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Bureau of Justice Statistics Special Report

MAY 16 1990

ACQUISITIONS

Felony Case Processing in State Courts, 1986

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Of the estimated 583,000 persons convicted of a felony in State courts in 1986, 8% were found guilty by a jury, 3% were found guilty by a judge, and 89% pleaded guilty. The most serious offenses — the violent crimes of murder, rape, robbery, and aggravated assault — comprised about 20% of all felony convictions but an estimated 41% of all jury trials. These findings are from the National Judicial Reporting Program (NJRP), a nationwide survey sponsored by the Bureau of Justice Statistics (BJS).

Other findings include the following:

- By offense, convictions for larceny had the highest percentage of guilty pleas (92%); for murder or nonnegligent manslaughter, the lowest (58%).
- Sentences to prison or jail occurred in 84% of jury convictions, 71% of bench trial convictions (decided by a judge alone), and 65% of guilty pleas.
- An estimated 71% of felons convicted by a jury received a prison sentence, compared to 50% of those convicted by a judge and 44% of those who pleaded guilty.
- Prison sentences were, on average, twice as long for felons convicted by a jury trial (159 months) as for felons who pleaded guilty (72 months). The average sentence of felons convicted by a judge was 103 months.

The National Judicial Reporting Program of the Bureau of Justice Statistics provides nationally representative data that for the first time permit description of the felony conviction process in State courts. This report summarizes the outcomes of decisions made by defendants, attorneys, prosecutors, and judges throughout the United States.

While every defendant has a constitutional right to trial by jury, most choose

to plead guilty. Survey data indicate that juries are largely used to decide guilt in the more serious cases.

BJS thanks the judges, court administrators, prosecutors, and others who provided the data that made this report possible.

Joseph M. Bessette
Acting Director

February 1990

- Felons sentenced to jail in a jury trial received a mean, or average, sentence of 12 months. The mean jail sentence in a bench trial was 10 months and following a guilty plea, 9 months.

- An estimated 47% of felons convicted by a jury of murder or nonnegligent manslaughter were sentenced to life in prison or to death. Such sentences for murder or nonnegligent manslaughter occurred in about 12% of the bench trials and 15% of the guilty pleas.

- In 33% of jury trial convictions, felons were found guilty of multiple offenses. Twenty-six percent of the guilty pleas and 17% of the bench trial convictions involved multiple offenses.

- Overall, the average elapsed time from arrest to sentencing for convicted felons was about 6 1/2 months. The average

length of jury trials was about 7 1/2 months, while both bench trial and guilty plea cases took an average of about 6 1/2 months.

- The average elapsed time from date of arrest to date of felony conviction was about 5 1/2 months. There was some indication that jury cases took the longest time: 6 1/2 months. Average elapsed time from arrest to conviction for other cases was about 5 1/2 months for both bench trial and guilty plea convictions.

- Elapsed times from arrest to conviction were longest for cases of murder or nonnegligent manslaughter. On average, such cases required about 9 months for disposition.

- Average elapsed time from conviction to sentencing for persons convicted of a felony was about 1 month, regardless of the method of conviction.

The National Judicial Reporting Program

The NJRP was developed to compile national data on convicted felons from a representative sample of the Nation's counties. Based largely on records kept by State courts and local prosecutors in sampled counties, the NJRP provides detailed information on the conviction process and outcomes associated with different types of felony convictions.

In its first national survey of 100 counties distributed across 37 States, the NJRP compiled data on all convicted felons sentenced in 1986. Federal sentencing data, which comprise about 5% of all felony convictions, were excluded, as were State and local court cases with no sentence for a felony conviction. The survey included only offenses defined by State penal codes as felonies — generally crimes for which a sentence to incarceration of more than a year can be imposed.

Given the limited sample size in the 1986 survey, estimates presented in this report are preliminary. The next national survey will cover 300 jurisdictions and will yield more precise estimates.

Two reports based on the 1986 survey have already been published. *Felony sentences in State courts, 1986* (NCJ-115210, February 1989) estimated that there were 583,000 persons convicted of felonies and sentenced that year. *Profile of felons convicted in State courts, 1986* (NCJ-120021, January 1990) described the characteristics of felons. It also investigated the effects of offense seriousness, of State sentencing practices, and of the sex or race of defendants on the sentences received.

This report presents data on the method of conviction and the types and length of sentences imposed under each method — jury trials, bench trials, and guilty pleas.

Method of conviction

After being arrested and formally charged with the commission of a felony, a defendant chooses between pleading guilty or pleading not guilty and requesting a trial. Approximately 516,000 persons, 89% of those sentenced for a felony in the United States in 1986, pleaded guilty. Over 66,000 defendants (11% of the total sentenced) were found guilty in a trial.

There was some indication that guilty pleas preceded murder convictions less often than convictions for other offenses. Felons had pleaded guilty in 58% of the convictions for murder (tables 1 and 2). Across the remaining offense categories, the percentage of felons convicted by plea ranged from 68% of convicted rapists to 92% of convicted larcenists.

The indication that murderers were less likely to plead guilty than other defendants may be associated with the gravity of their crime. The penalty for murder is generally the most severe punishment permitted; under specified circumstances in 37 States, death may be imposed, and in 13 States and the District of Columbia, murderers may face life in prison. Because of the nature of the penalty facing them, some murder defendants may have weighed more carefully than other defendants the certainty of conviction involved

in a guilty plea against the chance of acquittal in a trial.

An additional factor in juries deciding guilt in a higher percentage of murder convictions than of other convictions may be the prosecutors' right in some States to request a jury trial. Prosecutors may be more likely to exercise this right for particularly serious crimes like murder.

Rather than enter a plea of guilty, persons charged with committing a felony can exercise their constitutional right to a trial. In most States defendants can waive their right to a jury trial and be tried by a judge in a bench trial.

Jury trials were the second most common type of conviction, accounting for 8% of all felony convictions. Nationwide in 1986, juries found nearly 47,000 felony defendants guilty.

Table 1. Number of felony convictions in State courts, by type of conviction, 1986

Most serious conviction offense	Number of convictions	Number convicted by:			
		Total	Jury	Bench	Guilty plea
All	582,764	66,366	46,565	19,801	516,398
Murder ^a	9,854	4,139	3,449	690	5,715
Rape	19,685	6,299	5,118	1,181	13,386
Robbery	42,305	6,769	5,077	1,692	35,536
Aggravated assault	38,245	5,737	4,590	1,147	32,508
Burglary	102,683	10,268	7,188	3,080	92,415
Larceny ^b	91,092	7,288	3,644	3,644	83,804
Drug trafficking	76,437	7,644	5,351	2,293	68,793
Other felonies	202,463	18,222	12,148	6,074	184,241

Note: The first six offenses are UCR index crimes and are listed in order of decreasing seriousness. Any person convicted of multiple offenses that included any of the index crimes received the offense designation of the most serious index crime. Persons received the offense designation for drug trafficking only if they were not also convicted of one of

the index crimes. Data on type of conviction are based on 88% of the estimated total 582,764 convicted felons.

^aIncludes nonnegligent manslaughter.

^bIncludes motor vehicle theft.

Table 2. Felony convictions disposed in State courts, by offense and type of conviction, 1986

Most serious conviction offense	Percent disposed by:				Guilty plea
	Total	Total	Jury	Bench	
All	100%	11%	8%	3%	89%
Murder ^a	100	42	35	7	58
Rape	100	32	26	6	68
Robbery	100	16	12	4	84
Aggravated assault	100	15	12	3	85
Burglary	100	10	7	3	90
Larceny ^b	100	8	4	4	92
Drug trafficking	100	10	7	3	90
Other felonies	100	9	6	3	92

Note: See note on table 1. Detail may not add to 100% because of rounding.

^aIncludes nonnegligent manslaughter.

^bIncludes motor vehicle theft.

Felons convicted of murder or rape were more likely to have been tried by a jury than those convicted of other offenses. Juries found about 3,400 defendants guilty of murder (35% of all murder convictions) and 5,100 guilty of rape (26% of all rape convictions). For other offenses the percentage of convictions determined by a jury ranged from a low of 4% for larceny to a high of 12% for robbery or aggravated assault.

Bench trials, in which a judge alone determines whether the evidence proves guilt, comprised 3% of all State felony convictions in 1986. There is some indication that bench trials occurred more often in murder and rape convictions than in convictions for other offenses. Bench trial convictions occurred in 7% of the murder and nonnegligent manslaughter cases and in 6% of the rape cases.

A disproportionate share of all defendants who were convicted by juries had committed violent offenses. While murder, rape, robbery, and aggravated assault comprised 20% of all convictions, these offenses were 41% of the convictions decided by juries, 25% of the convictions in bench trials, and 17% of the pleas (table 3). Burglary and larceny together accounted for approximately a fourth of the jury convictions but more than a third of the pleas.

Sentence type

Of felons convicted by a jury, 84% received sentences to incarceration rather than probation or other types of sentences such as restitution. For those convicted in a bench trial, 71% were sentenced to incarceration, and for those who pleaded guilty, 65% (table 4).

Felons convicted by a jury were also more likely than those convicted by other means to receive a prison sentence. Seventy-one percent of the felons convicted by a jury, 50% of those convicted by a judge, and 44% of the felons who pleaded guilty were sentenced to prison.

Table 3. Offenses of felons convicted in State courts, by type of conviction, 1986

Most serious conviction offense	Percent of convictions				
	Total	Total	Trial Jury	Bench	Guilty plea
All	100%	100%	100%	100%	100%
Murder ^a	2	6	8	3	1
Rape	4	10	12	7	3
Robbery	7	10	11	8	7
Aggravated assault	7	9	10	7	6
Burglary	18	16	15	18	18
Larceny ^b	16	11	9	18	16
Drug trafficking	13	11	11	11	13
Other felonies	35	26	24	29	36

Note: See note on table 1. Detail may not add to 100% because of rounding. Data are based on 88% of the estimated total 582,764 convicted felons.

^aIncludes nonnegligent manslaughter.

^bIncludes motor vehicle theft.

Table 4. Types of sentences imposed by State courts, by type of conviction, 1986

Most serious conviction offense	Total	Percent of felons sentenced to:					
		Incarceration			Nonincarceration		
		Total	Prison	Jail	Total	Probation	Other
Trial							
All	100%	80%	65%	15%	20%	18%	2%
Murder ^a	100	89	98	1	1	1	--*
Rape	100	85	78	7	15	11	4
Robbery	100	90	85	5	10	9	1
Aggravated assault	100	86	62	24	14	12	2
Burglary	100	88	64	24	12	10	2*
Larceny ^b	100	70	50	20	31	29	2*
Drug trafficking	100	76	63	13	24	22	2
Other felonies	100	69	51	18	31	27	4
Jury							
All	100%	84%	71%	13%	16%	14%	2%
Murder ^a	100	99	99	1*	1	1	--*
Rape	100	88	80	8	13	9	4
Robbery	100	93	90	3	7	6	1*
Aggravated assault	100	89	64	25	11	9	2*
Burglary	100	92	70	22	8	5	3*
Larceny ^b	100	67	53	14	33	31	2*
Drug trafficking	100	82	71	11	18	17	1*
Other felonies	100	74	58	16	26	24	2*
Bench							
All	100%	71%	50%	21%	29%	26%	3%
Murder ^a	100	96	93	3*	4	3	1*
Rape	100	79	73	6	21	20	1*
Robbery	100	78	67	11	22	18	4*
Aggravated assault	100	76	57	19	24	21	3*
Burglary	100	81	53	28	19	18	1*
Larceny ^b	100	72	46	26	28	26	2*
Drug trafficking	100	63	43	20	37	35	2*
Other felonies	100	59	38	21	42	34	8
Guilty plea							
All	100%	65%	44%	21%	35%	33%	2%
Murder ^a	100	93	90	3	8	7	--*
Rape	100	87	75	12	13	11	2
Robbery	100	87	76	11	14	13	1
Aggravated assault	100	68	43	25	32	29	3
Burglary	100	72	52	20	29	27	2
Larceny ^b	100	63	40	23	38	36	2
Drug trafficking	100	59	34	25	41	39	2
Other felonies	100	56	35	21	44	41	3

Note: See note on table 1. Detail may not add to 100% because of rounding.

--Less than 0.5%.

*Estimates are based on fewer than 10 sample cases.

^aIncludes nonnegligent manslaughter.

^bIncludes motor vehicle theft.

Almost all murderers convicted by a jury (99%) were sentenced to prison or to death. Felons convicted of murder by a judge were sentenced to prison in 93% of the cases; felons who pleaded guilty to murder, in 90% of the cases.

Of defendants convicted by a jury, 16% received a sentence to probation or some other type of sentence without prison or jail. Twenty-nine percent of those convicted by a judge and 35% of those who pleaded guilty received such sentences.

Sentence severity

The average, or mean, prison sentence received by felons convicted by a jury was longer than the mean sentences either in a bench trial or after a guilty plea. The average sentence in jury trials was 159 months; in bench trials, 103 months; and after guilty pleas, 72 months (table 5).

Sentence length is defined as the maximum sentence imposed.

The median prison sentence for felons found guilty by a jury, 120 months, was twice as long as the median sentence for felons who pleaded guilty or had a bench trial, 60 months for each method. (The median is the midpoint at which half of the sentences are longer and half are shorter.)

On average, murderers found guilty by a jury were sentenced to prison terms twice as long as those of murderers who pleaded guilty. The mean sentence length for murderers convicted by a jury was 341 months for murderers who had pleaded guilty, 171 months. (The mean sentence excludes persons sentenced to life in prison or to death; the median sentence includes these. In States with indeterminate sentencing, a sentence that has a maximum of life in prison is defined as a life sentence.)

Felons convicted by juries also received longer average jail sentences than other felons. The mean sentence of felons convicted in a jury trial was 12 months; of felons sentenced in a bench trial, 10 months; and of felons who pleaded guilty, 9 months.

Only for sentences to probation did felons who pleaded guilty have a longer mean sentence than felons who were convicted in a trial. Defendants who pleaded guilty received an average probation term of 48 months, compared to a mean of 32 months in cases where the jury decided guilt and 29 months in cases decided by a judge.

Neither the mean nor the median probation term for any offense category was shorter for felons who pleaded guilty than for those convicted in a trial. These findings on probation may be affected by the small number of cases.

Table 5. Mean and median felony sentences in State courts, by type of conviction, 1986

Most serious conviction offense	Total		Total		Trial Jury		Bench		Guilty plea	
	Mean	Median	Mean	Median	Mean	Median	Mean	Median	Mean	Median
Sentences to prison										
All	81 mos.	60 mos.	145 mos.	90 mos.	159 mos.	120 mos.	103 mos.	60 mos.	72 mos.	60 mos.
Murder ^a	221	240	321	480	341	960	250	180	171	158
Rape	151	120	200	180	212	240	156	96	128	108
Robbery	139	108	270	120	297	144	182	120	121	96
Aggravated assault	97	60	158	108	172	120	107	72	82	60
Burglary	75	60	97	60	114	72	54	36	74	60
Larceny ^b	46	36	51	36	51	36	51	24	46	36
Drug trafficking	65	60	98	60	93	60	122	84	59	54
Other felonies	56	36	94	60	98	72	81	36	53	36
Sentences to jail										
All	9 mos.	6 mos.	11 mos.	6 mos.	12 mos.	5 mos.	10 mos.	6 mos.	9 mos.	6 mos.
Murder ^a	20	12	11	12	12*	11*	11*	12*	24	12
Rape	11	10	9	12	8	12	16	6	12	12
Robbery	10	9	11	8	11	9	11	6	11	9
Aggravated assault	10	6	17	6	17	6	15	12	9	6
Burglary	10	6	6	3	5	3	8	4	10	6
Larceny ^b	7	5	7	6	2	1	9	6	7	5
Drug trafficking	9	6	21	12	25	12	15	12	8	6
Other felonies	8	4	12	6	15	6	8	5	8	4
Sentences to probation										
All	47 mos.	36 mos.	31 mos.	24 mos.	32 mos.	30 mos.	29 mos.	24 mos.	48 mos.	36 mos.
Murder ^a	84	60	53	48	72	60	37	36	87	60
Rape	55	36	45	36	39	36	56	60	59	48
Robbery	49	36	26	24	30	24	21	12	52	36
Aggravated assault	59	36	34	24	36	24	31	24	61	36
Burglary	56	36	26	24	28	24	25	18	57	36
Larceny ^b	43	36	26	18	27	18	25	18	44	36
Drug trafficking	54	36	47	36	54	36	38	30	54	36
Other felonies	41	36	25	24	26	24	24	24	42	36

Note: Means exclude sentences to death or to life in prison. Data are based on 88% of the estimated total 582,764 convicted felons.

*Estimates are based on fewer than 10 sample cases.

^aIncludes nonnegligent manslaughter.

^bIncludes motor vehicle theft.

Sentences to life in prison were more likely to be associated with jury trials than with guilty pleas or bench trials. From data not presented in tables, of all felons convicted by a jury in 1986, 6% received life sentences; of all convicted in a bench trial, 1%; and of all pleading guilty, less than 1% were sentenced to life in prison.

Forty-two percent of the murderers convicted by a jury were sentenced to incarceration for life (table 6). Life in prison for defendants convicted by a judge comprised 11% of the sentences for murder, and life sentences for those who pleaded guilty, 15%.

There was also some indication that felons convicted of murder in a jury trial were more likely to receive the death penalty than were murderers convicted by a bench trial or after a plea of guilty. Death sentences for murder were given in 5% of jury trial convictions, in 1% of bench trials, and in one-tenth of 1% of cases disposed by guilty plea.

Case characteristics

Comparisons of defendants convicted by different methods establish that on average the defendants convicted by juries received more severe punishment. This result is seen in any measure used: sentence to incarceration versus sentence to probation, sentence to prison versus sentence to jail, and the mean or median sentence to prison.

Table 6. Sentences for felons convicted of murder or nonnegligent manslaughter 1986

Type of conviction	Type of sentence			
	Total	Life	Death	Other*
All	100%	24%	2%	74%
Trial	100	37	4	59
Jury	100	42	5	53
Bench	100	11	1	88
Guilty plea	100	15	--	85

Note: Data are based on 85% of the estimated total 5,120 convicted felons sentenced to life in prison or to death.
--Less than 0.5%.
*Includes sentences to incarceration and to probation.

The survey data do not directly answer why defendants convicted by juries might have been more severely punished. As already discussed, a higher percentage of the convictions by juries were for violent offenses. Also, within each offense type a higher percentage of particularly serious cases may have been decided by juries.

Defendants in such serious cases, violent and nonviolent, may have been less willing to plead guilty because they expected very severe penalties, as was noted in the discussion of sentences for murder. In addition, prosecutors may have recommended and judges may have imposed shorter sentences on those who pleaded guilty, compared to sentences for those found guilty by trial.

Single versus multiple convictions

Jury trial convictions included an estimated 33% of felons convicted of multiple offenses; bench trials, 17%; and guilty pleas, 26% (table 7). These differences,

Table 7. Felony convictions in State courts, by number of conviction charges, 1986

Type of conviction	Percent convicted of:	
	One charge	Two or more charges
All	74%	26%
Trial	72	28
Jury	67	33
Bench	83	17
Guilty plea	74	26

Note: Data are based on 84% of the estimated total 582,764 convicted felons.

however, were not statistically significant; see *Methodology* for further information. Measurable differences did exist between the severity of sentences of those convicted by juries, compared to sentences for similar felons convicted by other methods. Felons convicted of multiple felonies by a jury were more likely to be incarcerated (95% of all such convictions) than were those convicted by a judge (76%) or those who pleaded guilty (74%) (table 8). Prison sentences for multiple offenses were imposed for 86% of all such convictions by a jury, 68% of all bench trial convictions, and 59% of all guilty pleas.

Consecutive versus concurrent sentences

Felons convicted of more than one offense may be sentenced to concurrent or consecutive prison terms. Concurrent prison terms run at the same time. For example, a felon convicted of rape and robbery who receives concurrent sentences of 12 years for the rape and 8 years for the robbery has a total sentence of 12 years. By contrast, consecutive terms run one after the other. Consecutive sentences for the felon in the above example would result in a total sentence of 20 years. When a felon is given more than one sentence for multiple offenses, the sentences served consecutively would always be longer than the sentences served concurrently.

Table 8. Types of sentences imposed by State courts, by number of convictions, 1986

Type of conviction	Total	Percent of felons sentenced to:					
		Incarceration			Nonincarceration		
		Total	Prison	Jail	Total	Probation	Other
Convicted of one offense							
All	100%	65%	41%	24%	35%	33%	2%
Trial	100	75	57	18	25	24	1
Jury	100	79	63	16	21	20	1
Bench	100	68	44	24	32	31	1
Guilty plea	100	62	39	23	38	36	2
Convicted of multiple offenses							
All	100%	77%	61%	16%	23%	22%	1%
Trial	100	92	83	9	8	5	3
Jury	100	95	86	9	5	3	2
Bench	100	76	68	8	24	21	3*
Guilty plea	100	74	59	15	25	24	1

Note: Data are based on 84% of the estimated total 582,764 convicted felons.

*Estimate is based on fewer than 10 sample cases.

Felons convicted by a jury of multiple offenses and sentenced to prison were more often given consecutive terms (37%) than those who pleaded guilty (21%). The higher estimate of consecutive sentences in bench trials is based on fewer than 100 sample cases and may be less precise than the other estimates (table 9).

Table 9. Felons convicted of multiple charges and sentenced to prison, by type of conviction and type of sentence, 1986

Type of conviction	Percent receiving:	
	Consecutive terms	Concurrent terms
All	24%	76%
Trial	41	59
Jury	37	63
Bench	62	38
Guilty plea	21	79

Note: Data are based on 73% of the estimated 85,699 felons convicted of more than one charge and sentenced to prison.

Case processing time

Case processing time refers to the elapsed time between a defendant's arrest that led to a court sentence and the imposition of that sentence. The period has two major parts: the time between arrest and conviction and the time between conviction and sentencing.

The average elapsed time from arrest to conviction was about 5 1/2 months. There was some indication that felony cases disposed by juries took the longest to convict: 6 1/2 months.

Average elapsed time from arrest to conviction for other cases was slightly over 5 months for bench trials and about 5 1/2 months for guilty pleas. Convictions for half of all felony cases occurred within 4 months of arrest (table 10).¹

¹A 1987 study, undertaken by the National Center for State Courts, yielded similar results. The median case processing time for all felony cases was 119 days.

Of all the specified offenses, murder cases had the longest average processing time. Whether by jury, judge, or plea, the average time taken to convict a felon of murder was about 9 months. Depending on the method of conviction, the average time for a rape conviction was between 6 and 8 months; for drug trafficking, between 5 1/2 months and almost 8 months; and for burglary, between 3 1/2 months and less than 5 months.

Half of the convictions of burglars and larcenists were decided in bench trials within 2 months of arrest, and following pleas, within 3 1/2 months of arrest. Half of the convictions by juries of murderers and of rapists occurred within about 7 months after arrest. Half of the drug traffickers and assaulters found guilty by juries were convicted in less than 6 months after arrest.

Excluding convictions for murder and robbery, the average period of time between conviction and sentence for each offense category was about 1 month. Sentences of half of all convictions were imposed within a week of the verdict. The mean time between conviction for murder and sentencing was approximately 1 1/2 months (table 11).

The longer time required for the sentencing of felons convicted of murder may have been because in such cases greater emphasis is placed on presentence reports. Judges commonly request presentence reports to learn the results of a background investigation, including criminal history and psychological evaluations. Judges may need further time to consider the additional reports and the other aspects of imposing a capital sentence.

The average elapsed time from the arrest to the sentencing for all felony convictions was 6 1/2 months. There was no measurable difference between the estimated 7 1/2 months required for jury trials and the approximate 6 1/2 months required for both bench trials and guilty pleas. Sentencing occurred within 5 months of arrest for 50% of all cases (table 12).

Table 10. Mean and median number of days between arrest and conviction for felony cases disposed by State courts, 1986

Most serious conviction offense	Number of days between arrest and conviction for cases disposed by:				
	Total	Total	Jury	Bench	Guilty plea
Mean number of days					
All	166 days	184 days	195 days	159 days	164 days
Murder ^a	274	279	280	272	257
Rape	210	239	242	220	192
Robbery	173	186	185	189	172
Aggravated assault	178	197	185	228	174
Burglary	142	131	144	107	143
Larceny ^b	151	138	165	111	154
Drug trafficking	172	217	209	235	168
Other felonies	171	181	197	149	169
Median number of days					
All	123 days	141 days	162 days	105 days	120 days
Murder ^a	220	212	219	206	212
Rape	184	216	216	162	159
Robbery	122	110	110	107	125
Aggravated assault	140	175	176	158	132
Burglary	101	102	131	60	102
Larceny ^b	105	113	140	63	107
Drug trafficking	127	177	177	162	123
Other felonies	125	130	144	108	124

Note: See note on table 1. Data are based on 60% of the estimated total 582,764 convicted felons.

^aIncludes nonnegligent manslaughter.

^bIncludes motor vehicle theft.

Table 11. Mean and median number of days between conviction and sentencing for felony cases disposed by State courts, 1986

Most serious conviction offense	Number of days between conviction and sentencing for cases disposed by:				
	Total	Total	Trial Jury	Bench	Guilty plea
Mean number of days					
All	31 days	31 days	27 days	39 days	31 days
Murder ^a	46	62	62	61	27
Rape	29	25	23	33	32
Robbery	38	38	34	53	36
Aggravated assault	27	39	30	76	26
Burglary	32	25	21	33	32
Larceny ^b	31	28	23	35	32
Drug trafficking	32	33	30	42	32
Other felonies	29	24	19	32	29
Median number of days					
All	7 days	9 days	12 days	0 days	7 days
Murder ^a	11	21	21	35	0
Rape	4	0	1	0	21
Robbery	16	24	24	14	6
Aggravated assault	9	25	25	31	4
Burglary	2	0	0	0	5
Larceny ^b	7	1	11	0	13
Drug trafficking	9	8	8	3	8
Other felonies	3	1	1	0	3

Note: Data are based on 77% of the estimated total 582,764 convicted felons.

^aIncludes nonnegligent manslaughter.

^bIncludes motor vehicle theft.

Table 12. Mean and median number of days between arrest and sentencing for felony cases disposed by State courts, 1986

Most serious conviction offense	Number of days between arrest and sentencing for cases disposed by:				
	Total	Total	Trial Jury	Bench	Guilty plea
Mean number of days					
All	194 days	216 days	223 days	199 days	192 days
Murder ^a	311	340	344	322	281
Rape	238	262	264	255	225
Robbery	208	230	225	244	205
Aggravated assault	204	242	218	300	201
Burglary	168	156	164	141	171
Larceny ^b	178	165	186	144	182
Drug trafficking	202	254	246	273	201
Other felonies	195	203	215	182	195
Median number of days					
All	144 days	168 days	177 days	138 days	145 days
Murder ^a	240	274	274	257	220
Rape	199	218	218	205	185
Robbery	149	137	137	143	151
Aggravated assault	158	182	182	221	158
Burglary	120	129	131	87	123
Larceny ^b	129	138	147	105	134
Drug trafficking	155	199	195	217	155
Other felonies	144	148	148	144	146

Note: See note on table 1. Data are based on 67% of the estimated total 582,764 convicted felons.

^aIncludes nonnegligent manslaughter.

^bIncludes motor vehicle theft.

Who determines sentences in noncapital felony trials?

	Trial judge		Verdict jury alone
	Without jury input	With jury input	
Alabama	yes		
Alaska	yes		
Arizona		yes	
Arkansas	--	--	yes
California	yes		
Colorado		yes	
Connecticut	yes		
Delaware	yes		
Dist. of Col.	yes		
Florida	yes		
Georgia	yes		
Hawaii	yes		
Idaho	yes		
Illinois	yes		
Indiana		yes	
Iowa	yes		
Kansas	yes		
Kentucky	--	--	yes
Louisiana	yes		
Maine	yes		
Maryland	yes		
Massachusetts	yes		
Michigan	yes		
Minnesota	yes		
Mississippi	yes		
Missouri	yes		yes
Montana	yes		
Nebraska	yes		
Nevada	yes		
New Hampshire	yes		
New Jersey	yes		
New Mexico	yes		
New York	yes		
North Carolina	yes		
North Dakota	yes		
Ohio	yes		
Oklahoma	--	--	yes
Oregon	yes		
Pennsylvania	yes		
Rhode Island	yes		
South Carolina	yes		
South Dakota	yes		
Tennessee	yes		
Texas	--	--	yes
Utah	yes		
Vermont	yes		
Virginia	--	--	yes
Washington	yes		
West Virginia	yes		
Wisconsin		yes	
Wyoming	yes		

Note: **Missouri** requires the court to assess punishment if the jury refuses to decide punishment or the defendant waives a jury decision.
--Verdict jury determines sentence.

Source of tables: *State court organization, 1987*, National Center for State Courts, 1988.

Who sentences felons?

State courts differ in the procedure they follow to sentence felons convicted by a jury.

In addition to determining guilt, trial juries in Arizona, Indiana, and West Virginia make sentencing recommendations to the trial judge for felons convicted of noncapital offenses. Noncapital offenses are offenses that are not subject to the death penalty. Six States (Arkansas, Kentucky, Missouri, Oklahoma, Texas, and Virginia) allow the jury that convicted the felon to set the sentence. In the rest of the States, the trial judge is solely responsible for determining the sentence in noncapital cases. Where the defendant has pleaded guilty, the judge who accepts the plea determines the sentence.

Differences in sentencing practices are more apparent in death penalty cases. Of the 37 States that permit the death penalty for certain felonies, 16 give the trial jury the authority to decide whether or not the felon should be executed. In 10 States, the jury can only make a recommendation for the death penalty to the judge. Illinois, Maryland, and New Mexico permit the defendant to choose sentencing by the judge or the jury. In the remaining eight States and in cases where the defendant has exercised an option to be sentenced by the court, the trial judge sets the sentence.

How are felony trial juries drawn?

Prospective jurors are selected from lists intended to make juries representative of the community. Some States rely exclusively upon voter registration lists while other States use driver's license lists.

Most States combine the two lists.

In all States permitting the death penalty, a unanimous verdict from a 12-member jury is required in a capital case. Arizona also requires a 12-member jury if the defendant is subject to a prison term of 30 years or more.

In noncapital cases 7 States allow juries of fewer than 12 members. Fourteen other States and the District of Columbia also permit juries smaller than 12 members if both defense and prosecuting attorneys agree. In the remaining States

Who sentences convicted felons to death?

States with the death penalty	Trial judge		Verdict jury alone
	Without jury input	With jury input	
Alabama		yes	
Arizona		yes	
Arkansas		yes	
California		yes	
Colorado		yes	
Connecticut	yes		
Delaware	--		yes
Florida		yes	
Georgia		yes	
Idaho	yes		
Illinois	yes		yes
Indiana		yes	
Kentucky		--	yes
Louisiana		--	yes
Maryland	yes		yes
Mississippi	--		yes
Missouri	yes		yes
Montana	yes		
Nebraska	yes		
Nevada		--	yes
New Hampshire		--	yes
New Jersey		--	yes
New Mexico	yes		yes
North Carolina		--	yes
Ohio		yes	
Oklahoma		--	yes
Oregon		--	yes
Pennsylvania		yes	
South Carolina		--	yes
South Dakota	yes		
Tennessee		--	yes
Texas		--	yes
Utah	yes		
Vermont	yes		
Virginia		--	yes
Washington		--	yes
Wyoming	yes		

Note: **California** requires that a new jury be called to recommend a sentence to the judge if the original verdict jury is unable to do so. **Connecticut** statutes specify closely the aggravating or mitigating factors, which the jury must find and which in turn dictate what the court must do. **Illinois** permits the defendant during the "aggravation and penalty" phase to elect sentencing by the judge, the sentencing jury, or a new jury if good cause is shown. **Maryland** permits the defendant convicted by a jury to choose between sentencing by the judge or the verdict jury. **Missouri** requires the court to assess punishment if the jury refuses to do so. **New Mexico** permits the defendant in death penalty cases to choose a bench or jury trial.

--Verdict jury determines sentence.

a 12-member jury is required for felony jury trials.

Most States also require a unanimous verdict in noncapital felony trials. However, five States (Alaska, Arizona, Maryland, Oregon, and Rhode Island) and the District of Columbia accept a less than unanimous verdict if both the prosecutor and defense attorney have agreed. Louisiana accepts a verdict agreed to by 10 of 12 jurors for less serious felonies.

Methodology

For a detailed discussion of the methodology used for the NJRP survey, readers can refer to *Felony sentences in State courts, 1986* (BJS, Bulletin NCJ-115210, February 1989). The Bulletin provides details on the sample design, including the sample population, the counties selected, and the crime classifications used to select cases. The codebook for the public-use data set contains additional information on the NJRP survey, including variable frequency listings. The data set and codebook are available at the National Archive of Criminal Justice Data, P.O. Box 48106, University of Michigan, Ann Arbor, MI 48106.

The NJRP data were obtained from a sample; therefore, a sampling error (standard error) is associated with each number in the report. In general, if the difference between two numbers is greater than twice the standard error for that difference, we can say that we are 95% confident that the two numbers are in fact different; that is, the apparent difference is not simply the result of using a sample rather than the entire population. Similarly, if the difference between two numbers is greater than 1.6 standard errors, we are 90% confident that the two numbers are different. In such instances comparative statements are qualified by the phrase "some indication." Except where indicated otherwise, differences discussed in this report were statistically significant at or above the 90% confidence level.

The original sample included information on 51,594 cases in 100 counties. When examining the data for variables such as type of disposition and processing time, the size of the sample was reduced by those jurisdictions that did not report such detail.

Data on the type of conviction and sentence type were available on 40,114 sample cases from 83 jurisdictions in 35 States. These cases represented 88% of the national estimate. The missing data included 558 sample cases where the type of trial was unknown. These cases represented less than 1% of the national estimate.

Data on case processing times from arrest to sentencing were available on 29,390 sample cases from 68 jurisdictions in 31 States. Nationwide these data represented about 61% of the total estimated convictions.

Elapsed times from arrest to conviction were available from 59 jurisdictions in 30 States. The 22,587 sample cases represented 57% of the total estimated convictions.

Data on elapsed time between conviction and sentencing were available on 28,041 sample cases from 65 jurisdictions in 32 States. These data represented about 78% of the total estimated convictions.

Standard error tables on the data discussed in this report will be furnished upon request. Requests should be addressed to the Adjudication Unit, Bureau of Justice Statistics, Room 1170, 633 Indiana Avenue, N.W., Washington, DC 20531, or call 202-724-7774.

Information on the sentencing procedures in State courts was obtained from *State court organization, 1987*, National Center for State Courts, Williamsburg, Virginia. Tabulations in the court organization report were based on a midyear 1987 survey of State court administrators throughout the United States. The final response rate was 100%. The National Center for State Courts conducted the survey under the sponsorship of the Bureau of Justice Statistics.

Bureau of Justice Statistics Special Reports are prepared principally by BJS staff. This report was written by Carla K. Gaskins. John Dawson, Pat Langan, and Richard Solari provided statistical assistance. David Rottman of the National Center for State Courts assisted with the section on *Who sentences felons*. Thomas Hester edited the report. Marilyn Marbrook administered production, assisted by Yvonne Boston, Jayne Pugh, Priscilla Middleton, and Tina Dorsey.

Data collection and processing were done by Mark Cuniff and Robert Cushman of the National Association of Criminal Justice Planners; by the staff of the U.S. Bureau of the Census, including Betty Ford, Stephanie Brown, Martha Greene, Henrietta Herrin, Steve Poyta, Victoria Campbell, Linda Huang, and Ken Lederman under the supervision of Diana Cull of the Governments Division; and by Joseph Cavey of the Field Division.

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The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following offices and bureaus: Bureau of Justice Statistics, National Institute of Justice, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime.

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