other	167	80.2	2.4	12.6	4.8
Drug offenses	4,181	62.3%	.7%	25.4%	11.6%
Public-order offenses	2,774	85.9%	1.0%	4.6%	8.4%
Regulatory	116	79.3	0	11.2	9.5
Other	2,658	86.2	1.1	4.3	8.4
Immigration	2,022	89.7	1.1	1.2	8.0

Note: Of the 8,794 noncitizens convicted in U.S. district courts during 1994, 669 were excluded due to missing data describing departure status.
Data source: United States Sentencing Commission, Monitoring data file, annual.

Table 12. Noncitizens serving a sentence of imprisonment in a Federal prison, 1984-94

Most serious offense of conviction	Noncitizen Federal prison inmates										
	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
Total*	4,088	5,561	6,966	7,851	8,871	10,658	12,349	14,046	16,117	18,218	18,929
Violent offenses	290	298	329	349	338	313	298	270	295	316	343
Property offenses	228	357	483	507	497	509	541	592	622	622	658
Fraudulent	144	245	327	363	369	376	411	459	482	479	522
Other	84	112	156	144	128	133	130	133	140	143	136
Drug offenses	2,270	3,111	4,099	4,978	5,948	7,647	9,284	10,817	12,706	14,012	14,226
Public-order offenses	1,251	1,740	2,003	1,967	2,049	2,125	2,154	2,285	2,431	3,197	3,614
Regulatory	69	82	95	118	109	96	104	110	100	108	95
Other	1,182	1,658	1,908	1,849	1,940	2,029	2,050	2,175	2,331	3,089	3,519
Immigration	872	1,275	1,469	1,345	1,363	1,542	1,515	1,549	1,568	2,118	2,478

Note: Data represent the Federal prison population on December 31.
*Includes cases for which the offense category could not be determined.
Data source: United States Department of Justice, Bureau of Prisons, SENTRY System data file, annual.

Noncitizens convicted of drug offenses were more likely to receive a departure from the Federal sentencing guidelines than noncitizens convicted of other offenses. Over a third of noncitizen drug defendants received a departure from the Federal sentencing guidelines: 25.4% of drug offenders received a substantial assistance departure; 11.6% received a downward departure for reasons other than substantial assistance; and 0.7% received an upward departure (table 11).

Impact of noncitizens on the Federal prison population

Between 1984 and 1994, the number of noncitizens serving a sentence of imprisonment in a Federal prison (or contract facility) increased an average 15% annually — from 4,088 to 18,929 (table 12). The number of noncitizens incarcerated increased at a faster rate than the overall Federal prison population. Over the same period, the overall Federal prison population increased an average 10% annually — from 31,105 during 1984 to 87,437 during 1994. (BJS, *Compendium of Federal Justice Statistics*, annual, NCJ-160089)

During 1994, 75% of noncitizens serving a sentence of imprisonment were convicted of a drug offense; 13% were convicted of an immigration offense; and less than 2% were convicted of a violent offense. At the expiration of their sentences, those noncitizens identified as *criminal aliens* are deported.[19] Additionally, pending review by an immigration judge, many of the other noncitizens incarcerated may be required to depart from the United States upon release because they either entered the United States illegally or violated the terms of their admittance.[20]

The increase in the number of noncitizens incarcerated reflects a general increase in imprisonment imposed — especially for drug offenders — and changes in time-served requirements.[21] In addition to establishing the Federal sentencing guidelines, the Sentencing Reform Act of 1984 requires that defendants sentenced to a term of imprisonment must serve at least 85% of the imposed sentence before being released.[22]

For example, a noncitizen sentenced to the average term of 50 months could expect to serve at least 44 months before release. Similarly, a noncitizen convicted of a drug offense and sentenced to the average term of 70 months could expect to serve at least 61 months before being released.

[19] *See*, 8 U.S.C. § 1252a.
[20] *See*, 8 U.S.C. § 1251.
[21] *See generally*, Bureau of Justice Statistics, *Federal Criminal Case Processing, 1982-93* (1996).
[22] *See*, Pub. L. No. 98-473 §§ 211-239 98 Stat 1837 *as codified, in relevant part, at* 18 U.S.C. § 3624(b). Pursuant to the Sentencing Reform Act, Federal inmates serving a sentence of more than 1 year (but not life imprisonment) can earn up to 54 good conduct days per year served.

Given the increase in the number of noncitizens convicted and the time-served requirements, the number of noncitizens incarcerated in the Federal prisons is expected to continue to increase over the next 10 years. The Federal Bureau of Prisons projects that the increase will be approximately 4% annually over the next 10 years, increasing from 18,929 incarcerated during 1994 to more than 28,000 in 2005.[23] Preliminary data for 1995 indicate that the number of noncitizens serving a sentence in a Federal prison (or contract facility) was 21,421 as of September 30, 1995.

[23] Eric Simon, Chief, Public Policy and Applied Research, United States Department of Justice, Bureau of Prisons (March 14, 1996).

Noncitizens in State correctional facilities

A study by the Urban Institute estimated that approximately 86% of the illegal aliens living in the United States are concentrated in seven states: Arizona (1.7%), California (42.6%), Florida (9.5%), Illinois (5.2%), New Jersey (3.4%), New York (13.2%), and Texas (10.6%). The Institute estimated that 2.8% of the combined population of these States are illegal aliens.[1]

Reacting to a perceived increase in the costs of social services and public education for illegal aliens, during 1994 California enacted legislation prohibiting illegal aliens from receiving such social services.[2] Under the California law, individuals may not receive public social services until their legal status has been verified as (1) a citizen of the United States, (2) an alien lawfully admitted as a permanent resident, or (3) an alien lawfully admitted for a temporary period.[3]

As a response to costs incurred by States for incarcerating illegal aliens, the Immigration Reform and Control Act of 1986 authorized the Attorney General to reimburse the States for some of those costs.[4] The Violent Crime Control and Law Enforcement Act of 1994 expanded the reimbursement program to include local jurisdictions and to provide the U.S. Attorney General the option of incarcerating a State's illegal aliens in Federal prisons if a State were unable to incarcerate these aliens due to inadequate facilities or lack of space.[5]

State Criminal Alien Assistance Program awards, fiscal year 1995

State	Reimbursable inmates	Total cost to State[a] (in millions)	Award[b] (in millions)
All applicants	37,679	$796	$129
Seven States with the highest number of illegal aliens			
California	18,593	$396	$64
Texas	6,228	105	17
New York	2,390	83	13
Florida	2,323	41	7
Illinois	1,445	27	4
Arizona	1,384	23	4
New Jersey	601	18	3

[a]Represents average cost per inmate multiplied by the number of inmates for whom the State was eligible for reimbursement.
[b]Represents the FY 1995 appropriation less 1% or administrative costs.
Source: U.S. Department of Justice, Bureau of Justice Assistance.

[1]Rebecca L. Clark, Jeffrey S. Passel, Wendy N. Zimmermann and Michael E. Fix, *Fiscal Impact of Undocumented Aliens: Selected Estimates for Seven States*, The Urban Institute (September 1994).
[2]CAL WELF. & INST. CODE § 10001.5 (1994).
[3]CAL WELF. & INST. CODE § 10001.5(b) (1994).
[4]8 U.S.C. § 1365.
[5]*See*, Pub. L. No. 103-322 108 Stat 1823 *as codified at* 8 U.S.C. § 1252(j).

Congress first appropriated funds for this program (the *State Criminal Alien Assistance Program*) for fiscal year 1995. As part of the fiscal year 1995 appropriation for the Department of Justice, Congress appropriated $130 million for reimbursement to the States.[6] For fiscal year 1996, Congress appropriated $300 million for reimbursement to the States. Additionally, the President's fiscal year 1997 budget requested $330 million for the *State Criminal Alien Assistance Program.*[7]

Under the *State Criminal Alien Assistance Program*, the Department of Justice's Bureau of Justice Assistance awarded $128.7 million to 45 States during fiscal year 1995 to help defray the costs of incarcerating 38,000 illegal aliens. California, which was reimbursed for more than 18,000 illegal alien inmates, received almost 50%, or $64 million, of the $130 million appropriated by Congress. Six other States received approximately 38% of the remaining funds awarded.

A greater proportion of noncitizens in State prisons (35.1%) than in Federal prisons (1.9%) were convicted of violent offenses, according to the BJS Survey of Inmates in State Correctional Facilities, 1991. In both systems, noncitizens convicted of drug offenses comprised a large proportion of the convicted noncitizen population.

Current offense of sentenced noncitizens in Federal and State prisons, 1991

Current offense	Federal	State
Violent offenses	1.9%	35.2%
Property offenses	2.4	13.0
Drug offenses	85.1	45.2
Public-order offenses	7.4	6.6
Other	3.3	5.1
Number of noncitizen inmates	9,916	30,718

Notes: Excludes 159 noncitizens (49 in Federal prisons and 110 in State prisons) for whom the current offense was unavailable.
Source: 1991 Survey of Inmates in State and Federal Correctional Facilities.

[6]*See*, Pub. L. No. 103-317 108 Stat. 1724, 1778 (1994).
[7]Office of the President, *Budget of the United States Government Fiscal Year 1997*, Appendix, p. 665. Additional funds may also be transferred from the State corrections programs to the *State Criminal Alien Assistance Program*.

Methodology

The primary source of the data for tables presented in this report is the BJS Federal Justice Statistics Program database. The FJSP database is presently constructed from source files provided by the Executive Office for United States Attorneys, the Administrative Office of the United States Courts, the United States Sentencing Commission, and the Federal Bureau of Prisons. The Administrative Office of the U.S. Courts also maintains the data collected by the Pretrial Services Agency. Data tabulations, except where otherwise indicated, were prepared from BJS staff or contractor analysis of source agency datasets.

The offense categories used in this report are based primarily on the offense codes established by the Administrative Office of the U.S. Courts. The *Compendium of Federal Justice Statistics* (NCJ-160089) provides a detailed description of the United States Criminal Code titles and sections included in each offense category.

In tables 3-5 and figure 1, the data describing noncitizens prosecuted were derived from the database maintained by the Pretrial Services Agency. Unlike other FJSP tabulations of defendants in cases terminated, table 5 relies upon data from the Petrial Services Agency rather than the criminal court data file. Therefore, table 5 and other FJSP tables reporting defendants in case terminated may not be directly comparable.

The Pretrial Services Agency maintains data describing criminal defendants adjudicated in U.S. district courts who were processed by Federal pretrial services officers. Not all defendants prosecuted in U.S. district court are interviewed by a Federal pretrial services officer — some defendants refuse to be interviewed and, in some districts, pretrial services officers are not required to interview every defendant.

In the Pretrial Services Agency database, information describing citizenship status was available for approximately 95% of the defendants processed during a given year. Because of changes to the structure of the Pretrial Services Agency database during 1990, data describing defendants processed during 1990 were unavailable.

In tables 2 and 6-11, the data describing convicted noncitizens were derived from the database maintained by the United States Sentencing Commission. The Commission maintains data describing those defendants convicted in U.S. district courts and who were sentenced pursuant to the Federal sentencing guidelines. In the Commission's database, data describing citizenship status were available for over 97% of the defendants sentenced during calendar year 1994 and included in the Commission's database.

In table 12 the data describing imprisoned noncitizens were derived from the database maintained by the Federal Bureau of Prisons. The Bureau of Prisons maintains data describing all persons who were committed to Federal prison to serve a sentence of imprisonment. In the Bureau of Prisons' database, information describing citizenship status was available for over 98% of the inmates incarcerated during a given year.

In the section entitled *Noncitizens in State Correctional Facilities*, the data were derived from the Bureau of Justice Statistics' 1991 surveys of inmates in State and Federal correctional facilities.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

BJS Special Reports address a special topic in depth from one or more datasets that cover many topics.

John Scalia of the Bureau of Justice Statistics wrote this report. William J. Sabol of the Urban Institute and Kevin Strom of BJS provided statistical review. Tom Hester, Tina Dorsey, and Yvonne Boston edited the report. Marilyn Marbrook, assisted by Jayne Robinson, administered production.

The Immigration and Naturalization Service reviewed this report. John Bjerke of the Statistical Division provided comments.

The projection of the number of noncitizens incarcerated in the Federal prisons was provided by Eric Simon, Chief, Public Policy and Applied Research, of the Bureau of Prisons. The estimate was derived using the Bureau's prison population projection model, FEDSIM.

July 1996, NCJ-160934

Data presented in this report may be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The report and data are also available on the Internet:

hhtp:/www.ojp.usdoj.gov/bjs/

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Department of Justice

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MORE PROSECUTIONS AND TOUGHER SENTENCING GUIDELINES PROMPT INCREASED INCARCERATIONS OF NON-CITIZENS

WASHINGTON, D.C. -- An increase in the number of prosecutions and convictions for federal drug and immigration offenses, as well as changes in mandatory time-served provisions, prompted a four-fold increase in the number of non-citizens incarcerated in federal prisons between 1984 and 1994, according to a Department of Justice report released today.

About 55 percent of the non-citizens prosecuted in the federal system during 1994 were in the United States legally. Most were charged with drug or immigration offenses. Drug offenses climbed an average 13 percent a year during the 1984-1994 period and immigration offenses rose an average 10 percent annually. The number of prosecutions for other offenses, including property and violent crimes, remained relatively stable.

The Department's Bureau of Justice Statistics began

(MORE)

collecting the data in 1984. The latest data available are from 1994.

Almost 19,000 non-citizens were incarcerated in federal prisons in 1994--up from 4,088 during 1984. In a corresponding manner, the number of non-citizens prosecuted increased from 3,462 during 1984 to 10,352 during 1994. The sharpest increase in the number of alien prosecutions occurred between 1986 and 1989. Since 1989 the number has been relatively stable.

Of those aliens convicted of a federal drug offense who were subject to a mandatory minimum prison sentence, 25 percent were subject to a 5-year mandatory minimum and 32 percent were subject to a 10-year mandatory minimum. The available data indicate that aliens convicted of a federal drug offense were more likely than citizens to have played a minor role in the offense.

Aliens were less likely to be prosecuted for violent federal offenses (murder, rape, robbery and assault) than were citizens--1.4 percent versus 8.5 percent during 1994.

During 1994, the majority (67 percent) of aliens convicted of an immigration offense were charged with illegally entering (or reentering) the United States. Of those convicted of

(MORE)

illegally entering the United States, 79 percent had a prior criminal conviction: 55 percent had a prior conviction for an offense other than an aggravated felony and 24 percent had a prior conviction for an aggravated felony.

Approximately 19 percent of those aliens convicted of an immigration offense were charged with alien smuggling. Of those, 26 percent were sentenced for smuggling fewer than 6 aliens, 49 percent were sentenced for smuggling between 6 and 24 aliens, 17 percent were sentenced for smuggling between 25 and 99 aliens and 8 percent were sentenced for smuggling 100 or more aliens.

The 8,594 aliens convicted in federal courts during 1994 were citizens of more than 75 countries--almost half (48.6 percent) were from Mexico, 14.6 percent from South America, 14.2 percent from the Caribbean Islands and 2.2 percent from Canada.

In 1994, more than 39,000 non-citizens were deported and over 1 million voluntarily departed. INS is authorized to apprehend and deport non-citizens convicted of deportable offenses. Deportable offenses include crimes of moral turpitude (murder, manslaughter, rape), drug trafficking, certain firearms offenses, and offenses relating to national security. Once a deportable alien is identified, INS issues a detainer. An alien under an INS detainer is deported after the criminal proceeding or sentence has been completed.

During 1994 the federal government spent an estimated $400 million to incarcerate 18,929 aliens convicted of federal crimes.

Single copies of the special report, "Noncitizens in the Federal Criminal Justice System, 1984-94" (NCJ-160934), written by BJS statistician John Scalia, may be obtained from the BJS fax-on-demand system by dialing 301/251-5550 or by writing the BJS Clearinghouse, Box 179, Annapolis Junction, Maryland 20701-0179. The telephone number is 1-800/732-3277. Fax orders to 410/792-4358. BJS's home page address on the Internet is:

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U.S. Department of Justice
Office of Justice Programs

Bureau of Justice Statistics Special Report

Federal Justice Statistics Program

July 1996, NCJ-160934

Noncitizens in the Federal Criminal Justice System, 1984-94

By John Scalia
BJS Statistician

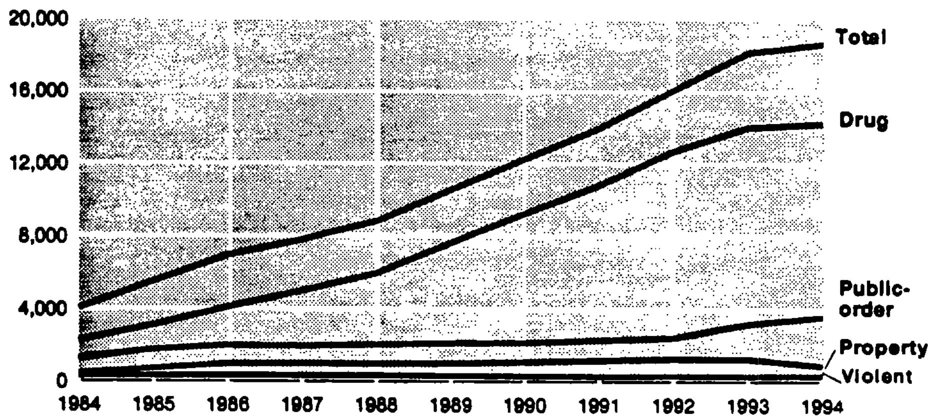
The number of noncitizens processed in the Federal criminal justice system increased an average 10% annually from 1984 to 1994. During 1984, 3,462 noncitizens were prosecuted in U.S. district courts; during 1994, more than 10,000 were prosecuted. The greatest part of this increase occurred between 1986 and 1989, when the number increased by almost 6,000. Since 1989 the number has remained fairly stable.

In contrast to the substantial increase in the number of noncitizens prosecuted, the overall Federal criminal caseload increased at a much slower rate between 1984 and 1994 — an average of less than 2% annually. During 1984 approximately 49,000 defendants were prosecuted in U.S. district courts; during 1994 approximately 59,000 were prosecuted.

The increase in the overall number of noncitizens prosecuted is primarily the result of the increase in the number of noncitizens charged with drug offenses — particularly between 1986 and 1989. The number of noncitizens charged with a Federal drug offense increased at an average 13% annually

Highlights

Noncitizens in Federal prisons, 1984-94



- Between 1984 and 1994, the number of noncitizens serving a sentence of imprisonment in a Federal prison increased an average of 15% annually — from 4,088 to 18,929; the overall Federal prison population, by contrast, increased an average 10% annually — from 31,105 to 87,437.
- 55% of the noncitizens prosecuted in Federal court during 1994 were in the United States legally.
- During 1984 about 35% of noncitizens prosecuted in Federal court were charged with a drug offense. By 1994 the proportion charged with a drug offense had increased to 45%.
- Nearly all (93%) prosecutions for immigration offenses involved noncitizens.
- 1.4% of noncitizens prosecuted in Federal court were charged with a violent crime compared with 8.5% of citizens.
- Noncitizens convicted of a Federal drug offense were more likely than citizens to have played a minor role in the drug conspiracy. Approximately 29% of noncitizens convicted of a drug offense received a downward sentencing adjustment for "mitigating role," compared with 14% of U.S. citizens.

from 1984 to 1994. During 1984, 1,204 noncitizens were charged with a drug offense; during 1994 more than 4,600 were charged with a drug offense.

Noncitizens convicted of a Federal drug offense were more likely than citizens to have played a minor role in the drug conspiracy. Approximately 29% of noncitizens convicted of a drug offense received a downward sentencing adjustment for "mitigating role," compared with 14% of U.S. citizens. Similarly, among Federal prison inmates serving a sentence for a drug conspiracy, 69% of noncitizens, compared with 56% of U.S. citizens, identified their role in the conspiracy as low-level.

During 1994, 4,322 noncitizens convicted of a Federal drug offense received a prison sentence with an average term of 69.9 months (table 9). U.S. citizens convicted of a Federal drug offense received prison sentences with an average term of 85.2 months. By law, Federal prisoners must serve at least 85% of the sentence before being released.[1] Therefore, a noncitizen convicted of a drug offense and sentenced to the average term of imprisonment could expect to serve 61 months before being released and deported.

[1]The 85% rule applies to all defendants sentenced pursuant to the Sentencing Reform Act of 1984. Of all defendants convicted of a felony offense during 1993, approximately 96% were sentenced pursuant to the Sentencing Reform Act.

Because of the increases in the number of noncitizens convicted and in time served by offenders, the number of noncitizens serving a sentence in Federal prison increased an average 15% annually between 1984 and 1994. During 1984, 4,088 noncitizens were serving a sentence of imprisonment — 56% for a drug offense; during 1994, 18,929 were incarcerated — 75% for a drug offense.

The number of noncitizens serving a sentence of imprisonment increased at a faster rate than the overall Federal prison population. While the number of noncitizens incarcerated increased an average 15% annually, the overall population increased by 10% annually — from 31,105 during 1984 to 87,437 during 1994.

The average cost to incarcerate an inmate in a Federal correctional institution during 1994 was approximately $21,300. Therefore, the U.S. Government expended an estimated $400 million during 1994 to incarcerate 18,929 noncitizens who were convicted of a Federal offense.

Types of noncitizens

Federal law identifies three major types of noncitizens:
(1) *immigrants* — persons who migrate to the United States and who are granted legal permanent residence
(2) *refugees* and *asylees* — persons who are outside of their country of nationality and are unable or unwilling to return to that country for fear of persecution
(3) *nonimmigrants* — persons who are admitted to the United States for a temporary period but not for permanent residence, for example, tourists, students, foreigners working in the United States, and Mexican and Canadian citizens with Border Crossing Cards.

The vast majority of noncitizens legally admitted to the United States are nonimmigrants. Excluding *border crossers*, many of whom make numerous entries annually, about 23 million noncitizens were admitted during 1994: approximately 800,000 were immigrants, 126,000 were refugees and asylees, and more than 22 million were nonimmigrants (table 1). The majority (78%) of nonimmigrants admitted to the United States were tourists. The number of noncitizens legally admitted to the United States increased at an average of 8% annually from approximately 10 million during 1984 to 23 million during 1994.

Status of noncitizens

The U.S. Immigration and Naturalization Service (INS) assigns a status to identify the legality of a noncitizen's presence in the United States. The two statuses used include:
(1) *legal aliens* — noncitizens who enter the United States after inspection and have not violated the terms of their admission;
(2) *illegal aliens* — noncitizens who (a) enter the United States without having been admitted after inspection or without presenting themselves for inspection or

Table 1. Number of noncitizens admitted to the United States, 1984-94 (in thousands)

Type of entry	1984	1985	1986	1987	1988	1989	1990	1991[c]	1992[c]	1993[c]	1994
Total	9,917	10,179	11,135	12,947	15,322	17,346	19,226	20,850	22,012	22,580	23,048
Immigrants	544	570	602	602	643	1,091	1,536	1,827	974	904	804
Refugees and asylees	80	69	62	72	87	110	116	103	127	120	126
Refugees[a]	68	62	58	67	80	101	110	100	123	113	114
Asylees[b]	12	7	4	5	7	9	6	3	4	7	12
Nonimmigrants	9,293	9,540	10,471	12,273	14,592	16,145	17,574	18,920	20,911	21,556	22,118
Tourists	6,595	6,609	7,342	8,887	10,821	12,115	13,418	14,618	16,441	16,918	17,154
Business	1,623	1,797	1,938	2,132	2,376	2,553	2,661	2,616	2,788	2,961	3,164
Other	1,075	1,134	1,191	1,254	1,395	1,477	1,495	1,686	1,682	1,677	1,800

[a]The number of refugees reported represents the number admitted.
[b]The number of asylees reported represents the number of individuals granted asylum by INS district directors and asylum officers.
[c]The number of nonimmigrants admitted during 1991-93 reflects the revised numbers published by INS in the 1994 *Statistical Yearbook*.
Source: United States Department of Justice, Immigration and Naturalization Service, *Statistical Yearbook*, annual.

(b) legally enter the United States but who subsequently violate a condition of their visa, for example, by remaining in the United States beyond the period authorized or by committing a criminal offense.

Criminal aliens are noncitizens who have been convicted of certain felonies, such as, for example, crimes of moral turpitude (like murder, manslaughter, rape), drug trafficking offenses, certain firearms offenses, or certain offenses relating to national security.[2]

By law, noncitizens classified as *criminal aliens* are deportable once criminal proceedings against them have been terminated or after they have completed serving their sentence.

Fifty-five percent of the noncitizens prosecuted in U.S. district courts were identified by pretrial service officers as *legal aliens* at the beginning of their prosecution.

Processing illegal aliens

The vast majority of noncitizens entering the United States from 1984 to 1994 were *legal aliens* — primarily tourists. While the exact number of *illegal aliens* in the United States is not known, INS estimates their number to be between 3 and 4 million.[3] During a 4-year period beginning October 1988, the estimated number of *illegal aliens* in the United States increased approximately 299,000 per year.[4] INS apprehends and expels more than 1 million *illegal aliens* annually. Approximately 97% of those apprehended during 1994 were Mexican nationals intercepted at the border attempting to enter without inspection.[5] Additionally, approximately 5,500 persons were denied entry into the United States for cause: 47% for prior criminal convictions and 47% for entry without inspection.[6]

INS has several options for removing an *illegal alien* from the United States. Fewer than 3% of those apprehended are actually deported. The most commonly used method for removing an illegal alien is *voluntary return with safeguards*. Under this method, aliens admit to their illegal status and agree to leave the United States voluntarily. Unlike deportation, voluntary departure does not require adjudication by an immigration judge. Aliens who are voluntarily returned at no expense to the

[2]A *criminal alien* is defined by statute at 8 U.S.C § 1251(a)(2). The statute describes specific offenses for which noncitizens can be deported.

[3]Robert Warren, "Estimates of the Unauthorized Immigrant Population Residing in the United States, by Country of Origin and State of Residence: October 1992," U.S. Immigration and Naturalization Service (April 29, 1994) as cited in Rebecca L. Clark, Jeffrey S. Passel, Wendy N. Zimmermann, and Michael E. Fix, *Fiscal Impacts of Undocumented Aliens: Selected Estimates for Seven States*, The Urban Institute (September, 1994).

[4]Warren (1994).

[5]United States Immigration and Naturalization Service, *Statistical Yearbook*, 1994.

[6]INS (1994).

Table 2. Country of citizenship of noncitizens convicted of an offense in U.S. district courts, 1994

Country of citizenship	Number	Percent
Total	8,594	100.0%
Mexico	4,178	48.6
Colombia	879	10.2
Dominican Republic	493	5.7
Nigeria	340	4.0
Cuba	337	3.9
Jamaica	284	3.3
Canada	188	2.2
China	84	1.0
El Salvador	82	1.0
Vietnam	77	.9
Great Britain	77	.9
Guyana	64	.7
Philippines	59	.7
Venezuela	56	.7
Korea	54	.6
Trinidad	52	.6
Other	1,290	15.0

Notes: Of the 8,784 noncitizens convicted in U.S. district courts during 1994, 200 were excluded due to missing data describing country of origin.
Data source: United States Sentencing Commission, Monitoring data file, annual.

Apprehending and deporting criminal aliens

The Immigration and Nationality Act of 1990 authorizes the INS to apprehend and deport *criminal aliens*.* The number of criminal aliens living in the United States is unknown. Identification of criminal aliens who are deportable requires cooperation between the INS and Federal, State, and local law enforcement agencies. INS generally relies upon these other law enforcement agencies to identify individuals who have come in contact with the criminal justice system and whom the agencies believe to be aliens.

While aliens can be identified at different stages of the criminal justice process, INS tends to concentrate attention on those aliens who have been charged with, or convicted of, a deportable crime. Once a deportable alien is identified, INS issues a detainer. An alien under an INS detainer is deported after the criminal proceeding or sentence has been completed. INS reported that nearly 32,000 criminal aliens were deported during 1995.

To address the increasing number of *criminal aliens*, INS developed a comprehensive strategy. INS's *Criminal Alien Apprehension Program*, implemented in 1991, was designed (1) to improve INS's reactive approach to identifying aliens charged with, or convicted of, a crime, and (2) to develop a more proactive approach for identifying criminals who are aliens by focusing law enforcement resources in areas of criminal activity with high concentrations of alien participants.

In addition, INS submits information to the Federal Bureau of Investigation's National Crime Information Center (NCIC). NCIC is a national database for information on crime, particularly whether a person is wanted by law enforcement. INS reports information to NCIC on aliens under deportation orders for previous criminal activity as well as aliens who have entered the United States without inspection and for whom a warrant of deportation has been issued. Because these aliens are included in the NCIC system, many apprehensions result from routine traffic stops or relatively minor offenses. As of March 1994, INS had entered 2,640 aliens into the NCIC database. Of these 2,640 aliens, 344 were arrested by State and local police officers — 199 were deported and 8 were placed under an INS detainer.

*See 8 USC § 1252(h).

United States are not prohibited from legally entering at a later time. During 1994 more than 39,000 aliens were deported and more than 1 million voluntarily departed.[7]

Under Federal law a *deported* alien may not be admitted to the United States for 5 years after deportation. Entry by a previously deported alien within 5 years of deportation is a criminal offense subject to a maximum term of 2 years' imprisonment.[8] Entry by a previously deported alien with a criminal history including a drug offense is a criminal offense subject to a maximum term of 10 years' imprisonment. Entry by a previously deported alien with a criminal history including an aggravated felony is a criminal offense subject to a maximum term of 20 years' imprisonment.[9] During 1994, 1,450 noncitizens were convicted for illegal entry into the United States after a previous deportation: 54.8% of these noncitizens had a criminal history including a drug offense but not including an aggravated felony, and 23.8%, a criminal history including an aggravated felony.

Characteristics of noncitizens prosecuted in U.S. district courts

Country of citizenship

Noncitizens convicted of a Federal offense during 1994 were from more than 75 countries. Nearly half (48.6%) of all noncitizens convicted were from Mexico (table 2). Additionally, 14.6% of the noncitizens convicted were from South America, 14.2% were from the Caribbean Islands, and 2.2% were from Canada. (Not all countries are shown in the table.)

Demographic characteristics

Most noncitizens prosecuted in U.S. district courts were from Latin America. Hispanics comprised 75.7% of noncitizens prosecuted (table 3). Eleven percent of the noncitizens prosecuted were black non-Hispanic; 7.9% were white non-Hispanic; and 5.3% were Asian. Those noncitizens identified as black were primarily from Nigeria (31.3%) and Jamaica (29.9%), and those noncitizens identified as Asian were primarily from China (16.5%), Vietnam (15.3%), Korea (11.1%), and the Philippines (10.3%) (not shown in a table).

Among defendants prosecuted in U.S. district courts, noncitizens tended to be younger and less educated than citizens: 51% of noncitizens were under age 30, compared with 42% of citi-

Table 3. Selected demographic characteristics of citizen and noncitizen defendants prosecuted in U.S. district courts, 1994

	U.S. citizens		Noncitizens	
	Number	Percent	Number	Percent
Total[a]	32,401	100.0%	10,352	100.0%
Race/ethnicity[b]				
White	15,998	49.6	814	7.9
Black	11,121	34.5	1,135	11.1
Hispanic	4,009	12.4	7,760	75.7
Other[c]	1,119	3.5	548	5.3
Age[d]				
Under 19 years	548	1.7%	183	1.8%
19 to 20 years	1,719	5.5	457	4.6
21 to 30 years	11,059	35.1	4,433	44.4
31 to 40 years	9,132	29.0	3,347	33.5
41 years or older	9,030	28.7	1,557	15.6
Educational level[e]				
College graduate	2,805	9.6%	550	7.2%
Some college	6,944	23.7	982	12.9
High school graduate	10,916	37.3	1,593	20.9
Not high school graduate	8,627	29.5	4,483	58.9

Note: Of the 59,351 defendants prosecuted in U.S. district courts and terminating pretrial supervision or detention during 1994 data were available for 45,169. An additional 2,416 were excluded because of missing data describing citizenship.
[a]Includes cases for which demographic characteristics were unavailable.
[b]Excludes 95 noncitizens and 154 citizens for whom information describing race/ethnicity was unavailable.
[c]Noncitizens in the "other" racial group were primarily Asian.
[d]Excludes 175 noncitizens and 913 citizens for whom information describing age was unavailable.
[e]Excludes 2,744 noncitizens and 3,109 citizens for whom information describing educational level was unavailable.
Data source: Administrative Office of the U.S. Courts, Pretrial Services Agency.

Table 4. Criminal history of citizen and noncitizen defendants prosecuted in U.S. district courts, 1994

	U.S. citizens		Noncitizens	
	Number	Percent	Number	Percent
Total[a]	32,401	100.0%	10,352	100.0%
No known criminal history	10,707	38.6%	4,975	56.3%
Prior criminal history				
Misdemeanor only	5,765	20.8%	1,153	13.0%
Felony	11,245	40.6	2,714	30.7
Nonviolent	6,336	22.9	1,891	21.4
Violent	4,909	17.7	823	9.3
Number of prior convictions				
1	5,582	32.8%	1,444	37.3%
2 to 4	7,008	41.2	1,595	41.2
5 or more	4,420	26.0	828	21.4

Note: Of the 59,351 defendants prosecuted in U.S. district courts and terminating pretrial supervision or detention during 1994 data were available for 45,169. An additional 2,416 were excluded because of missing data describing citizenship.
[a]Includes 1,510 noncitizens and 4,684 citizens for whom information describing criminal history was unavailable.
Data source: Administrative Office of the U.S. Courts, Pretrial Services Agency data file, annual.

[7]INS (1994).
[8]*See*, 8 U.S.C. § 1326(a).
[9]*See*, 8 U.S.C. § 1326(b).

zens. (The median age of noncitizens prosecuted was 30 years; the median age of citizens was 33 years.) Almost 60% of noncitizens did not have a high school education, or its equivalent, compared with less than 30% of citizens.

Criminal history

Noncitizens prosecuted in U.S. district courts are less likely to have a *known* criminal history than U.S. citizens (table 4). Approximately 44% of noncitizens and 60% of U.S. citizens had a known criminal history. This difference in criminal histories may be attributable to incomplete or unavailable records describing convictions for criminal offenses in other countries.

Because of the possibility that a noncitizen will have a foreign arrest and/or conviction, Federal probation officers are instructed to request an arrest check from INTERPOL — the coordinating group for international law enforcement.[10]

Of those noncitizens with known criminal histories, less than 30% had a prior conviction for only a misdemeanor offense: 48.9% had a prior conviction for a nonviolent felony; and 21.3% had a prior conviction for a violent felony (table 4).

Prosecution of noncitizens in U.S. district courts

The number of noncitizens whose cases were terminated in U.S. district courts tripled from 1984 to 1994 (table 5). Between 1984 and 1994, the number of noncitizens increased an average 10% annually — from 3,462 to 10,352. The number of noncitizens prosecuted increased at a faster rate than the overall Federal caseload. Over the same period the overall Federal caseload (both citizens and noncitizens) increased an average 2% annually — from approximately 49,000 during 1984 to more than 59,000 during 1994. (BJS, *Federal Criminal Case Processing, 1982-93*, NCJ-160088)

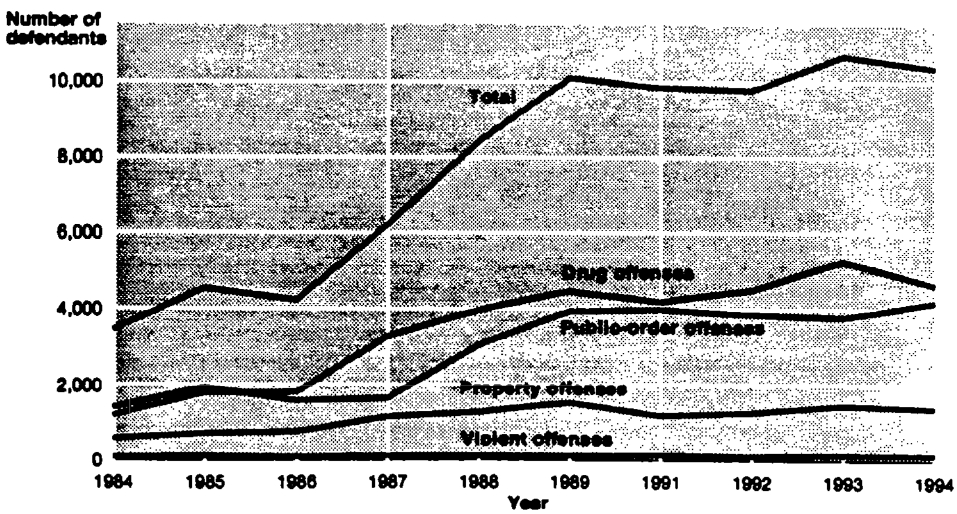
The greatest part of the increase in the number of noncitizens prosecuted occurred between 1986 and 1989, when the number increased by almost 6,000. Since 1989 the number of noncitizens prosecuted has remained fairly stable. The growth in the number of

[10] *See*, Administrative Office of the U.S. Courts, *The Presentence Investigation Report*, II-58 (July, 1995).

Table 5. Noncitizens prosecuted in U.S. district courts, 1984-94

Most serious offense charged	1984	1985	1986	1987	1988	1989	1991	1992	1993	1994
Total[a]	3,462	4,539	4,230	6,215	8,419	10,087	9,583	9,761	10,679	10,352
Violent offenses	88	108	92	116	111	120	142	114	150	144
Property offenses	564	697	744	1,152	1,274	1,541	1,172	1,263	1,463	1,378
Fraudulent	431	558	594	1,009	1,102	1,356	1,024	1,112	1,279	1,163
Other	133	139	150	143	172	185	148	151	184	215
Drug offenses	1,204	1,799	1,805	3,287	3,980	4,473	4,182	4,506	5,274	4,633
Public-order offenses	1,406	1,935	1,589	1,660	3,054	3,953	4,087	3,878	3,789	4,177
Regulatory	49	96	138	178	212	256	207	185	197	173
Other	1,357	1,839	1,451	1,482	2,842	3,697	3,880	3,693	3,592	4,004
Immigration[b]	1,186	1,636	1,240	1,166	2,474	3,309	3,453	3,183	3,022	3,477

[a]Includes cases for which data describing offense charged were unavailable.
Because of changes in the structure of the Pretrial Services Agency database during 1990, data describing defendants processed during 1990 were unavailable.
[b]Includes only those noncitizens charged with felonies and class A misdemeanors. Approximately 7,000 noncitizens are prosecuted annually for class B and C immigration violators — primarily illegal entry.
Data source: Administrative Office of the U.S. Courts, Pretrial Services Agency, data file, annual.



noncitizens prosecuted between 1986 and 1989 was generally attributable to an increase in the number of noncitizens charged with drug and immigration offenses.

Drug and immigration offenses account for the majority of the offenses for which noncitizens are prosecuted.

During 1984 drug and immigration offenses accounted for 69% of the offenses for which noncitizens were prosecuted. By 1994 these two offenses accounted for over 78% of theoffenses for which noncitizens were prosecuted.

Table 6. Type of drug involved in drug offenses committed by noncitizens sentenced in U.S. district courts, 1994

Type of drug	Number	Percent
Total	4,491	100.0%
Cocaine powder	1,604	35.7
Crack cocaine	271	6.0
Heroin	793	17.7
Marijuana	1,556	34.6
Methamphetamine	203	4.5
Other	64	1.4

Data source: United States Sentencing Commission, Monitoring data file, annual.

Noncitizens prosecuted in U.S. district courts were primarily concentrated in the judicial districts near the Southwestern border (figure 1, page 6).

The District of Arizona (15.3% of all noncitizens prosecuted), the Southern District of California (10.0%), the Southern District of Texas (9.4%), the Western District of Texas (7.2%), the Central District of California (7.1%), and the District of New Mexico (4.0%) together accounted for more than half of the total noncitizen federal caseload during 1994. The other judicial districts where a substantial number of noncitizens were prosecuted included the following: the Southern District of Florida (6.8%), the Eastern District of New York (3.5%), the Southern District of New York (2.9%), the Eastern District of California (2.2%), and the District of Oregon (2.0%).

Offense committed

Drug offenses

Between 1984 and 1994 the number of noncitizens who were charged with drug offenses and whose cases were terminated increased at an average 13% annually — increasing from 1,204 to 4,633 (table 5). The number of noncitizens charged with drug offenses increased at a faster rate than the overall number of Federal drug prosecutions. Over the same period, the overall number of Federal drug prosecutions increased 7% annually — from approximately 10,000 during 1984 to more than 20,000 during 1994. (BJS, *Federal Criminal Case Processing, 1982-93,* NCJ-160088)

Noncitizens convicted of a drug offense were primarily involved with the distribution or importation of cocaine powder (35.7%), marijuana (34.6%), and heroin (17.7%) (table 6). Few (6%) noncitizens were involved with crack cocaine.

Among noncitizens convicted of drug offenses, about 41% involved with cocaine powder were sentenced for having less than 5 kilograms; 62% involved with heroin, having less than 1 kilogram; and 72% involved with marijuana, less than 100 kilograms.

Noncitizens prosecuted in U.S. district courts, 1994

Note: Alaska, Hawaii, the Commonwealth of Puerto Rico, and the U.S. territories are not depicted.

Figure 1

These drug quantities correspond to the minimum quantity necessary to invoke a 10-year mandatory minimum sentence.[11]

Few data are available describing the defendant's role in a drug offense, as, for example, whether the defendant was a dealer or a "mule" or "courier." However, the available data indicate that noncitizens were more likely than citizens to have played a minor role in drug offenses. Approximately 29% of the noncitizen Federal drug defendants who were convicted received a downward sentencing adjustment for a "mitigating role," compared with 14% of U.S. citizen drug defendants (not shown in a table).

Additionally, noncitizen Federal inmates identifying themselves as being involved in drug conspiracies were more likely than citizens to describe their role as low-level: approximately 69% of noncitizens compared with 56% of U.S. citizens, identified their role in the drug offense as low-level. (BJS, *Comparing Federal and State Prison Inmates, 1991*, NCJ-145864)

Immigration offenses

Between 1984 and 1994 the number of noncitizens who were charged with an immigration offense and whose cases were terminated increased an average 10% annually — from 1,186 to 3,477 (table 5).

Noncitizens prosecuted for an immigration offense are typically charged with illegally reentering the United States. Although any illegal entry into the United States is a criminal offense, illegal entry cases are rarely prosecuted unless the noncitizens had made multiple illegal entries.

Illegal reentry into the United States is a criminal offense if the noncitizen was previously deported by INS for illegally entering the United States or for being a *criminal alien*. Illegal reentry by a noncitizen who had previously been deported is a criminal offense subject to a maximum penalty of 2-years' imprisonment.[12] Illegal entry by a noncitizen who is a *criminal alien* (as defined by statute) is a criminal offense subject to a maximum penalty of 10-years' imprisonment, or 20-years' imprisonment if the noncitizen was previously convicted of an aggravated felony.[13] Approximately 67% of noncitizens convicted of an immigration offense were convicted of illegally entering the United States or reentry after deportation (table 7).

Of those noncitizens convicted of illegally entering the United States, 78.6% had a prior criminal conviction: 54.8% had a prior conviction for a criminal offense other than an aggravated felony, and 23.8% had a prior conviction for an aggravated felony (not shown in a table).

Smuggling, transporting, or harboring illegal aliens is a criminal offense subject to a maximum penalty of 10 years' imprisonment for each alien smuggled.[14] During 1994, 18.7% of the noncitizens convicted of an immigration offense were convicted of alien smuggling. Of those noncitizens convicted of alien smuggling, 26.4% were sentenced for smuggling fewer than 6 aliens; 49.2%, for smuggling between 6 and 24 aliens; 16.8%, for between 25 and 99 aliens; and 7.7%, for 100 or more aliens (not shown in a table).

Other offenses

Apart from drug and immigration offenses, noncitizens were generally not prosecuted for other criminal conduct within Federal jurisdiction. During 1994, 1.4%, 13.3%, and 6.8% of noncitizens were prosecuted for violent offenses, property offenses, and public-order offenses other than immigration offenses, respectively (table 5).

Disposition

Of the noncitizens adjudicated in U.S. district courts during 1994, 87.3% were convicted (not shown in a table). Of those noncitizens convicted, 92.3% pleaded guilty to the offense charged and 7.6% were convicted at trial. Of the 12.7% who were not convicted, the charges were dismissed in 91.3% of the cases, and the defendant was acquitted at trial in 8.7% of the cases.

Sanctions imposed

During 1994, 87.9% of noncitizens convicted of a Federal offense received a sentence that included a term of imprisonment; 11% received a sentence of probation (including probation imposed in conjunction with community

[11] *See*, 21 U.S.C. § § 841(a) and 960(a). Proportions of noncitizens subject to a mandatory minimum sentence are presented in table 10 on page 8.

[12] *See*, 8 U.S.C. § 1326(a).

[13] *See*, 8 U.S.C. § 1326(b). According to statute, an *aggravated felony* means murder; any illicit trafficking in controlled substances; any illicit trafficking in any firearms or destructive devices; any offense relating to the laundering of monetary instruments; a fraud involving a loss of $200,000 or more; or any crime of violence for which a term of imprisonment imposed was at least 5 years (8 U.S.C. § 1101(a)(43)).

[14] *See*, 8 U.S.C. § 1324(a).

Table 7. Type of immigration offense committed by noncitizens sentenced in U.S. district courts, 1994

Type of drug	Number	Percent
Total	2,182	100.0%
Illegal entry or re-entry	1,450	66.5
Harboring, transporting, or smuggling noncitizens	409	18.7
Trafficking in, or acquiring, fraudulent passports	52	2.4
Trafficking in, or acquiring, fraudulent entry documents	271	12.4

Data source: United States Sentencing Commission, Monitoring data file, annual.

Table 8. Sentence imposed on noncitizens in U.S. district courts, 1994

Type of sentence imposed	Number	Percent
Total	8,766	100.0%
Imprisonment only	7,532	85.9
Split sentence	171	2.0
Probation only	676	7.7
Probation with community confinement	290	3.3
No prison or probation	97	1.1

Notes: Of the 8,794 noncitizens convicted in U.S. district court during 1994, 28 were excluded due to missing data describing the type of sentence imposed.
Data source: United States Sentencing Commission, Monitoring data file, annual.

Table 9. Imprisonment imposed on noncitizens sentenced in U.S. district courts, 1994

Most serious offense of conviction	Number of defendants	Prison term imposed: Mean	Median
Total	7,647	50.1 mos.	27 mos.
Violent offenses	96	81.1	52
Property offenses	689	14.2	10
Fraudulent	581	13.5	10
Other	108	17.6	12
Drug offenses	4,283	69.9	51
Public-order offenses	2,579	25.6	21
Regulatory	62	11.0	6
Other	2,577	26.6	24
Immigration	1,978	22.6	21

Note: Of the 7,703 noncitizens convicted in U.S. district courts during 1994 who received a sentence that included a term of imprisonment, 11 were excluded because of missing data describing the term of imprisonment and 45 were excluded because the defendant received a sentence of life imprisonment.
Data source: United States Sentencing Commission, Monitoring data file, annual.

confinement);[15] and 1.1% received a sentence that included neither imprisonment nor probation (table 8).

Noncitizens received prison sentences with an average term of 50.1 months (table 9). Noncitizens convicted of violent offenses and drug offenses received the longest prison sentences, with an average of 81.1 months and 69.9 months, respectively. Noncitizens convicted of immigration offenses received prison sentences with an average term of 22.6 months.

[15]Sentences of community confinement include home detention, work release, and intermittent confinement. (*See*, U.S.S.G., § 5C1.1)

The Anti-Drug Abuse Act of 1986 requires that defendants convicted of distributing or importing controlled substances be sentenced to a mandatory minimum 5- or 10-year term of imprisonment depending upon the quantity of drugs involved.[16] Almost 60% of the noncitizens convicted of a drug offense during 1994 were subject to a mandatory minimum prison sentence: 0.3% were subject to a mandatory minimum of 1 year; 25.4% were subject to a mandatory minimum of 5 years; and 32.4% were subject to a mandatory minimum of 10 years or more (table 10).[17]

[16]*See*, Pub. L. No. 99-308 100 Stat 449 *as codified, in relevant part, at* 21 U.S.C. §§ 841 and 960.

Departures from the Federal sentencing guidelines

Approximately 27% of the noncitizens sentenced during 1994 received a departure from the applicable sentencing range established by the Federal sentencing guidelines (table 11). The most common reason cited for departing from the guidelines was substantial assistance to the Government: 16.3% of noncitizens sentenced received a substantial assistance departure. (A substantial assistance departure is awarded when the defendant assists the Government in the prosecution or investigation of another individual.[18]) Almost 10% received a downward departure for reasons other than substantial assistance and less than 1% received an upward departure. The most frequently cited reason for the "other" downward departures was "pursuant to a plea agreement"; the most frequently cited reasons for the upward departures were the defendant's extensive criminal history and the large quantity of drugs (not shown in a table).

[17]Pursuant to 21 U.S.C. §§ 859, 860, and 861, defendants convicted of employing a minor or distributing drugs to pregnant women or near schools are subject to a 12-month mandatory minimum term of imprisonment.
[18]*See*, 18 U.S.C. § 3553(e) and U.S.S.G. § 5K1.1.

Table 10. Noncitizen drug defendants sentenced in U.S. district courts subject to a mandatory term of imprisonment, 1994

	Number	Percent
Total	4,491	100.0%
No mandatory minimum applicable	1,881	41.9%
Mandatory minimum applicable	2,610	58.1%
Minimum of 1 year	13	.3
Minimum of 5 years	1,140	25.4
Minimum of 10 years or more	1,457	32.4

Data source: United States Sentencing Commission, Monitoring data file, annual.

Table 11. Noncitizens sentenced in U.S. district courts who received a departure from the Federal sentencing guidelines, 1994

Most serious offense of conviction	Number of defendants	No departure	Departures: Upward	Downward: Substantial assistance	Downward: Other
Total	8,125	73.4%	.8%	16.3%	9.5%
Violent offenses	89	75.3%	2.2%	9.0%	13.5%
Property offenses	1,070	83.8%	.7%	11.4%	4.0%
Fraudulent	903	84.5	.4	11.2	3.9
Other	167	80.2	2.4	12.6	4.8
Drug offenses	4,181	62.3%	.7%	25.4%	11.6%
Public-order offenses	2,774	85.9%	1.0%	4.6%	8.4%
Regulatory	116	79.3	0	11.2	9.5
Other	2,658	86.2	1.1	4.3	8.4
Immigration	2,022	89.7	1.1	1.2	8.0

Note: Of the 8,794 noncitizens convicted in U.S. district courts during 1994, 669 were excluded due to missing data describing departure status.
Data source: United States Sentencing Commission, Monitoring data file, annual.

Table 12. Noncitizens serving a sentence of imprisonment in a Federal prison, 1984-94

Most serious offense of conviction	Noncitizen Federal prison inmates										
	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
Total*	4,088	5,561	6,966	7,851	8,871	10,658	12,349	14,046	16,117	18,218	18,929
Violent offenses	290	298	329	349	338	313	298	270	295	316	343
Property offenses	228	357	483	507	497	509	541	592	622	622	658
Fraudulent	144	245	327	363	369	376	411	459	482	479	522
Other	84	112	156	144	128	133	130	133	140	143	136
Drug offenses	2,270	3,111	4,099	4,978	5,948	7,647	9,284	10,817	12,706	14,012	14,226
Public-order offenses	1,251	1,740	2,003	1,967	2,049	2,125	2,154	2,285	2,431	3,197	3,614
Regulatory	69	82	95	118	109	96	104	110	100	108	95
Other	1,182	1,658	1,908	1,849	1,940	2,029	2,050	2,175	2,331	3,089	3,519
Immigration	872	1,275	1,469	1,345	1,363	1,542	1,515	1,549	1,568	2,118	2,478

Note: Data represent the Federal prison population on December 31.
*Includes cases for which the offense category could not be determined.
Data source: United States Department of Justice, Bureau of Prisons, SENTRY System data file, annual.

Noncitizens convicted of drug offenses were more likely to receive a departure from the Federal sentencing guidelines than noncitizens convicted of other offenses. Over a third of noncitizen drug defendants received a departure from the Federal sentencing guidelines: 25.4% of drug offenders received a substantial assistance departure; 11.6% received a downward departure for reasons other than substantial assistance; and 0.7% received an upward departure (table 11).

Impact of noncitizens on the Federal prison population

Between 1984 and 1994, the number of noncitizens serving a sentence of imprisonment in a Federal prison (or contract facility) increased an average 15% annually — from 4,088 to 18,929 (table 12). The number of noncitizens incarcerated increased at a faster rate than the overall Federal prison population. Over the same period, the overall Federal prison population increased an average 10% annually — from 31,105 during 1984 to 87,437 during 1994. (BJS, *Compendium of Federal Justice Statistics*, annual, NCJ-160089)

During 1994, 75% of noncitizens serving a sentence of imprisonment were convicted of a drug offense; 13% were convicted of an immigration offense; and less than 2% were convicted of a violent offense. At the expiration of their sentences, those noncitizens identified as *criminal aliens* are deported.[19] Additionally, pending review by an immigration judge, many of the other noncitizens incarcerated may be required to depart from the United States upon release because they either entered the United States illegally or violated the terms of their admittance.[20]

The increase in the number of noncitizens incarcerated reflects a general increase in imprisonment imposed — especially for drug offenders — and changes in time-served requirements.[21] In addition to establishing the Federal sentencing guidelines, the Sentencing Reform Act of 1984 requires that defendants sentenced to a term of imprisonment must serve at least 85% of the imposed sentence before being released.[22]

For example, a noncitizen sentenced to the average term of 50 months could expect to serve at least 44 months before release. Similarly, a noncitizen convicted of a drug offense and sentenced to the average term of 70 months could expect to serve at least 61 months before being released.

[19]*See*, 8 U.S.C. § 1252a.
[20]*See*, 8 U.S.C. § 1251.
[21]*See generally*, Bureau of Justice Statistics, *Federal Criminal Case Processing, 1982-93* (1996).
[22]*See*, Pub. L. No. 98-473 §§ 211-239 98 Stat 1837 *as codified, in relevant part, at* 18 U.S.C. § 3624(b). Pursuant to the Sentencing Reform Act, Federal inmates serving a sentence of more than 1 year (but not life imprisonment) can earn up to 54 good conduct days per year served.

Given the increase in the number of noncitizens convicted and the time-served requirements, the number of noncitizens incarcerated in the Federal prisons is expected to continue to increase over the next 10 years. The Federal Bureau of Prisons projects that the increase will be approximately 4% annually over the next 10 years, increasing from 18,929 incarcerated during 1994 to more than 28,000 in 2005.[23] Preliminary data for 1995 indicate that the number of noncitizens serving a sentence in a Federal prison (or contract facility) was 21,421 as of September 30, 1995.

[23]Eric Simon, Chief, Public Policy and Applied Research, United States Department of Justice, Bureau of Prisons (March 14, 1996).

Noncitizens in State correctional facilities

A study by the Urban Institute estimated that approximately 86% of the illegal aliens living in the United States are concentrated in seven states: Arizona (1.7%), California (42.6%), Florida (9.5%), Illinois (5.2%), New Jersey (3.4%), New York (13.2%), and Texas (10.6%). The Institute estimated that 2.8% of the combined population of these States are illegal aliens.[1]

Reacting to a perceived increase in the costs of social services and public education for illegal aliens, during 1994 California enacted legislation prohibiting illegal aliens from receiving such social services.[2] Under the California law, individuals may not receive public social services until their legal status has been verified as (1) a citizen of the United States, (2) an alien lawfully admitted as a permanent resident, or (3) an alien lawfully admitted for a temporary period.[3]

As a response to costs incurred by States for incarcerating illegal aliens, the Immigration Reform and Control Act of 1986 authorized the Attorney General to reimburse the States for some of those costs.[4] The Violent Crime Control and Law Enforcement Act of 1994 expanded the reimbursement program to include local jurisdictions and to provide the U.S. Attorney General the option of incarcerating a State's illegal aliens in Federal prisons if a State were unable to incarcerate these aliens due to inadequate facilities or lack of space.[5]

State Criminal Alien Assistance Program awards, fiscal year 1995

State	Reimbursable inmates	Total cost to State[a] (in millions)	Award[b] (in millions)
All applicants	37,679	$796	$129
Seven States with the highest number of illegal aliens			
California	18,593	$396	$64
Texas	6,228	105	17
New York	2,390	83	13
Florida	2,323	41	7
Illinois	1,445	27	4
Arizona	1,384	23	4
New Jersey	601	18	3

[a]Represents average cost per inmate multiplied by the number of inmates for whom the State was eligible for reimbursement.
[b]Represents the FY 1995 appropriation less 1% or administrative costs.
Source: U.S. Department of Justice, Bureau of Justice Assistance.

Congress first appropriated funds for this program (the *State Criminal Alien Assistance Program*) for fiscal year 1995. As part of the fiscal year 1995 appropriation for the Department of Justice, Congress appropriated $130 million for reimbursement to the States.[6] For fiscal year 1996, Congress appropriated $300 million for reimbursement to the States. Additionally, the President's fiscal year 1997 budget requested $330 million for the *State Criminal Alien Assistance Program.*[7]

Under the *State Criminal Alien Assistance Program*, the Department of Justice's Bureau of Justice Assistance awarded $128.7 million to 45 States during fiscal year 1995 to help defray the costs of incarcerating 38,000 illegal aliens. California, which was reimbursed for more than 18,000 illegal alien inmates, received almost 50%, or $64 million, of the $130 million appropriated by Congress. Six other States received approximately 38% of the remaining funds awarded.

A greater proportion of noncitizens in State prisons (35.1%) than in Federal prisons (1.9%) were convicted of violent offenses, according to the BJS Survey of Inmates in State Correctional Facilities, 1991. In both systems, noncitizens convicted of drug offenses comprised a large proportion of the convicted noncitizen population.

Current offense of sentenced noncitizens in Federal and State prisons, 1991

Current offense	Federal	State
Violent offenses	1.9%	35.2%
Property offenses	2.4	13.0
Drug offenses	85.1	45.2
Public-order offenses	7.4	6.6
Other	3.3	5.1
Number of noncitizen inmates	9,916	30,718

Notes: Excludes 159 noncitizens (49 in Federal prisons and 110 in State prisons) for whom the current offense was unavailable.
Source: 1991 Survey of Inmates in State and Federal Correctional Facilities.

[1]Rebecca L. Clark, Jeffrey S. Passel, Wendy N. Zimmermann and Michael E. Fix, *Fiscal Impact of Undocumented Aliens: Selected Estimates for Seven States*, The Urban Institute (September 1994).
[2]CAL WELF. & INST. CODE § 10001.5 (1994).
[3]CAL. WELF. & INST. CODE § 10001.5(b) (1994).
[4]8 U.S.C. § 1365.
[5]*See*, Pub. L. No. 103-322 108 Stat 1823 *as codified at* 8 U.S.C. § 1252(j).
[6]*See*, Pub. L. No. 103-317 108 Stat. 1724, 1778 (1994).
[7]Office of the President, *Budget of the United States Government Fiscal Year 1997*, Appendix, p. 665. Additional funds may also be transferred from the State corrections programs to the *State Criminal Alien Assistance Program*.

Methodology

The primary source of the data for tables presented in this report is the BJS Federal Justice Statistics Program database. The FJSP database is presently constructed from source files provided by the Executive Office for United States Attorneys, the Administrative Office of the United States Courts, the United States Sentencing Commission, and the Federal Bureau of Prisons. The Administrative Office of the U.S. Courts also maintains the data collected by the Pretrial Services Agency. Data tabulations, except where otherwise indicated, were prepared from BJS staff or contractor analysis of source agency datasets.

The offense categories used in this report are based primarily on the offense codes established by the Administrative Office of the U.S. Courts. The *Compendium of Federal Justice Statistics* (NCJ-160089) provides a detailed description of the United States Criminal Code titles and sections included in each offense category.

In tables 3-5 and figure 1, the data describing noncitizens prosecuted were derived from the database maintained by the Pretrial Services Agency. Unlike other FJSP tabulations of defendants in cases terminated, table 5 relies upon data from the Petrial Services Agency rather than the criminal court data file. Therefore, table 5 and other FJSP tables reporting defendants in case terminated may not be directly comparable.

The Pretrial Services Agency maintains data describing criminal defendants adjudicated in U.S. district courts who were processed by Federal pretrial services officers. Not all defendants prosecuted in U.S. district court are interviewed by a Federal pretrial services officer — some defendants refuse to be interviewed and, in some districts, pretrial services officers are not required to interview every defendant.

In the Pretrial Services Agency database, information describing citizenship status was available for approximately 95% of the defendants processed during a given year. Because of changes to the structure of the Pretrial Services Agency database during 1990, data describing defendants processed during 1990 were unavailable.

In tables 2 and 6-11, the data describing convicted noncitizens were derived from the database maintained by the United States Sentencing Commission. The Commission maintains data describing those defendants convicted in U.S. district courts and who were sentenced pursuant to the Federal sentencing guidelines. In the Commission's database, data describing citizenship status were available for over 97% of the defendants sentenced during calendar year 1994 and included in the Commission's database.

In table 12 the data describing imprisoned noncitizens were derived from the database maintained by the Federal Bureau of Prisons. The Bureau of Prisons maintains data describing all persons who were committed to Federal prison to serve a sentence of imprisonment. In the Bureau of Prisons' database, information describing citizenship status was available for over 98% of the inmates incarcerated during a given year.

In the section entitled *Noncitizens in State Correctional Facilities*, the data were derived from the Bureau of Justice Statistics' 1991 surveys of inmates in State and Federal correctional facilities.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

BJS Special Reports address a special topic in depth from one or more datasets that cover many topics.

John Scalia of the Bureau of Justice Statistics wrote this report. William J. Sabol of the Urban Institute and Kevin Strom of BJS provided statistical review. Tom Hester, Tina Dorsey, and Yvonne Boston edited the report. Marilyn Marbrook, assisted by Jayne Robinson, administered production.

The Immigration and Naturalization Service reviewed this report. John Bjerke of the Statistical Division provided comments.

The projection of the number of noncitizens incarcerated in the Federal prisons was provided by Eric Simon, Chief, Public Policy and Applied Research, of the Bureau of Prisons. The estimate was derived using the Bureau's prison population projection model, FEDSIM.

July 1996, NCJ-160934

Data presented in this report may be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The report and data are also available on the Internet:

hhtp:/www.ojp.usdoj.gov/bjs/

U.S. Department of Justice
Office of Justice Programs

Violent Offender Incarceration and Truth in Sentencing Incentive Grant Program: Interim Final Rule

As published in the *Federal Register*, December 7, 1994

DEPARTMENT OF JUSTICE
Office of Justice Programs

28 C.F.R. Part 91
[OJP No. 1011]
RIN 1121-AA25

Violent Offender Incarceration and Truth in Sentencing Incentive Grant Program

AGENCY: U.S. Department of Justice, Office of Justice Programs (OJP).

ACTION: Interim Final Rule.

SUMMARY: This Interim Rule implements and requests comments regarding the Violent Offender Incarceration and Truth in Sentencing Incentive Grant Program, Subtitle A of Title II of the Violent Crime Control and Law Enforcement Act of 1994. The Violent Offender Incarceration and Truth in Sentencing Grant Program will provide grants to states, and states organized in multi-state compacts, for assistance to correctional systems. These regulations are being issued in accordance with the mandate in Subtitle A of Title II that rules and regulations regarding the uses of grant funds under this program be issued. While this rule discusses the implementation of the overall Subtitle A program, fiscal year 1995 funds have only been appropriated for the construction-related costs of correctional boot camps.

DATES: Interim rule effective on December 7, 1994; comments must be received March 7, 1994.

ADDRESS: Comments may be sent to Marlene Beckman at the Office of Justice Programs, 633 Indiana Avenue, 13th Floor, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1-800-421-6770 or (202) 307-1480.

SUPPLEMENTARY INFORMATION: Federal funding is authorized under Subtitle A of Title II of the Violent Crime Control and Law Enforcement Act of 1994 (Subtitle A), Public Law 103-322, for grants to states, and states organized in multi-state compacts, for assistance to adult and juvenile correctional systems. The program recognizes that states and local jurisdictions have experienced substantial increases in jail, prison and juvenile confinement populations in recent years, resulting in escalating costs and serious difficulties in managing overcapacity correctional populations. Because of these constraints, correctional systems have often been unable to implement new programs, develop alternative confinement strategies, or open new facilities. This program seeks to provide funds to address the immediate needs of correctional facilities and programs.

In particular, the program emphasizes the need to make available both conventional jail and prison space for the confinement of violent offenders and to ensure that violent offenders remain incarcerated for substantial periods of time through the implementation of truth in sentencing laws. Accordingly, Subtitle A directs the Attorney General to award grants to construct, develop, expand, modify, operate, or improve correctional facilities, including boot camp facilities and other alternative correctional facilities that will free secure prison space for the confinement of violent offenders.

Fifty percent of the total amount of funds appropriated each year will be allocated for Truth in Sentencing Incentive Grants and the other 50 percent will be allocated for Violent Offender Incarceration Grants, 85 percent of which is to be distributed by specified formula with the remaining 15 percent available for discretionary grant awards.

The formula amount available to carry out the grant programs for any fiscal year will be allocated to each eligible state based on Part 1 violent crime data reported to the Federal Bureau of Investigation for use in the Uniform Crime Reports (UCR). If such data is unavailable, applicants may also utilize figures as reported in publications by the Bureau of Justice Statistics (BJS). (See, e.g., "Census of State and Local Correctional Facilities, 1990.")

The statute contemplates the availability of $7.9 billion in funding over six years, beginning with $175 million authorized in fiscal year 1995. It is important to note, however, that Congress appropriated only **$24.5 million for Subtitle A programs for fiscal year 1995**. Moreover, the Appropriations Act limits these funds to a discretionary grant program for the construction of correctional boot camps. Specifically, grant awards in fiscal year 1995 are to develop, construct, or expand boot camp programs which include coordinated, intensive aftercare services following release. It is anticipated that program guidelines and information outlining the application process for adult and juvenile boot camp fiscal year 1995 grant awards will be available in January 1995.

Statement of the Problem

State and local prison populations continue to grow. Moreover, there are a number of states and local jurisdictions under court order because of overcrowding in their correctional facilities. The majority of jurisdictions operate above the total rated capacity for their correctional facilities. Those facilities under court order for overcrowding which have taken steps to control their burgeoning inmate populations tend to operate at or near capacity in order to remain in compliance with the court orders.

Correctional systems faced with rising prison populations and court-ordered ceilings have responded in various ways. Some have implemented population management task forces to ensure that violent criminals are not released as a result of accommodating nonviolent offenders. Others have simply released offenders when their institutions reach a certain population level, without significant controls over the security classifications of the inmates. Still other systems under court order have implemented statutory release programs.

The Violent Crime Control and Law Enforcement Act of 1994

Subtitle A provides for immediate assistance to correctional systems to contend with this growing inmate population crisis. Of primary importance is the recognition that there must be adequate conventional confinement space for violent offenders, both adults and juveniles, to serve a substantial portion of their sentences. This program, therefore, provides grants to assist correctional systems in managing a comprehensive approach which will provide for the confinement of violent offenders; help address the problems associated with overcapacity in correctional facilities through the improvement, development, expansion or modification of present facilities and programs; and support comprehensive programs and treatment that will assist in reducing recidivism.

Federal, State and Local Partnerships

Because crime is primarily a state and local issue, the Subtitle A grant program envisions a federal, state, and local collaboration to address the problems associated with the incarceration and punishment of violent offenders. State and local government officials were involved in the congressional hearings that guided this legislation, and will continue to be involved as the Department of Justice moves forward in establishing policy guidance, developing regulations, and implementing program guidelines.

In addition, this grant program provides flexibility to states and local governments in utilizing federal funds to plan, construct, and operate correctional facilities in ways that best meet their needs and in the most cost-effective manner. Built into the program is the recognition that correctional systems can use grant funds in a variety of ways to ensure the greatest and most timely impact.

Under Subtitle A, corrections systems will have the ability to quickly bring on-line additional bed space in facilities which, although construction has been completed, are not being utilized due to funding constraints. States and local agencies can also activate prison and jail expansion and juvenile corrections projects that have been planned, but not launched, due to lack of funds. The grant program further provides for the expansion of alternative correctional options for nonviolent offenders which will free secure bed space for dangerous offenders to serve their sentences.

Moreover, corrections systems will have flexibility in using surplus federal property. Beds for violent offenders can be made available in secure facilities through the conversion of closed military facilities or other appropriate federal facilities to facilities for housing low-security inmates.

Subtitle A also recognizes the benefits of regional prisons, particularly for adjoining localities. The economies of scale resulting from a multi-state compact prison are particularly beneficial for confining specialized groups of offenders, such as medical/psychiatric inmates, inmates requiring protective custody, and high security inmates.

The grant program balances appropriate accountability through various eligibility criteria, the availability of technical assistance, and the evaluation of programs implemented with these funds, with the flexibility states and local governments require and deserve based on their individual needs and expertise. Grant eligibility criteria specifically provide for the involvement of counties and local governments and the sharing of funds with these entities.

Moreover, the federal role provides sufficient structure and definition in the eligibility criteria to meet the program's goals, while allowing for judgment by grant recipients to take into account the states' various unique situations, criminal and juvenile justice practices, and correctional systems. The program accounts for the different needs of the states and local entities, and reflects that there is no "national standard" approach that will suit all jurisdictions. The grant monies are available for the range of correctional needs such as system planning and facility development, as well as the construction, expansion, modification, improvement, and operation of a variety of correctional facilities.

Violent Juvenile Crime

Concern also continues nationwide over the escalation in violent juvenile crime. According to the FBI's Uniform Crime Reports, juvenile arrests for violent offenses increased dramatically over the five-year period from 1988 to 1992 — 47 percent — while adult violent crime arrests increased 19 percent. The estimated 129,600 Violent Crime Index arrests of juveniles in 1992 was the highest in our history, with 3,300 arrests for murder, 6,300 for forcible rape, 45,700 for robbery and 74,400 for aggravated assault. Moreover, during the past few years, there has been a marked escalation of homicides by juvenile offenders. Teenage homicides have more than doubled since 1984, and juvenile homicides involving firearms have increased 175 percent since 1983. Of particular importance is that the size of the current 14-17 year-old population, which has been responsible for much of the recent youth violence, will increase by about 20 percent in the next decade.

The "Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders," developed by the Department's Office of Juvenile Justice and Delinquency Prevention, is the centerpiece of the Department's response to growing juvenile crime. The Subtitle A grant program is an integral part of the comprehensive strategy's intervention component. The program is based on the recognition that an effective model for the treatment and rehabilitation of delinquent offenders must combine accountability and sanctions with increasingly intensive treatment and rehabilitative efforts at every stage of the continuum.

The intervention component calls for establishing a range of graduated sanctions that includes both immediate interventions and intermediate sanctions, including both nonresidential and residential placements and programming. Boot camps offer an intermediate sanction for nonviolent juvenile offenders. These programs should be short-term and include a formal aftercare phase, actively involving the family and the community in supporting and reintegrating the juvenile into the community.

While the strategy encourages the use of nonresidential community-based programs and intensive supervision programs for many juvenile offenders, it recognizes that the criminal behavior of some serious, violent and chronic offenders requires the use of secure detention and corrections facilities to protect the community and provide a structured treatment environment. This grant program will facilitate jurisdictions in meeting the challenge of placing juvenile offenders in need of confinement in secure facilities.

Grants for Correctional Facilities

The Subtitle A authorization provides for two different grant programs: (l) Violent Offender Incarceration Grants, and (2) Truth in Sentencing Incentive Grants. Of the total federal funding authorized to Subtitle A grant programs each year, 50 percent is allocated for each of these two grant initiatives. With the exception of a limited discretionary grant program, this funding will be distributed to states based on the formula specified in Subtitle A. Although the statute provides for states and multi-state compacts as the only eligible grant recipients, **Subtitle A requires that states involve counties and other units of local government and share funds received under this program with them.**

To be eligible to receive funding under either of the Subtitle A programs, states must comply with a series of assurances involving sentencing policies and practices and other guarantees of sound correctional systems to ensure that violent offenders are sufficiently incapacitated and that the public is protected.

Included in the assurances are requirements that the state: (1) implement sentencing reforms that ensure violent offenders receive sufficiently severe punishments, (2) recognize the rights and needs of crime victims, and (3) develop a comprehensive correctional management plan that includes diversion programs, particularly drug diversion programs, community corrections programs, systems designed to accurately evaluate and classify inmates within the system, and programs and treatment designed to assist in reducing recidivism, including rehabilitation and treatment programs and job skills. Emphasis will be placed on a corrections system's ability to plan for and implement these basic components of a comprehensive and coordinated approach to correctional policy.

Comprehensive Correctional Planning

By definition, a comprehensive system involves state and local governments; thus, the development of a comprehensive plan necessitates a partnership and collaboration among state and local entities. Because the flow of offenders begins at the local level, both local and state governments play key roles in the punishment of offenders through alternative sanctions and incarceration in correctional facilities. The input of county and municipal juvenile and criminal justice officials will be considered essential to creating an effective overall state strategy to meet the goals of this grant program. Both local and state governments also have a strong interest in any change in the capacity of any component of the corrections system. The statutory assurances are clear in their intent that states are expected to share funds with local units of government in support of effective implementation of the comprehensive plan.

Participants in the comprehensive plan development should represent a broad mix of interested and involved organizations and officials from varying perspectives. Every effort should be made by the state to include mayors, city and county officials, police departments, sheriffs, judges, prosecutors, community corrections administrators, representatives from the treatment and education communities and indigent defense, concerned citizens, and victims' advocates, as well as the juvenile justice system. Applicants should also take an active role in involving state and juvenile justice administrative agencies and advisory boards. The manner in which criminal and juvenile justice functions are structured in various states and their relationships with other justice agencies will affect the roles played in the development of an effective correctional plan.

The comprehensive correctional plan must address how the state has involved local jurisdictions and the plan for sharing funds with local facilities, truth in sentencing and victims' rights issues, and the continuum of correctional options required for adult and juvenile offenders. It must meet the overall goal of incarcerating violent offenders, and must convey the options for nonviolent offenders that will free up traditional bed space to accomplish that goal.

Victims' Rights and Needs

To be eligible to receive grants, states must provide assurances that they have implemented policies that provide for the recognition of the rights and needs of crime victims. No specific requirements for complying with this condition are prescribed by this interim rule in relation to fiscal year 1995 funding because of the need for comprehensive review of the status of victims' rights measures in state systems. State applications for fiscal year 1995 funding should include information on measures which are in effect or under consideration in the state to protect the rights and interests of crime victims.

More definitive guidance will be provided concerning compliance with this condition in a final rule or related guidelines for funding in fiscal year 1996 and thereafter. Areas that have been identified as implicating important rights and needs of crime victims include: (1) providing notice to victims concerning case and offender status, (2) providing an opportunity for victims to be present at public court proceedings, (3) providing victims the opportunity to be heard at sentencing and parole hearings, (4) providing for restitution and other compensation to victims, and (5) establishing administrative mechanisms or other mechanisms to effectuate these rights.

States that expect to seek funding under this program in fiscal year 1996 or thereafter are encouraged to review the status of victim rights measures in their systems, particularly with reference to the five areas identified above. Federal law incorporates significant measures in each of these areas for federal cases. The provisions of federal law governing these issues may be useful for states as a possible model for reform, if they have not already adopted similar measures in their own systems. See 42 U.S.C. 10606(b)(3), (7), 10607(c) (notice concerning case and offender status); 42 U.S.C. 10606(b)(4) (right to be present at public court proceedings); Rule 32 of the Federal Rules of Criminal Procedure, as amended effective December 1, 1994 (right of allocution in sentencing for victims); 18 U.S.C. 3663, 3553(c) (general restitution provisions for federal cases); 42 U.S.C. 10607(a) and (b), 10607(c)(5) (assignment of responsibility for victim-related functions).

Truth in Sentencing Incentive Grants

To be eligible to receive funding under the Truth in Sentencing Grant Program, in addition to meeting the assurances listed in Subtitle A, states must also meet certain sentencing requirements. In particular, to qualify for this part of the grant program, states must have in effect sentencing laws that either provide for **violent offenders** to (1) serve not less than 85 percent of their sentences, or (2) meet other requirements that ensure that violent offenders, and especially repeat violent offenders, remain incarcerated for substantially greater percentages of their imposed sentences.

The Office of Justice Programs is aware that the vast majority of states will at present have difficulty in meeting the condition that violent offenders serve at least 85 percent of the sentence imposed. No specific guidance for complying with this assurance is prescribed at this time both because funding for this program is not available in FY '95, and also because of the need for further review of state compliance issues. Moreover, we are particularly interested in comments from the field on compliance issues and on the definition of "violent offender" for purposes of truth in sentencing grant awards.

FY 1995 Correctional Boot Camp Initiative

The availability of funds each year is, of course, limited by the appropriations process. In fiscal year 1995, Congress has allocated $24.5 million to Subtitle A grant programs and has imposed additional limitations on the uses of these grant funds.

Consistent with congressional intent, grant awards in fiscal year 1995 will be for construction-related costs of correctional boot camps and will be allocated through the discretionary grant component of the Violent Offender Incarceration Grant Program. Construction-related costs are broadly interpreted to include costs associated with both the planning and development of the facility. OJP is expressly precluded, however, from funding operating expenses.

Specifically, grant funds can be used to plan, develop, construct, or expand adult and juvenile boot camp programs which must include coordinated, intensive aftercare services for inmates following release. Pursuant to the requirements specified in Subtitle A, boot camps are correctional programs of no longer than six-months incarceration and must: (1) exclude offenders who have at any time been convicted of a violent felony or similarly adjudicated juveniles, (2) adhere to a regimented schedule, (3) provide for inmate participation in education, job training and substance abuse counseling or treatment, and (4) coordinate intensive aftercare services with the services provided during the period of confinement.

The program emphasis in fiscal year 1995 will be on the construction, renovation and expansion of correctional boot camp facilities that will free conventional prison, jail and juvenile correctional space for the confinement of violent offenders so they can serve a substantial amount of their imposed sentences. To receive funds, correctional systems will have to demonstrate, through a comprehensive correctional plan and prisoner screening and security classification system, that (1) there is a need for additional secure confinement space for violent offenders, and (2) this need will be met through the construction of a boot camp facility that provides housing otherwise unavailable for nonviolent offenders.

With regard to juvenile facilities, priority will be given to juvenile boot camps that are designed to prevent juvenile offenders at risk from becoming violent offenders. This desired outcome will most likely be accomplished if the jurisdiction engages in efforts that maximize the likelihood that juvenile boot camp participants would otherwise be incarcerated in traditional secure facilities (e.g., participation limited to those youths who have been adjudicated delinquents and who have been sentenced to the juvenile state correctional agency). Among this population, juvenile offenders whose escalating patterns of delinquent behavior indicate that an authoritative boot camp intervention is likely to suppress or abate emerging tendencies towards chronic or violent delinquent behavior should be considered prime candidates for boot camp participation.

To be eligible to receive grants for correctional boot camp construction, states must meet the eligibility criteria outlined for the Violent Offender Incarceration Grant Program, including the assurances specified in Section 20101(b) of Subtitle A.

Detailed program guidelines and application material for the fiscal year 1995 correctional boot camp initiative will be available in January 1995.

Technical Assistance and Training/ Evaluation

In keeping with the intent of Congress to assist states in meeting these assurances, the Department proposes to designate up to 10 percent of the funds available in this program to provide technical assistance and training to states that presently do not meet the required general assurances or want to expand and improve on current efforts in these areas. Specifically, the Department will provide training and assistance to states with the comprehensive corrections planning process, the development of truth in sentencing statutes, and in otherwise moving toward compliance with the required conditions. States which meet the general assurances in fiscal year 1995, or are working toward compliance, will be in a better position to receive grant monies under these programs over the next several years.

Further, it is the intent of the Department that selected federal initiatives under the new anti-crime law be evaluated. To accomplish this goal, a portion of the overall funds authorized under this Subtitle will be set aside for purposes of implementing a national evaluation strategy. Recipients of funds must agree to cooperate with federally-sponsored evaluations of their projects and to conduct evaluations as required by the national evaluation strategy. In addition, recipients of program funds will be required to conduct a local assessment and report on program implementation.

Request for Comments

In submitting comments, please be cognizant of the above-described statutory limitations. In administering the Subtitle A, Correctional Facilities Grant Program, OJP seeks to fulfill congressional intent by ensuring that the statutory limitations are applied appropriately to all recipients.

Comments are particularly encouraged with respect to the following definitions and implementation policy issues:

1) Definition of "Violent Offender" [§ 91.2(a), § 91.4(b)] (This interim rule reserves the issue for now, but the Department will issue a final rule based on comments received, in advance of the implementation of Subtitle A in fiscal year 1996);

2) Definition of "Serious Drug Offense" [§91.4(b)];

3) How a state can demonstrate compliance with the assurance that it **has implemented**, or **will implement**, correctional policies and programs, including "truth in sentencing laws that: (a) "ensure that violent offenders serve a substantial portion of the sentences imposed," (b) "are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders," and (c) "the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public." [§ 91.2(i), § 91.3(b)(1)];

4) How a state can demonstrate compliance with the condition to "provide for the recognition of the rights and needs of crime victims" [§ 91.3(b)(2)];

5) How a state can demonstrate that, as a result of the funds received under this section, secure space will be made available for the confinement of violent offenders [§ 91.3(b)(3)];

6) How to ensure that states have met the condition to involve and share funds received with counties and other units of local government [§ 91.3(b)(5);

7) How to define the scope of the Comprehensive Correctional Plan [§ 91.3(d)]; and

8) How a state can demonstrate compliance with the condition for receiving Truth in Sentencing Incentive Grants, i.e., "persons convicted of violent crimes serve not less than 85% of the sentence imposed" [§ 91.4(b)].

In soliciting comments on the above definitions and key policy implementation issues, OJP hopes to forge a productive federal/state/local partnership in addressing the challenge of providing an effective criminal justice system response to the increased numbers of violent offenders.

The final rule will address all comments submitted and substantive differences incorporated will be explained.

Administrative Requirements

This regulation has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. This rule is a "significant regulatory action" under Executive Order 12866, § 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget.

The Assistant Attorney General for the Office of Justice Programs in accordance with the Regulatory Flexibility Act (5 U.S.C. § 605(b)) has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

No information collection requirements are contained in this rule. Any information collection requirements contained in future application notices for programs authorized by this rule will be reviewed by the Office of Management and Budget (OMB), as is required by the provisions of the Paperwork Reduction Act, 91 U.S.C. 3504(h).

This regulation is being published as an interim final rule, without prior publication of notice and comment, and is made effective immediately, for good cause as explained below. Under 5 U.S.C. 553(a)(2), matters relating to grants are exempted from notice and comment requirements. Moreover, in this case, advance notice and comment would be impractical and contrary to the public interest. Title II, Subtitle A of the Violent Crime Control and Law Enforcement Act of 1994 requires the publication of regulations implementing the grant program within 90 days of enactment of the Act.

In order to satisfy congressional requirements and intentions of expeditious implementation, these regulations are effective immediately so that eligible states may apply for the boot camp discretionary program. Publishing a notice of proposed rulemaking and awaiting receipt of comments would significantly delay the implementation of the FY '95 boot camp grant program. Such delay would be contrary to the public interest and would contradict the congressional intent to provide immediate grant assistance.

Although OJP will proceed expeditiously with regard to the promulgation of guidelines for the fiscal year 1995 boot camp program, we are very interested in receiving public comment on the overall program and will consider all comments in preparing the final rule.

List of Subjects

Grant Programs, Judicial Administration.

For the reasons set out in the preamble, Title 28, Chapter 1, of the Code of Federal Regulations is amended by adding a new part 91 as set forth below.

PART 91 — GRANTS FOR CORRECTIONAL FACILITIES

Subpart A — General

<u>Section</u>
91.1 Purpose
91.2 Definitions
91.3 General Eligibility Requirements
91.4 Truth in Sentencing Incentive Grants
91.5 Violent Offender Incarceration Grants
91.6 Matching Requirement

Subpart B — FY 1995 Correctional Boot Camp Initiative

91.10 General

Authority: Section 20105 of Subtitle A, Title II of the Violent Crime Control and Law Enforcement Act of 1994.

Subpart A — General

§ 91.1 Purpose.

The Attorney General, through the Assistant Attorney General for the Office of Justice Programs, will make grants to states and to states organized as multi-state compacts to construct, develop, expand, operate or improve correctional facilities, including boot camp facilities and other alternative correctional facilities that can free conventional space for the confinement of violent offenders, to:

(a) ensure that prison space is available for the confinement of violent offenders; and

(b) implement truth in sentencing laws for sentencing violent offenders.

§ 91.2 Definitions.

(a) "*Violent Offender*" — Reserved.

(b) "*Serious Drug Offense*" means an offense involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance [as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)], for which a maximum term of imprisonment of 10 years or more is prescribed by state law.

(c) "*Part 1 Violent Crimes*" means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports. If such data is unavailable, Bureau of Justice Statistics (BJS) publications may be utilized. See, e.g., "Census of State and Federal Correctional Facilities, 1990." ["Part 1 Violent Crimes" are defined here solely as the statutorily prescribed basis for the formula allocation of funding.]

(d) "*Recipient*" means individual states or multi-state compacts awarded funds under this Part.

(e) "*State*" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam and the Northern Mariana Islands.

(f) "*Comprehensive Correctional Plan*" means a plan which represents an integrated approach to the management and operation of adult and juvenile correctional facilities and programs and which includes diversion programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs, prisoner work activities (including to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities) and job skills programs, educational programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance and an assessment of recidivism rates.

(g) "*Correctional facilities*" includes boot camps and other alternative correctional facilities for adults or juveniles that can free conventional bed space for the confinement of violent offenders.

(h) "*Boot Camp*" means a corrections program for adult or juvenile offenders of not more than 6-months confinement (not including time in confinement prior to assignment to the boot camp) involving:

(1) assignment for participation in the program, in conformity with state law, by prisoners other than prisoners who have been convicted at any time for a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

(i) "*Truth in sentencing laws*" means laws that:

(1) ensure that violent offenders serve a substantial portion of sentences imposed;

(2) are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders; and

(3) the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.

§ 91.3 General Eligibility Requirements.

(a) Recipients must be individual states, or states organized as multi-state compacts.

(b) Application Requirements. To be eligible to receive either a formula or a discretionary grant under Subtitle A, an applicant must submit an application which includes:

(1) Assurances that the state(s) have implemented, or will implement, correctional policies and programs, including truth in sentencing laws. No specific requirements for complying with this condition are prescribed by this interim rule for fiscal 1995 funding because of the need for further review of the status of truth in sentencing laws and the impact and needs requirements relating to reform in state systems.

(2) Assurances that the state(s) have implemented or will implement policies that provide for the recognition of the rights and needs of crime victims. States are not required to adopt any specific set of victims rights measures for compliance, but the adoption by a state of measures which are comparable to or exceed those applied in federal proceedings will be deemed sufficient compliance for eligibility for funding. If the state has not adopted victims rights measures which are comparable to or exceed federal law, the adequacy of compliance will be determined on a case-by-case basis. States will be afforded a reasonable amount of time to achieve compliance. States may comply with this condition by providing recognition of the rights and needs of crime victims in the following areas:

i) providing notice to victims concerning case and offender status;

ii) providing an opportunity for victims to be present at public court proceedings in their cases;

iii) providing victims the opportunity to be heard at sentencing and parole hearings;

iv) providing for restitution to victims; and

v) establishing administrative or other mechanisms to effectuate these rights.

(3) Assurances that funds received under this section will be used to construct, develop, expand, operate or improve correctional facilities to ensure that secure space is available for the confinement of violent offenders.

(4) Assurances that the state(s) has a comprehensive correctional plan in accordance with the definition elements in section 91.2. If the state(s) does not have an adequate comprehensive correctional plan, technical assistance will be available for compliance. States will be afforded a reasonable amount of time to develop their plans.

(5) Assurances that the state(s) has involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation or improvement of correctional facilities designed to ensure the incarceration of violent offenders and that the state(s) will share funds received with counties and other units of local government, taking into account the burden placed on these units of government when they are required to confine sentenced prisoners because of overcrowding in state prison facilities.

(6) Assurances that funds received under this section will be used to supplement, not supplant, other federal, state, and local funds.

(7) Assurances that the state(s) has implemented, or will implement within 18 months after the date of the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (September 13, 1994), policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled.

(8) Assurances that correctional facilities will be made accessible to persons conducting investigations under the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. 1997.

(9) If applicable, documentation of the multi-state compact agreement that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities.

(10) If applicable, a description of the eligibility criteria for participation in any boot camp that is to be funded.

(c) States, and states organized as multi-state compacts, which can demonstrate affirmative responses to the assurances outlined above will be eligible to receive funds.

(d) Each state application for such funds must be accompanied by a comprehensive correctional plan. The plan shall be developed in consultation with representatives of appropriate state and local units of government, shall include both the adult and juvenile correctional systems, and shall provide an assessment of the state and local correctional needs, and a long-range implementation strategy for addressing those needs.

(e) Local units of government, i.e., any city, county, town, township, borough, parish, village or other general purpose subdivision of a state, or Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, are in turn eligible to receive subgrants from a participating state(s). Such subgrants shall be made for the purpose(s) of carrying out the implementation strategy, consistent with state(s)' comprehensive correctional plan.

(f) In awarding grants, consideration shall be given to the special burden placed on states which incarcerate a substantial number of inmates who are in the United States illegally. States will not be required to submit additional information on numbers of criminal aliens.

The Bureau of Justice Assistance (BJA) and the Immigration and Naturalization Service (INS) are currently working together to implement the State Criminal Alien Assistance Program (SCAAP) to assist the states with the costs of incarcerating criminal aliens. The Office of Justice Programs will coordinate with the SCAAP program to obtain the relevant information.

§ 91.4 Truth in Sentencing Incentive Grants.

(a) Half of the total amount of funds appropriated to carry out Subtitle A for each of the fiscal years 1996, 1997, 1998, 1999 and 2000 will be made available for Truth in Sentencing Incentive Grants.

(b) Eligibility. To be eligible to receive such a grant, a state, or states organized as multi-state compacts, must meet the requirements of section 91.3 and must demonstrate that the state(s) —

(1) has in effect laws which require that persons convicted of violent crimes serve not less than 85% of the sentence imposed; or

(2) Since 1993 —

(i) has increased the percentage of convicted violent offenders sentenced to prison;

(ii) has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison;

(iii) has increased the percentage of sentence which will be served in prison by violent offenders sentenced to prison; and

(iv) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85% of the sentence imposed if —

(A) the person has been convicted on 1 or more prior occasions in a court of the United States or of a state of a violent crime or a serious drug offense; and

(B) each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense.

(c) Formula Allocation. The amount available to carry out this section for any fiscal year will be allocated to each eligible state in the ratio that the number of Part 1 violent crimes reported by such state to the Federal Bureau of Investigation for 1993 bears to the number of Part 1 violent crimes reported by all states to the Federal Bureau of Investigation for 1993.

(d) Transfer of Unused Funds. On September 30 of each fiscal years 1996, 1998, 1999 and 2000, the Attorney General will transfer to the funds to be allocated under the Violent Offender Incarceration Grant formula allocation (section 91.5) any funds made available to carry out this section that are not allocated to an eligible state under paragraph (b) of this section.

§ 91.5 Violent Offender Incarceration Grants.

(a) Half of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1996, 1997, 1998, 1999 and 2000 will be made available for Violent Offender Incarceration Grants.

(b) Eligibility. To be eligible to receive such a grant, a state, or states organized as multi-state compacts, must meet the requirements of section 91.3(b).

(c) Allocation of Violent Offender Incarceration Funds —

(1) Formula Allocation. 85% of the sum of the amount available for grants under this section for any fiscal year and any amount transferred as described in section 91.4(c) for that fiscal year will be allocated as follows:

(i)0.25% will be allocated to each eligible state except that the United States Virgin Islands, American Samoa, Guam and the Northern Mariana Islands shall each be allocated 0.05%.

(ii) The amount remaining after application of paragraph (c)(1)(i) of this section will be allocated to each eligible state in the ratio that the number of Part 1 violent crimes reported by such state to the Federal Bureau of Investigation for 1993 bears to the number of Part 1 violent crimes reported by all stated to the Federal Bureau of Investigation for 1993.

(2) Discretionary Allocation. Fifteen percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under this subsection and any amount transferred as described in section 91.4(c) for that fiscal will be allocated at the discretion of the Assistant Attorney General for OJP to states that have demonstrated:

(i) the greatest need for such grants, and

(ii) the ability to best utilize the funds to meet the objectives of the grant program and ensure that secure cell space is available for the confinement of violent offenders.

(d) Transfer of Unused Funds. On September 30 of each fiscal years 1996, 1997, 1998, 1999 and 2000, the Assistant Attorney General will transfer to the discretionary program under paragraph (c)(2) of this section any funds made available under paragraph (c)(1) of this section that are not allocated to an eligible state under paragraph (c)(1) of this section.

§ 91.6 Matching Requirement.

(a) The federal share of a grant received under this subtitle may not exceed 75 percent of the costs of a proposal described in an application approved under this subtitle. The matching requirement can only be met through a hard cash match, and must be satisfied by the end of the project period. A certification to that effect will be required of each recipient of grant funds and must be submitted to the Office of Justice Programs with the application.

Subpart B — FY 1995 Correctional Boot Camp Initiative

§ 91.10 General.

(a) Scope of Boot Camp Program. Funding is appropriated in fiscal year 1995 to provide grants to states and multi-state compacts to plan, develop, construct and expand correctional boot camps for adults and juveniles.

(b) Adult and juvenile boot camps, referred to as "correctional boot camps," are programs that "provide a structured environment for delivering non-traditional corrections programs to criminal offenders."

(c) With respect to this program, the mandates of the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. Sec. 5601 et seq.) shall apply.

(d) Eligibility.

(1) Funding is available for both adult and juvenile boot camps. To be eligible for the funding of boot camps, states must comply with the general assurances in 91.3(b) or demonstrate steps taken toward compliance. While the majority of assurances are applicable to the adult correctional system, those states applying for grants for juvenile boot camps must include the juvenile system in the state comprehensive correctional plan and demonstrate how construction of the boot camp will make secure space available to house violent juvenile offenders.

(2) For purposes of the FY '95 boot camp program, a "violent felony" means any crime punishable by imprisonment for a term exceeding one year, or an act of juvenile delinquency that would be punishable by imprisonment for such term if committed by an adult, that:

(i) involves the use or attempted use of a firearm or other dangerous weapon against another person, or

(ii) results in death or serious bodily injury to another person.

(3) States must document that the boot camp program does not involve more than six-months confinement (not including confinement prior to assignment to the boot camp) and includes:

(i) assignment for participation in the program, in conformity with state law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(ii) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training and work;

(iii) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(iv) post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

(4) States must provide assurances that boot camp construction will free up secure institutional bed space for violent offenders.

(e) Evaluation.

(1) Recipients will be required to cooperate with a national evaluation team throughout the planning and implementation process. Recipients are also strongly encouraged to provide for an independent evaluation of the impact and effectiveness of the funded program.

(2) Jurisdictions are strongly encouraged to engage in systematic planning activities and to develop and evaluate boot camps as part of a comprehensive and integrated correctional plan.

(f) Limitation on funds. Grant funds cannot be used for operating costs. **States will be required to show how operating expenses will be provided.**

(g) Matching Requirement. The federal share of a grant received may not exceed 75 percent of the costs of the proposed boot camp program described in the approved application. The matching requirement can only be met through a hard cash match, and must be satisfied by the end of the project period; facility operating expenses may not be used to meet the match requirement for the construction project supported. Match may be made through grantee contribution of construction-related costs. A certification to that effect will be required of each recipient of grant funds.

(h) Innovative Boot Camp Programs. Jurisdictions are encouraged to explore the development of "innovative" boot camp programs which incorporate principles based on the accumulation of research and practical experience, and reflect sound and effective correctional practice.

*U.S. G.P.O.:1994-387-167:44

U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

November 15, 1994

MEMORANDUM TO: John R. Schmidt
Associate Attorney General

FROM: Laurie Robinson
Assistant Attorney General

SUBJECT: **Grants for Correctional Facilities**

INTRODUCTION

As you know, Subtitle A of Title II of the Violent Crime Control and Law Enforcement Act of 1994 (Subtitle A), Public Law 103-322, provides for grants to states, and states organized in multi-state compacts, to construct, develop, expand, modify, operate, or improve correctional facilities, including boot camp facilities and other alternative correctional facilities that will free secure prison space for the confinement of violent offenders. Recognizing the substantial increases in prison, jail, and juvenile confinement populations in recent years, the program emphasizes the need to make available both conventional jail and prison space for the confinement of violent offenders and to ensure that violent offenders remain incarcerated for substantial periods of time through the implementation of truth in sentencing laws.

Although the statute contemplates the availability of $7.9 billion in funding over six years (beginning with $175 million authorized in fiscal year 1995), the Department of Justice Appropriations Act allocated only $24.5 million for Subtitle A programs for fiscal year 1995. Moreover, the Appropriations Act limits these funds to a discretionary grant program for the construction-related costs of correctional boot camps.

To implement the corrections facilities grant program, Subtitle A specifically requires the Department to issue rules and regulations regarding the uses of grant funds not later than 90 days after the enactment of the Crime Act, or December 13, 1994. However, as you know, we plan to publish the regulations sooner than required.

REGULATION DEVELOPMENT AND OUTREACH

To meet the requirement of the statute to promulgate regulations in a timely manner and to coordinate the program with Department components, the Office of Justice Programs (OJP) established a Corrections Facilities Working Group. The Working Group, which is co-chaired by the Office of Justice Programs (OJP) and the National Institute of Corrections (NIC), has met regularly for the past few months, focusing on drafting the regulations, as well as identifying policy issues and program implementation concerns. In addition to OJP and NIC, participants include representatives from the National Institute of Justice, Bureau of Justice Statistics, Office of Juvenile Justice and Delinquency Prevention, Office for Victims of Crime, Bureau of Prisons, Office of Policy Development and Criminal Division. OJP also consulted with the Senate and House Appropriations staff regarding our approach, as well as with staff from Senator Biden's and Congressman Brooks' offices. Solicited comments were incorporated into the submitted regulations.

The attached regulations are comprehensive in nature, covering both the overall corrections facilities program as well as the FY 1995 boot camp initiative. They are being issued as interim final rules, meaning that they are effective upon issuance but still open to comment. By issuing the regulations in this manner, we can solicit comments on the <u>overall</u> program, but are not constrained from moving ahead with promulgating guidelines and program solicitations for <u>this fiscal year's</u> boot camp initiative. We anticipate having boot camp solicitation material published before the end of the calendar year, thereby keeping the Administration's commitment to getting the '95 money to the states quickly.

During the comment period, OJP is planning an extensive outreach effort to solicit input and comment from relevant criminal justice constituent groups and practitioners in the corrections field -- many of whom we have been informally conferring with as the attached draft regulations were prepared. OJP will send letters to key outside groups advising them of our particular interest in hearing their views on the regulations. In addition to soliciting written comments, OJP representatives will meet with interested outside groups to explain the policies behind the program and engage in dialogue on implementation issues.

Through the development of a series of policy papers and discussion, the Working Group identified several key issues about which we need further study or information before specifying requirements for compliance with the assurances. We have identified these issues in the draft regulations (pages 20-21), including how states will demonstrate compliance with the conditions involving the implementation of truth in sentencing laws, providing for the rights and needs of victims, and both involving and sharing funds with local governments. Further, we have flagged these items as those on which we are particularly interested in receiving comments from the field.

In soliciting comments on these issues OJP hopes to forge a productive federal/state/local partnership in addressing the challenge of providing an effective criminal justice system response to the increased number of violent offenders. During the comment period, OJP will focus on how we can deal with these issues in the final regulations to ensure that we both meet the needs of the states and the corrections field and the intent of the Congress.

OVERVIEW OF THE PROGRAM

The Subtitle A authorization provides for two different grant programs: (1) Violent Offender Incarceration Grants, and (2) Truth in Sentencing Incentive Grants. Of the total federal funding authorized to Subtitle A grant programs each year, 50 percent is allocated for each of these two grant initiatives. With the exception of a limited discretionary grant program, this funding will be distributed to states based on formulae specified in Subtitle A and based on crime rates reported to the FBI.

Although the statute provides for states and multi-state compacts as the only eligible grant recipients, Subtitle A requires states to provide assurances that they have involved counties and other units of local government, and will share funds received under this program with them. This is an area of great concern to local jail officials, who often carry the burden of confining sentenced prisoners because of overcrowding in state prison facilities. Accordingly, the regulations emphasize the importance of including local units of government in the master planning process and the requirement that states share funds with local facilities consistent with the overall comprehensive corrections plan.

States must comply with a series of additional assurances involving sentencing policies and practices and other guarantees of sound correctional systems to be eligible to receive funding under either of the Subtitle A programs. Included in the assurances are requirements that the state: (1) implement sentencing reforms that ensure violent offenders receive sufficiently severe punishments, (2) recognize the rights and needs of crime victims, and (3) develop a comprehensive correctional management plan that includes diversion programs, particularly drug diversion programs, community corrections programs, systems designed to accurately evaluate and classify inmates within the system, and programs and treatment designed to assist in reducing recidivism, including rehabilitation and treatment programs and job skills. Emphasis will be placed on a corrections system's ability to plan for and implement these basic components of a comprehensive and coordinated approach to correctional policy.

Because crime is primarily a state and local issue, the Subtitle A grant program envisions a federal, state, and local collaboration to address the problems associated with the incarceration and punishment of violent offenders. Built into the program is the recognition that correctional systems can use grant funds in a variety of ways to ensure the greatest and most timely impact.

To be eligible to receive funding under the Truth in Sentencing Grant Program, in addition to meeting the assurances listed in Subtitle A, states must also meet certain sentencing requirements. In particular, to qualify for this part of the grant program, states must have in effect sentencing laws that either provide for violent offenders to serve not less than 85 percent of their sentences or meet other requirements that ensure that violent offenders, and especially repeat violent offenders, remain incarcerated for substantially greater percentages of their imposed sentences. Because this will be an extremely difficult standard for states to meet, we have identified this requirement as an area where we are particularly interested in receiving input from the field.

FY 95 Correctional Boot Camp Initiative

Consistent with the Appropriations Committees' intent, grant awards in fiscal year 1995 will be for construction-related costs of correctional boot camps and will be allocated through the discretionary grant component of the Violent Offender Incarceration Grant Program. Construction-related costs are broadly interpreted to include costs associated with both the planning and development of the facility. Specifically, grant funds can be used to plan, develop, construct, or expand boot camp programs, which must (in line with appropriations language) include coordinated, intensive aftercare services for inmates following release.

The program emphasis in fiscal year 1995 will be on the construction, renovation and expansion of correctional boot camp facilities that will free conventional prison, jail and juvenile corrections space for the confinement of violent offenders. To receive funds, correctional systems will have to demonstrate, through a comprehensive correctional plan and prisoner screening and security classification system, that (1) there is a need for additional secure confinement space for violent offenders, and (2) this need will be met through the construction of a boot camp facility that provides housing otherwise unavailable for nonviolent offenders.

In keeping with the intent of Congress to assist states in meeting the required general assurances, OJP proposes to designate up to 10 percent of the funds available in this program to provide technical assistance to states that presently do not meet these conditions, or want to expand and improve on current efforts in these areas. States will be afforded a reasonable amount of time to achieve compliance. Moreover, states working toward compliance this fiscal year will be in a better position to receive the larger sums of grant monies under these programs over the next several years.

NEXT STEPS

The regulations submitted here have been reviewed on an informal basis by the Office of Policy Development. We are currently engaged in a more formal review process with OPD. After OPD's and your review and approval, we will submit the regulations to the Office of Management and Budget for their approval. We anticipate having the regulations published in the Federal Register prior to the end of November, thereby meeting our time schedule. We may, however, need your assistance in getting the regulations through OMB on an expedited basis.

We have set a meeting with you and others from relevant components on Friday afternoon, November 18th, to discuss the draft regulations.

Attachment

Governor _______
[address]

July 30, 1996.

Prison letter –

Dear Governor _______:

The passage of the 1994 Crime Bill was passed in efforts to fight crime throughout the country. The 1994 Crime Bill authorizes for $7.9 billion dollars to provide for states to "build, expand and operate space in permanent correctional facilities." State prison facilities play a very important role in getting criminals off of our streets and helping them to reform their behavior to become better citizens in society.

2. State Prison System corrupt

However, instead of using the money to ameliorate our crime rate, state prisons might be a conduit to further crime. After lengthy investigation, evidence shows a high incidence of corruption . Prison guards becoming gang members, inmate drug usage is far too high, and corrections officers are not thoroughly trained enough to deal with inmate problems. Guards become involved with gangs and violate other laws. Illegal substances circulate through prisons, in some state prisons such as Parchman, Mississippi drug abuse is rampant. Corrections officers are often times let off the hook after blatantly violating the law and abusing their roles. And finally, many state prison administrators admit that inmates control their prisons. All of these indicate that prison systems not teaching criminals how to behave better, they are teaching inmates how to perpetuate crime.

3. Gang Problems

One of the problems that must be addressed in state prisons is the overriding influence of gangs. . While I understand that many measures have been taken to address the situation with these gangs, they have our state prison systems It is difficult to access the extent of gangs in prisons, but they manage to continue their criminal enterprise inside state prison systems.

In Illinois, of 40,000 inmates, around half are members of prison gangs. Gangs often control prisons in a roundabout way, and even gangs coopt guards. Guards start accepting bonuses from gangs, up to $5,000 in cash. In return, guards bring in drugs and curry favor to gang members. Guards are also intimidated into working with gangs. Guards also feel threatened since they may live in the same neighborhoods or have the same social network as gang members.

Furthermore, gangs in Illinois may have very elaborate organization. For instance, the Gangster Disciples from Chicago run like a fortune 500 company, and they extend their influence behind prison walls. They have a lengthy constitution, a numerical code, a pledge of allegiance and an emblem. However, gangs are given far too much leeway. Grouping members of gangs together to prevent conflict only allows them to become strong. Another problem is that there is no rigid background check to find out if corrections officers are affiliated with gangs, even during their six week training program.

In California, the Mexican Mafia, known as La EME in Los Angeles, control a series of street gangs in Los Angles. The two main gang leaders are now both imprisoned at the state maximum-security facility at Pelican Bay. Even though these men are imprisoned, they are still helping to plot actions of street gangs in Los Angeles. Currently the Mexican Mafia has about 400 to 600 members in the penal system. For years, the gang has controlled narcotics distribution, gambling and prostitution in many state prisons.

4. Drug Problems

Another monumental problem is the high rate of drug use among inmates. Currently 800,000 of the nation's 1 million inmates have a history of drug use, and many are serving sentences for using or trafficking drugs. . Many states do no broad, random testing of inmates. Furthermore, there is no tight control system to prevent the influx of new drugs. There also not enough penalties for corrections officers who are complicit in drug trafficking.

Prison inmates access just about any kind of drugs. According to a detailed study conducted at the state prison in Parchman, Mississippi, every administrator, guard and inmate interviewed admitted about pervasive drug abuse, drug trafficking, and gang activity at Parchman. At Parchmen, inmates have access to pharmaceutical supplies and personnel records, which allows them to control and blackmail prison employees. Among the problems at Parchman were the insufficient inspection of ingoing and outgoing visitors, job applicants did not have thorough background checks, and gangs had a large influence in prison facilities. At Great Meadow State in New York, there were six deaths due to drug overdose between 1992 and 1994. Investigators admit the near constant drug use there.

There is a serious drug problem at Graterford. Mainly, 20% of the inmates who are administered drug tests show signs of illicit drug use. Furthermore, at least 13 Graterford guards have been arrested on drug charges since 1989, mostly for smuggling drugs. At least 11 inmates have died of overdoses in the past six years. One inmate claims that "there are probably more drugs floating around here than on the street." The conduit for the majority of the drugs must be from corrections officers. Even with a new top warden, Commissioner Horn, his zero tolerance policy and drug crackdown have not eliminated the drug problem. According to inmates, drugs are still easy to find, but now the prices are slightly higher. However, some inmates still have the audacity to trade drugs or smoke marijuana in full view of officers. Still about 20% of inmates show drug use in random urine sampling. The FBI launched an investigation into rampant drug trafficking inside Graterford State Prison, looking specifically at the inmate gangs and corrupt guards. One theory why Graterford has so many problems with its corrections staff is that they are too close to those that they are guarding, since most of the guards grew up in the same areas as the inmates in Philadelphia.These prisons are not alone in having rampant drug use and illegal activity, several documented cases in many other state prisons show that this is a pervasive problem. This must be addressed, and we cannot continue to allow inmates to be running our state prison systems.

5. Administration problems

The other grave problem in state prison facilities is that prisoners have far too much control over the administration. In New Jersey Hudson County Correctional Center, state inspectors found a jail seemingly without rules, where a steady traffic of drugs and weapons was overlooked or even aided by corrections officers. Part of the problem is that new corrections officers have no written procedures for basic security measures, counting inmates, or searching visitors and employees for illegal substances. New corrections officers are trained by former officers, most of whom had not received any formal training. The State recently have major breakdown in security, sending 160 officers in riot gear into the jail to lock inmates in the cells and spent the next 72 hours searching for weapons and drugs.

In Texas, in 1985, rampaging prison gangs were responsible for the death of 26 convicts, a record. At Terrell Unit, convicts tend to cluster in groups, either by race, street gang or hometown. About 80 percent of the Terrell Unit's guards had less thana year's experience, a business where 22 users is considered the minimum for working expertise. Even now, as much as a third of Texas' prison guards have less than a year's experience. Prison violence charts show that the number of homicides in Texas prisons has increased slightly over the past five years, as the prison population more than doubled. Furthermore, the use of force by prison guards to stop inmate crime also increased.

In Illinois, AFCSME, which represents correctional officers, estimates that nearly 1 percent of 8,000 officers is discharged annually for reasons that could not be disclosed. Obviously many more guards commit infractions which are not accounted for or punished. In the past two years, 25 prison guards have been accused of trafficking in drugs, alcohol or weapons. Of those 25, only 4 lost their jobs and 21 were suspended.

6. Corruption

Pennsylvania's Graterford prison shows the dismal state of corruption in the State prison systems on many levels. Due to the widespread mismanagement, drug trade and corruption state correction officials decided to conduct a nightmare surprise assault on Graterford. In 72 hours, 650 state troopers and corrections officers from other prisons searched all 3,500 inmates and the 1,700 acre grounds looking for drugs and weapons. Immediately afterwards, nine ranking officers at the prison quit or were transferred, and 21 inmates suspected for drug trafficking were moved to other prisons.

Graterford, Pennsylvania's biggest maximum security prison, had an unprecedented search, one of the largest raids of its kind in history. This search was very costly for the state, the three-day search cost came to $738,000, enough most to pay for 300 student scholarships. The raid was a systematic search of cells where they found more than 200 handmade weapons and 60 caches of cocaine, marijuana and other drugs. Two high-placed officers quit immediately after the raid. Four inmates also testified before the Pennsylvania Senate Judiciary Committee and named guards who routinely dealt in drugs, extortion and money laundering. Officials have found inmates with smuggled laptop computers, cellular phones and pagers, all linked to the larger criminal network on the street. In some cases, that network is so extensive that inmates have been bale to intimidate guards simply by threatening to harm the guards' families. Inmates testified at a Pennsylvania State Senate hearing that many prisoners pay officers to alter their records and avoid punishment. Simon paid up to $1,500 in bribes to Graterford Guards during 1993 to cover up his disciplinary infractions and so he would not be punished for four separate conduct violations.

7. Conclusion: State prisons need to clean up their act

Obviously, these issues are not easy to address. I understand how difficult it is to fight crime on the streets, and it is even more difficult to prevent criminals from committing crimes again. But state prison must work harder to make sure that those who commit crimes on our streets do not continue to do so in the state prison system.

Now is the time to address these issues. Federal grants for money provisions to increase the cell capacity of prisons will not solve our crime problem. We must fight crime on all levels, and state prisons are pivotal in ameliorating those who commit crimes. Regardless of the difficulty with mitigating corruption, it must be addressed. Current state prisons put inmates into an abysmal environment fraught with corruption and violence, just as bad if not worse than what they experienced on the street. Toleration of corruption and crime in state prison systems teaches gang members that there is no real punishment for crime. Furthermore, prisons allow gang members to expand their network and perpetuate crime. Substance abuse by inmates also must be addressed, and a tighter control system to prevent the transfer of drugs must be initiated. Loose administration, insufficient background checks of those who have the role to discipline inmates and failing to punish corrections officers for inappropriate behavior are all great problems. State prison administrators must work harder to end pervasive corruption.

Sincerely,

Bill Clinton
President of the United States