REPORT BY THE U.S.

General Accounting Office

Sentences And Fines For Organized Crime Figures And Major Drug Traffickers

GAO analyzed penalties imposed and parole release decisions for 1,044 organized crime figures and major drug traffickers who were sentenced between January 1962 and July 1983 in 37 judicial districts.

The median sentence imposed by the courts was 120 months while the median maximum concurrent sentence that could have been imposed on these offenders was 180 months. Overall, 74 percent of the defendants received less than the maximum concurrent term of imprisonment authorized by statute. GAO found that federal district courts imposed criminal fines totaling $17.5 million for 383 of the 1,044 defendants. For [h]e 383 offenders (68 percent), the [p]osed less than the maximum fine [a]d by statute.

GAO/GGD-85-19
APRIL 4, 1985

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GENERAL GOVERNMENT
DIVISION

B-133223

The Honorable Paul Laxalt
Chairman, Subcommittee on Criminal Law
Committee on the Judiciary
United States Senate

The Honorable William J. Hughes
Chairman, Subcommittee on Crime
Committee on the Judiciary
House of Representatives

As you requested, we examined sentencing and parole decisions for organized crime figures and major drug traffickers. The report provides statistical information which compares the actual penalties imposed (sentences and fines) with the maximum penalties authorized by statute at the time of sentencing, and illustrates the impact that parole and good time have on reducing the period of imprisonment served or to be served by these offenders.

We trust the information provided will be useful to your continuing oversight efforts. As arranged with your offices, unless you publicly announce the contents of the report earlier, we plan no further distribution until 30 days from the date of the report. At that time we will send copies to interested parties and make copies available to others upon request.

W. J. Anderson

William J. Anderson
Director

REPORT BY THE
GENERAL ACCOUNTING OFFICE

SENTENCES AND FINES FOR ORGANIZED CRIME FIGURES AND MAJOR DRUG TRAFFICKERS

D I G E S T

The Chairmen, Subcommittee on Criminal Law, Senate Committee on the Judiciary, and Subcommittee on Crime, House Committee on the Judiciary, requested that GAO examine penalties imposed and parole release decisions for organized crime figures[1] and major drug traffickers.[2] Specifically, GAO was asked to (1) compare the actual penalties imposed (sentences and fines) with the maximum penalties authorized by statute at the time of sentencing and (2) determine what impact parole or good time--time off the sentence for good behavior--have on reducing the period of imprisonment.

Subsequent to the completion of GAO's audit work, the Comprehensive Crime Control Act of 1984 (Public Law 98-473) was enacted on October 12, 1984. This law, which made a number of changes to criminal laws and procedures, abolishes the Parole Commission 5 years after the establishment of sentencing guidelines, eliminates the possibility of release on parole for offenders sentenced after November 1, 1986, and reduces the amount of good time that offenders sentenced after that date can earn.

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[1]Organized crime figures, as used in this report, were those individuals identified by Justice Department officials as members or leaders of La Cosa Nostra, sometimes referred to as "the syndicate" or "the mob."

[2]Major drug traffickers, as used in this report, were those drug violators classified by the Drug Enforcement Administration as Class I violators--the highest or upper level traffickers. The agency classifies violators by the amount of drugs involved and the position the violator holds in the drug trafficking network.

GAO/GGD-85-19
APRIL 4, 1985

Tear Sheet

In consultation with officials from the Department of Justice and the Administrative Office of the United States Courts, GAO identified 37 judicial districts where the greatest number of organized crime figures and major drug traffickers had been sentenced. As a result of discussions with these agency officials, GAO determined that a total of 1,044 organized crime figures and/or major drug traffickers were sentenced between January 1962 and July 1983 in the selected judicial districts. (See pp. 4 to 6.)

COMPARISON OF SENTENCES IMPOSED AND MAXIMUM CONCURRENT SENTENCES AUTHORIZED BY STATUTE

Of the 1,044 organized crime figures and/or major drug traffickers who were sentenced in the 37 selected judicial districts between January 1962 and July 1983,

--35 (3 percent) were placed on probation or received suspended sentences,

--605 (58 percent) received prison sentences of 10 years or less,

--392 (38 percent) received prison sentences of over 10 years but less than life, and

--12 (1 percent) received life sentences. (See p. 8.)

For the 1,044 offenders, the median maximum concurrent sentence that could have been imposed was 180 months.[3] The median sentence imposed by the courts was 120 months.

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[3]The maximum concurrent term of imprisonment is the maximum period of incarceration that the court may impose for all charges that a defendant pleads guilty to or has been found guilty of without running the terms of imprisonment on each charge or separate sentence consecutively. GAO chose the maximum concurrent term because it is a conservative comparison of the maximum allowed by statute to the actual sentence imposed.

Seventy-four percent or 770 of the 1,044 offenders received less than the maximum concurrent term of imprisonment authorized by statute. Of these 770 offenders, 102 could have received life imprisonment. For the remaining 668 offenders, 47 percent, on average, of the maximum concurrent sentence was imposed. In general, it is not unusual for a convicted federal offender to receive less than the maximum sentence authorized by statute. The following table shows the median maximum concurrent sentence that could have been imposed, the sentences imposed, and the percentage of offenders receiving less than the maximum concurrent sentence. (See pp. 9 to 11.)

	Organized crime figures	Major drug traffickers	Both	All offenders
Number of offenders	247	759	38	1,044
Median sentence imposed (in months)	48	120	180	120
Median maximum concurrent sentence that could have been imposed (in months)	120	180	180	180
Percent receiving less than maximum concurrent term of imprisonment authorized by statute	79%	73%	53%	74%

COMPARISON OF ACTUAL CRIMINAL FINES IMPOSED WITH MAXIMUM FINES AUTHORIZED BY STATUTE

Federal district courts imposed criminal fines totaling $17.5 million for 383 of the 1,044 organized crime figures and/or major drug traffickers GAO examined. This included $1,988,500 for 123 organized crime figures, $14,753,500 for 244 major drug traffickers, and $754,500 for 16 offenders who fell into both categories. For 260 of the 383 offenders

(68 percent), the court imposed less than the maximum fine authorized by statute. The median fine imposed by the courts was $15,000 while the median maximum fine that could have been imposed by the courts was $65,000. Offenders, when evaluated on an individual basis, were assessed a median of 30 percent of the authorized fine. As with sentences imposed, it is not unusual for a federal offender to receive less than the maximum fine authorized by statute. For 123 of the 383 offenders (32 percent), the court imposed the maximum fine authorized by statute. The median fine imposed by the courts for these offenders was $25,000. (See pp. 11 and 12.)

EFFECT OF PAROLE AND GOOD TIME ON THE PERIOD OF IMPRISONMENT

GAO found that the Parole Commission made parole decisions for 676 of the 1,044 organized crime figures and/or major drug traffickers examined, granting parole to 390 offenders and denying parole to 286 offenders. For the remaining 368 offenders, no decision had been made by the Commission for 193 offenders, and 175 offenders were ineligible for parole consideration. (See pp. 12 to 14.)

For the 390 offenders where the Commission granted parole, the median time served or to be served was 50 months while the median sentence imposed by the courts was 120 months. Excluding the one offender sentenced to life but granted parole, the offenders served or will serve a median of 42 percent of their sentences. (See p. 13.) A comparison between sentence imposed and time served or to be served for paroled or to be paroled organized crime figures, major drug traffickers, and offenders who fell into both categories is shown in the following chart.

	Organized crime figures	Major drug traffickers	Both	All offenders
Number of offenders	66	314	10	390
Median sentence imposed (in months)	73	120	186	120
Median time served or to be served at parole release (in months)	36	52	93	50

The Parole Commission denied parole to 286 organized crime figures and/or major drug traffickers. However, these offenders were eligible for good time. As a result, GAO determined that the median time served or to be served--full term of the sentence less accumulated good time--by these offenders was 44 months while the median sentence imposed by the courts was 60 months. GAO made the assumption that no good time was taken away from offenders for misbehavior while in prison. Overall, offenders served or will serve a median of 74 percent of their imposed sentence. (See pp. 13 and 14.) A comparison between sentences imposed and time served or to be served when good time is considered for organized crime figures, major drug traffickers, and offenders who fell into both categories follows.

	Organized crime figures	Major drug traffickers	Both	All offenders
Number of offenders	76	200	10	286
Median sentence imposed (in months)	60	60	84	60
Median time served or to be served when good time is considered (in months)	44	44	62	44

Tear Sheet

AGENCY COMMENTS

The Administrative Office said it reviewed the report thoroughly and had no specific comments on its contents. The Department of Justice said it had no reason to doubt the validity of the statistics presented; however, it suggested that use of different statistical methodologies could have provided more useful information and yielded more meaningful insight. Overall, GAO is not convinced that Justice's suggestions would have been more useful or produced more meaningful insights into sentences imposed on organized crime figures and major drug traffickers. (See pp. 14 to 16.)

Contents

CHAPTER 1

INTRODUCTION

Organized crime and drug trafficking are among the most serious crime problems facing America today. These criminal activities affect the lives of millions of individuals and pose a serious problem for law enforcement agencies. Billions of dollars are generated annually from such activities as gambling, loansharking, prostitution, extortion, racketeering, pornography, arson, infiltration of legitimate businesses, public corruption, and trafficking in narcotics. Revenues generated annually through narcotics trafficking alone are estimated to be $80 billion.[1]

The Chairmen, Subcommittee on Criminal Law, Senate Committee on the Judiciary, and Subcommittee on Crime, House Committee on the Judiciary, requested that we examine penalties imposed and parole release decisions for organized crime figures (members and leaders of La Cosa Nostra) and major drug traffickers to (1) compare the actual penalties imposed (sentences and fines) with the maximum penalties authorized by statute existing at the time of sentencing and (2) determine what impact parole or good time--time off a sentence for good behavior--have on reducing the period of imprisonment.[2] Subsequent to the completion of our audit work, the Comprehensive Crime Control Act (Public Law 98-473) was enacted on October 12, 1984. This law, which made a number of changes to criminal laws and procedures abolishes the Parole Commission 5 years after the establishment of sentencing guidelines, eliminates the possibility of release on parole for offenders sentenced after November 1, 1986, and reduces the amount of good time that offenders sentenced after that date can earn.

DESCRIPTION OF THE SENTENCING AND PAROLE DECISIONMAKING PROCESS IN THE FEDERAL CRIMINAL JUSTICE SYSTEM

The federal criminal justice system is divided into 94 judicial districts. Each has a federal district court and a

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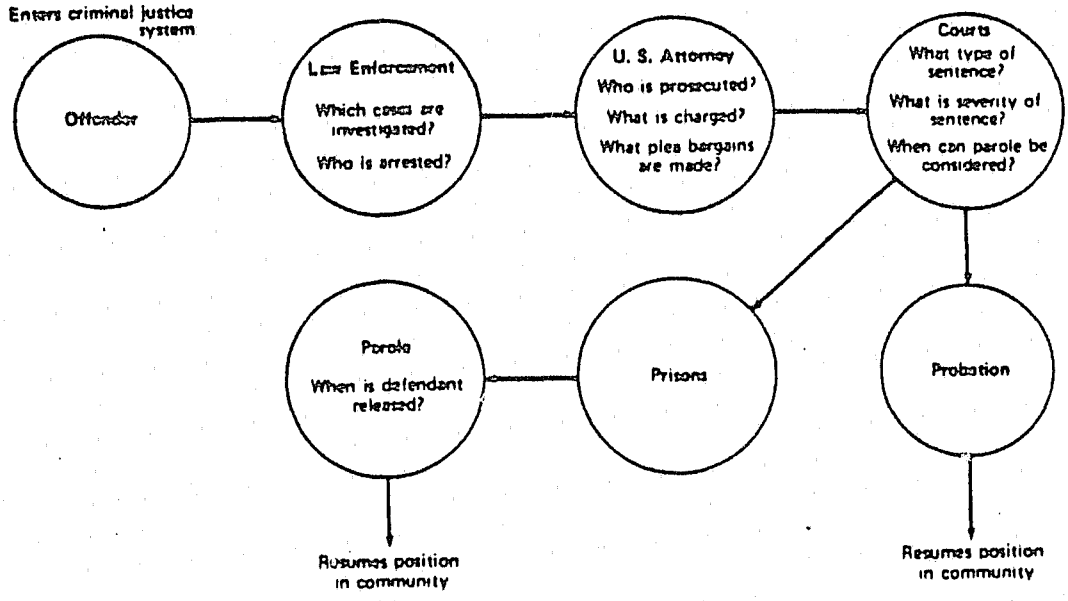
[1]The National Narcotics Intelligence Consumers Committee estimated that illegal drugs generated $80 billion in retail sales in the United States. This 1980 estimate is the latest estimate available.

[2]Parole is defined as the conditional return of an institutionalized offender to the community before completion of the term of imprisonment that was originally imposed. Many offenders are paroled; however, generally for those who are not paroled, good time determines what portion of the sentence that these offenders will serve before release.

U.S. attorney.[3] Criminal justice responsibilities are divided into the components of law enforcement, prosecution, adjudication and sentencing, and corrections. The chart below depicts the various segments of the federal criminal justice system and the decisions made in each segment.

DECISIONS MADE IN THE FEDERAL CRIMINAL JUSTICE SYSTEM



Prosecuting federal cases is the responsibility of the Department of Justice litigating divisions and the U.S. attorney in each of the judicial districts. U.S. attorneys are appointed by the President for 4-year terms with the advice and consent of the Senate. They receive general executive assistance and administrative support from the Executive Office for United States Attorneys in Washington, D.C.

In the federal system, sentencing is affected by discretionary decisions made by prosecutors, judges, and the United States Parole Commission. The range of potential sentences is initially determined by the prosecutor's decision regarding the charges to be prosecuted. Upon conviction, the judge selects a sentence within the range authorized by statute. This may include a fine, probation, a suspended sentence, a term of imprisonment, or any combination of these alternatives. After sentencing, convicted offenders who are placed on probation are turned over to the probation office in the district court where the sentence was imposed or, when a term of incarceration has been imposed, are turned over to the Federal Prison System.

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[3]There are currently 94 federal district courts; however, there are only 93 U.S. attorneys because 1 U.S. attorney administers the activities performed by the judicial districts in Guam and the Northern Mariana Islands.

If incarceration in excess of 1 year is imposed by the court, the actual duration of the prison term is determined by the United States Parole Commission within the constraints imposed by statute and the judge's sentencing order. Unless otherwise provided by statute, a federal prisoner confined and serving definite term or terms is eligible for parole consideration under 18 U.S.C. §4205(a) after serving one-third of such term or terms or after serving 10 years of a life sentence or a sentence over 30 years. Under 18 U.S.C. §4205(b)(1), the judge may designate in the sentence of imprisonment imposed a minimum term at the expiration of which the prisoner shall become eligible for parole, which may be less than but shall not be more than one-third of the maximum sentence imposed. Under 18 U.S.C. §4205(b)(2), the judge may fix the maximum sentence of imprisonment to be served in which event the court may specify that the prisoner may be released on parole at such time as the Parole Commission may determine.

The Commission has established parole release guidelines pursuant to 18 U.S.C. §4203(a)(1) which indicate the customary range of time to be served before release from prison. The criterion which establishes the range consists of two parts--one for offense severity and the other for parole prognosis.

If an offender has been denied parole or is ineligible for parole consideration because of the statute used in sentencing, release is at expiration of the sentence less good time earned by the offender. The amount of statutory good time awarded to offenders under 18 U.S.C. §4161 is determined by the length of the sentence imposed by the court except that good time does not apply to life sentences. The amount of good time awarded is depicted in the following table.

Length of sentence imposed	Good time awarded per month (days)
6 months but not more than 1 year	5
More than 1 year but less than 3 years	6
3 years but less than 5 years	7
5 years but less than 10 years	8
10 years or more	10

Offenders also may earn time off their sentences for extra good time under 18 U.S.C. §4162 at a rate of 3 days for each month of actual employment in an industry or camp for the first year of imprisonment and 5 days per month in subsequent years.

The statute also provides for awarding extra good time on a discretionary basis for exceptionally meritorious service or for performing duties of outstanding importance in connection with institutional operations. Federal Prison System regulations (28 C.F.R. 523.12, 523.13, 523.14, and 523.15) have extended extra good time to employment in Federal Prison Industries, participation in work/study release programs and community treatment centers, and assignment to a camp or farm. The regulations provide that extra good time be awarded automatically, except in the case of meritorious good time, which is based on recommendations by prison staff.

Public Law 98-473 reduces good time for offenders sentenced to imprisonment after November 1, 1986. This law eliminates extra good time and provides that offenders sentenced to a term of imprisonment in excess of 1 year after that date will earn 54 days of good time per year at the end of each year of imprisonment. Current good time provisions will apply to offenders sentenced prior to November 1, 1986.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Chairmen, Subcommittee on Criminal Law, Senate Committee on the Judiciary, and Subcommittee on Crime, House Committee on the Judiciary, requested that we examine penalties imposed and parole release decisions for organized crime figures (members and leaders of La Cosa Nostra) and major drug traffickers to (1) compare the actual penalties imposed (sentences and fines) with the maximum penalties authorized by statute at the time of sentencing and (2) determine what impact parole or good time have had on reducing the period of imprisonment.

Between March 1982 and December 1983, we conducted our review at the headquarters offices of the United States Parole Commission, Probation Division within the Administrative Office of the United States Courts, and the Department of Justice's Federal Prison System, Organized Crime and Racketeering Section, Narcotics and Dangerous Drugs Section, Executive Office for United States Attorneys, and the Federal Bureau of Investigation. In addition, we conducted extensive work at the five regional offices of the Federal Prison System and the United States Parole Commission--Atlanta, Georgia; Burlingame, California; Dallas, Texas; Kansas City, Missouri; and Philadelphia, Pennsylvania--to identify organized crime figures and major drug traffickers. Also, at the Parole Commission's regional offices we examined case files for those offenders where parole decisions had been made.

Our review was performed in accordance with generally accepted government auditing standards.

Selection of cases examined

Officials from the Department of Justice and the Administrative Office of the United States Courts identified 37 judicial districts where the greatest number of organized crime figures and major drug traffickers had been sentenced. Because no comprehensive list of organized crime figures and major drug traffickers existed, we held discussions with officials from (1) various components within the Department of Justice, (2) United States Parole Commission, and (3) federal district courts to identify high level criminals in both categories. As a result of our discussions with agency officials, we determined that a total of 1,044 organized crime figures[4] and major drug traffickers[5] were sentenced in the 37 selected judicial districts. (See app. I.) The offenders identified by agency officials were sentenced between January 1962 and July 1983. However, only 13 offenders were sentenced prior to 1970. (See app. II.)

The 1,044 offenders were identified in case files or by agency officials as major drug traffickers (759), organized crime figures (247), and offenders who fell in both categories (38). Even though we had no way of knowing whether the 1,044 offenders we examined were all-inclusive of those organized crime figures and major drug traffickers sentenced in the 37 judicial districts, agency officials told us that the cases we examined in the selected judicial districts constituted the universe of major drug traffickers and organized crime figures who were sentenced in these judicial districts. We did not discuss the cases reviewed with the sentencing judges or federal prosecutors.

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[4]Organized crime figures, as used in this report, were those individuals identified by Justice Department officials, as members or leaders of La Cosa Nostra, sometimes referred to as "the syndicate" or "the mob."

[5]Major drug traffickers, as used in this report, were those drug violators classified by the Drug Enforcement Administration as Class I violators which represent the highest or upper level traffickers. The agency classifies violators by the amount of drugs involved and the position the violator holds in the drug trafficking network.

To compare the actual penalties imposed (sentences and fines) with the maximum penalties[6] authorized by statute for the 1,044 organized crime and major drug trafficker offenders, we examined case files maintained in the district courts which included indictments, presentence investigation reports, judgment and commitment orders, docket sheets, motions for reduction of sentences, plea agreements, and sentencing transcripts where available.

To determine what impact parole or good time had or potentially will have on reducing the period of imprisonment, we examined case files maintained by the 37 selected judicial districts, the Federal Prison System, and the Parole Commission for the 1,044 offenders. For the 390 offenders who were given parole release dates, we calculated the amount of time these offenders served or will serve at release on the basis of records furnished by the Parole Commission. For the 286 offenders who were denied parole, we calculated the amount of time these offenders served or will serve at release on the basis of good time earned according to sentence computation records provided by the Federal Prison System. We assumed that no good time was taken away for misbehavior. Our calculations did not include extra good time that may have been earned by the offenders. Therefore, our estimates of the actual time served or to be served for the 286 offenders denied parole may be slightly overstated.

We did not analyze the remaining 368 offenders because a parole decision had not been made or the offenders were ineligible for parole--(1) 93 offenders received sentences of less than 1 year and 1 day and thus were not eligible for parole consideration; (2) 82 offenders were convicted under a statute that prohibits release on parole, (3) 70 offenders had not started serving their sentences, and (4) no parole decision had been made for 123 offenders at the time our field work was completed in December 1983.

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[6]We defined the maximum penalty (term of imprisonment or criminal fine) as the maximum period of incarceration or criminal fine that the court could have imposed for all charges that a defendant pleads guilty to or had been found guilty of without running the terms of imprisonment and/or fines on each charge or separate sentence consecutively.

CHAPTER 2

SENTENCES AND FINES IMPOSED ON ORGANIZED CRIME FIGURES AND MAJOR DRUG TRAFFICKERS

The median sentence imposed by the courts on 1,044 organized crime figures and major drug traffickers who were sentenced between January 1962 and July 1983 in 37 selected judicial districts was 120 months.[1] The median maximum concurrent sentence that could have been imposed in these cases was 180 months.[2] Sentencing data showed that 770 of the 1,044 offenders or 74 percent received less than the maximum concurrent term of imprisonment authorized by statute. Of these 770 offenders, 102 could have received life imprisonment. For the remaining 668 offenders, 47 percent of the maximum concurrent sentence was imposed on the average.

In addition, criminal fines totaling $17.5 million were imposed by the courts for 383 of the 1,044 offenders (37 percent). The maximum fine authorized by statute was imposed for 123 of the 383 offenders (32 percent), while less than the maximum fine authorized by statute was imposed for the remaining 260 offenders (68 percent).

Parole and good time--time off the sentence for good behavior--reduce the period of imprisonment for federal offenders. The Parole Commission made parole release decisions for 676 of the 1,044 offenders we examined granting parole to 390 offenders and denying parole to 286 offenders. For the remaining 368 offenders, no parole decision had been made for 193 offenders and 175 offenders were ineligible for parole consideration. As stated on page 6 of this report, we did not calculate the effect of good time for these offenders because no parole decision had been made or the offenders were ineligible for parole.

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[1]The median is the value in a distribution with an equal number of values above and below.

[2]The maximum concurrent term of imprisonment is the maximum period of incarceration that the court may impose for all charges that a defendant pleads guilty to or has been found guilty of without running the terms of imprisonment on each charge or separate sentence consecutively. We chose the maximum concurrent term because it was a conservative comparison of the maximum sentence allowed by statute to the actual sentence imposed. For example, if an offender was convicted of two counts each allowing by statute a 5-year term of imprisonment or total sentence of 10 years, we used the maximum concurrent term of only 5 years and compared it to the sentence imposed which may have been 7 years for both counts rather than comparing 10 years authorized to 7 years imposed.

For the 390 offenders granted parole, the median time served or to have been served by the offenders at the parole release date was 50 months while the median sentence imposed by the courts was 120 months. For the 286 offenders denied parole, the median time served or to be served--full term of the sentence less accumulated good time--was 44 months while the median sentence imposed by the courts was 60 months.

ANALYSIS OF THE SENTENCES IMPOSED

Of the 1,044 organized crime figures and/or major drug traffickers who were sentenced in the 37 selected judicial districts between January 1962 and July 1983,

--35 (3 percent) were placed on probation or received suspended sentences,

--605 (58 percent) received prison sentences of 10 years or less,

--392 (38 percent) received prison sentences of over 10 years but less than life, and

--12 (1 percent) received life sentences.

The following table shows the range of sentences imposed for organized crime figures, major drug traffickers, and offenders who fell in both categories.

Sentence imposed	Organized crime figures	Major drug traffickers	Both	Total
Probation or suspended sentence	26	9	-	35
Split sentence[a]	9	4	1	14
1 year or less	33	10	1	44
Greater than 1 year but less than or equal to 5 years	91	152	3	246
Greater than 5 years but less than or equal to 10 years	48	245	8	301
Greater than 10 years but less than or equal to 15 years	16	149	7	172
Greater than 15 years but less than or equal to 20 years	13	75	5	93
Greater than 20 years but less than or equal to 25 years	6	28	5	39
Over 25 years	5	87	8	100
Total	247	759	38	1,044

[a]Split sentence is up to 6 months incarceration followed by up to 5 years of probation.

COMPARISON OF SENTENCES IMPOSED AND MAXIMUM CONCURRENT SENTENCES AUTHORIZED BY STATUTE

For the 1,044 offenders, the median maximum concurrent sentence that could have been imposed was 180 months. The median sentence imposed by the court was 120 months. Seventy-four percent or 770 of the 1,044 offenders received less than the maximum concurrent term of imprisonment authorized by statute. Of these 770 offenders, 102 could have received life imprisonment. For the remaining 668 offenders, 47 percent of the maximum concurrent sentence was imposed on average.

Additional analyses indicated that the percentage of offenders receiving less than the maximum concurrent sentence was greatest for offenders who could have received life sentences and lowest for offenders whose maximum concurrent sentence was 5 years or less. A breakdown of the percent receiving less than the maximum concurrent term authorized by statute is presented below.

Range of maximum concurrent sentence (years)	Number of offenders	Percent receiving less than the maximum concurrent term	Percent receiving at least the maximum concurrent term
5 or less	185	64	36
Greater than 5 but less than or equal to 10	35	77	23
Greater than 10 but less than or equal to 15	475	72	28
Greater than 15 but less than or equal to 20	183	77	23
Greater than 20 but less than life	52	79	21
Life	114	89	11
Total	1,044	74	26

The following table shows the median maximum concurrent sentence that could have been imposed, imposed sentences, and percentage of offenders receiving less than the maximum concurrent sentence.

	Organized crime figures	Major drug traffickers	Both	All offenders
Number of offenders	247	759	38	1,044
Median sentence imposed (in months)	48	120	180	120
Median maximum concurrent sentence that could have been imposed (in months)	120	180	180	180
Percent receiving less than maximum concurrent term of imprisonment authorized by statute	79%	73%	53%	74%

EFFECT OF CONCURRENT SENTENCES ON THE PERIOD OF IMPRISONMENT

Organized crime figures and major drug traffickers sometimes receive more than one sentence for separate criminal convictions. When one of these offenders receives a second or subsequent conviction, the judge involved in the case must make two decisions. First, the judge must decide upon an appropriate penalty for the current offense. Second, the judge must determine whether to impose a penalty that is concurrent or consecutive to penalties imposed for other criminal convictions.

Of the 1,044 offenders' sentences reviewed, we found that 187 offenders, or 18 percent, received two or more sentences for separate criminal convictions. The following table presents a breakdown by the three offender categories.

Number of separate sentences	Organized crime figures	Major drug traffickers	Both	Total
2	40	98	11	149
3	7	21	4	32
4	2	2	0	4
5	1	1	0	2
Total	50	122	15	187

For 112 of the 187 offenders, subsequent convictions resulted in additional periods of imprisonment of (1) up to 5 years for 52 offenders, (2) up to 10 years for 23 offenders, and (3) more than 10 years for 37 offenders. For the remaining 75 offenders, no additional period of incarceration was imposed for the additional convictions because the courts imposed probation, suspended sentences, or concurrent sentences which were absorbed in prior sentences.

COMPARISON OF CRIMINAL FINES IMPOSED WITH MAXIMUM FINES AUTHORIZED BY STATUTE

Federal criminal statutes set a maximum fine for most offenses that the court can impose either alone, or in combination with a term of imprisonment or a period of probation. For 383 of the 1,044 (37 percent) organized crime figures and major drug traffickers we examined, the courts imposed criminal fines totaling $17.5 million. This included $1,988,500 for 123 organized crime figures, $14,753,500 for 244 major drug traffickers, and $754,500 for 16 offenders who fell in both categories. Details on the range of fines imposed for the 383 offenders are presented in the following table.

Range of fines imposed	Organized crime figures	Major drug traffickers	Both	Total
Up to $5,000	45	23	3	71
Between $5,001 - $10,000	32	27	5	64
Between $10,001 - $15,000	9	15	0	24
Between $15,001 - $20,000	9	24	1	34
Between $20,001 - $25,000	5	41	0	46
Over $25,000	23	114	7	144
Total	123	244	16	383

We found that less than the maximum fine authorized by statute was imposed by the courts for 260 of the 383 offenders (68 percent). The median fine imposed by the courts for these offenders was $15,000 while the median maximum fine that could have been imposed by the courts was $65,000. Overall, offenders, evaluated on an individual basis, were assessed a median of 30 percent of the authorized fine. The maximum fine authorized by statute was imposed by the courts for 123 of the 383 offenders (32 percent). The median fine imposed by the courts for these offenders was $25,000.

EFFECT OF PAROLE AND GOOD TIME ON THE PERIOD OF IMPRISONMENT

Parole and good time reduce the period of imprisonment for federal prisoners. The Parole Commission made parole release decisions for 676 of the 1,044 organized crime figures and/or major drug traffickers we examined, granting parole to 390 offenders and denying parole for 286 offenders. For the 390 offenders granted parole, the median time served or to have been served at release was 50 months while the median sentence imposed by the courts was 120 months. For the 286 offenders denied parole, the median time served or to be served[3]--full term of the sentence less accumulated good time--was 44 months while the median sentence imposed by the courts was 60 months.

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[3]We made the assumption in our calculation that no statutory good time was taken away for misbehavior. (See p. 6 of this report.)

Effect of parole on period of imprisonment

The Parole Commission established parole release dates for 390 offenders--66 organized crime figures, 314 major drug traffickers, and 10 offenders who fell in both categories. The median sentence imposed by the courts for the 390 offenders was 120 months while the median time served or to be served at parole release was 50 months. Excluding the one offender sentenced to life but granted parole, the offenders served or will serve a median of 42 percent of their imposed sentences. A comparison of this information for organized crime figures, major drug traffickers, and offenders who fell in both categories is summarized in the following table.

	Organized crime figures	Major drug traffickers	Both	All offenders
Number of offenders	66	314	10	390
Median sentence imposed (in months)	73	120	186	120
Median time served or to be served at parole release (in months)	36	52	93	50

Effect of good time on imprisonment for offenders denied parole

All federal prisoners who are serving sentences in excess of 6 months, except those with life sentences, are awarded good time. Good time is provided for by statute as an incentive for cooperative behavior among offenders while they are confined in correctional institutions. Statutory good time is awarded to federal prisoners for faithful observance of institutional rules; however, it may be taken away for serious misconduct. The amount of statutory good time awarded to offenders under 18 U.S.C. §4161 is determined by the length of the sentence imposed. It ranges from a minimum of 5 days per month for shorter sentences (6 months to 1 year) to a maximum of 10 days per month for longer sentences (10 years or longer). Offenders may also earn additional time off their sentences--extra good time--under 18 U.S.C. §4162 at a rate of 3 days per month for the first year of imprisonment and 5 days per month in subsequent years. (See pp. 3 and 4 of this report.)

The Parole Commission denied parole for 286 offenders--76 organized crime figures, 200 major drug traffickers, and 10 offenders who fell in both categories. The median sentence

imposed by the courts on the 286 offenders was 60 months while the median time served or to be served was 44 months. Overall, offenders served or will serve a median of 74 percent of their imposed sentences. The impact of good time on the period of imprisonment served or to be served by organized crime figures, major drug traffickers, and offenders who fell in both categories is summarized in the following table.

	Organized crime figures	Major drug traffickers	Both	All offenders
Number of offenders	76	200	10	286
Median sentence imposed (in months)	60	60	84	60
Median time served or to be served when good time is considered (in months)[a]	44	44	62	44

[a]Median time served may be slightly overstated because it does not include extra good time awarded to the offenders. This information was not readily available.

AGENCY COMMENTS AND OUR EVALUATION

The Administrative Office, by letter dated December 12, 1984, said it reviewed the report thoroughly and had no specific comments on its contents. (See app. III.)

The Department of Justice, by letter dated February 8, 1985, said it had no reason to doubt the validity of the statistics presented; however, it believes that use of different statistical methodologies could have provided more useful information and yielded a more meaningful insight. Overall, we are not convinced that Justice's suggested alternatives to the methodology we used would have been more useful or produced more meaningful insights into sentences and fines imposed on organized crime figures and major drug traffickers. Justice provided the following specific comments on our methodology. (See app. IV.)

First, Justice recommended that statistics used prior to 1970 be deleted from the report because these figures represent convictions prior to the passage of the Racketeer Influenced and Corrupt Organization Act (P.L. 91-452, October 15, 1970) and the Drug Abuse Prevention and Control Act (P.L. 91-513, October 27, 1970). It said these two laws significantly influenced the sentencing process after their enactment. We agree that the two laws passed in 1970 significantly influenced the sentencing process. However, we did not adjust our statistical information

to delete individuals sentenced prior to 1971, because only 22 of the 1,044 cases we reviewed were sentenced prior to 1971 and our analyses showed that deleting the 22 cases would not change our overall statistical results.

Second, Justice said the use of the median sentence possible as a standard of comparison sets that standard at an unrealistically high level. Justice said a defendant may be charged in an indictment with ten 10-year felonies and it is not realistic to assume that any judge will award the defendant a 100-year sentence in one case. Justice's comment indicates that it misunderstood the standard we used for maximum possible sentence. We agree with Justice that for individuals charged and convicted of multiple counts a maximum sentence computed on serving consecutive sentences would have set an unrealistically high standard. To be as conservative as possible we used the maximum period of incarceration that the court could have imposed for all charges without running the terms of imprisonment on each charge or separate sentences consecutively. Maximum sentence, therefore, is the longest sentence an individual could have received if sentences for all counts were served concurrently. Using Justice's example our standard would have been 10 years for an individual convicted of ten 10-year felonies, not 100 years.

Third, Justice said that a standard of the mean or median sentence received by all other offenders committing similar offenses would have yielded a more meaningful comparison. We agree such a comparison would be interesting; however, we were interested in comparing actual sentences imposed to what could have been imposed and not in comparing the sentences of offenders committing similar offenses. In addition, no one maintains collective information on offenders committing similar offenses to allow such a comparison to be made.

Fourth, Justice said that the use of the median figure rather than a mean unnecessarily depresses the figure for actual sentences received. However, it added that it would be the first to admit that several life sentences received by some offenders makes the use of the mean difficult and unnecessarily skews it toward higher values. Justice added that it can perhaps learn from our study, that in future studies, it must use some other more sophisticated method of measuring a middle value. We believe the more appropriate measure of central tendency was the median rather than the mean because of the small number of very large sentences that skewed the distribution of sentences in our sample and the difficulty of assigning a value to the 12 offenders who received life sentences. Further, we do not believe the median unnecessarily depresses the actual sentences but rather, in our study, more fairly characterizes the typical sentence imposed than would the mean. For purposes of characterizing central tendency in our study, we do not believe that a more sophisticated method of measuring middle value exists. We believe that future studies might have

more flexibility in using the mean or median if they could develop ways of expressing life sentences in years.

Lastly, Justice said that it realizes that GAO's selection period from 1962 through July 1983 was necessary so that parole decisions could be known and tracked. However, Justice said that its records show that the use of organized crime figure cases sentenced after 1979 would have resulted in a somewhat better sentencing experience for organized crime figures than GAO's study indicates. We agree that for organized crime figure cases sentenced after 1979 the number of months imposed would have been slightly higher than our overall statistical results. Our report showed that the median sentence imposed for all organized crime figures for the entire sample period was 48 months. Further analysis of the organized crime figures sentenced between 1980 and July 1983 showed the median sentence imposed was 60 months. However, for major drug traffickers and those offenders who fell in both categories the median sentences imposed did not change.

BREAKDOWN OF OFFENDERS BY JUDICIAL DISTRICT

Judicial district[a]	Organized crime figures	Major drug traffickers	Both	Total
Arizona	2	6	0	8
Central California	11	35	1	47
Colorado	0	5	0	5
Connecticut	2	3	0	5
District of Columbia	0	8	0	8
Eastern Louisiana	1	6	0	7
Eastern Michigan	8	20	0	28
Eastern Missouri	1	5	0	6
Eastern New York	31	121	11	163
Eastern Pennsylvania	8	16	2	26
Eastern Virginia	2	6	0	8
Kansas	3	0	0	3
Maryland	0	28	0	28
Massachusetts	9	7	0	16
Middle Florida	13	12	0	25
Nevada	7	31	0	38
New Jersey	26	17	0	43
Northern California	3	20	1	24
Northern Florida	0	10	0	10
Northern Georgia	1	7	0	8
Northern Illinois	13	18	1	32
Northern New York	4	0	0	4
Northern Ohio	6	3	2	11
Northern Texas	0	21	0	21
Rhode Island	0	3	0	3
Southern California	0	23	0	23
Southern Florida	13	64	2	79
Southern Indiana	0	7	0	7
Southern New York	36	195	17	248
Southern Texas	0	13	0	13
Utah	0	4	0	4
Western Michigan	0	5	0	5
Western Missouri	18	4	0	22
Western New York	24	5	1	30
Western Pennsylvania	5	6	0	11
Western Texas	0	9	0	9
Western Washington	0	16	0	16
Total	247	759	38	1,044

[a]Some offenders received more than one sentence in different judicial districts. These offenders have been included in the judicial district where the first sentence was imposed.

BREAKDOWN OF OFFENDERS BY INITIAL YEAR OF SENTENCE

Year	Organized crime figures	Major drug traffickers	Both	Total
1962	0	0	1	1
1963	0	1	0	1
1964	0	0	0	0
1965	0	1	0	1
1966	0	1	0	1
1967	4	0	0	4
1968	0	0	0	0
1969	2	2	1	5
1970	8	1	0	9
1971	3	7	0	10
1972	9	29	4	42
1973	1	26	3	30
1974	10	27	2	39
1975	22	46	2	70
1976	29	37	5	71
1977	20	44	3	67
1978	41	72	3	116
1979	23	91	2	116
1980	27	106	1	134
1981	26	102	4	132
1982	20	134	3	157
1983[a]	2	32	4	38
Total	247	759	38	1,044

[a]For defendants sentenced through July 1983.

APPENDIX III

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS
WASHINGTON, D.C. 20544

WILLIAM E. FOLEY
DIRECTOR

JOSEPH F. SPANIOL, JR.
DEPUTY DIRECTOR

December 12, 1984

Mr. William J. Anderson
Director, General Accounting Office
General Government Division
Washington, D. C. 20548

Dear Mr. Anderson:

Thank you for providing a copy of the draft report, "Sentences and Fines for Organized Crime Figures and Major Drug Traffickers." As you note in your cover letter, the report makes no recommendations to the judiciary.

We have reviewed the report thoroughly and have no specific comments on its contents. We understand from your staff that the data in the report may be available on a district by district basis. If you could provide those data, they would be useful for our own analytical work and we would make them available to any district that expressed an interest. (See GAO note.)

Thank you for giving us an opportunity to comment on the report.

Sincerely,

William E. Foley
Director

cc: Honorable Gerald Bard Tjoflat
Chairman, Committee on the
Administration of the Probation
System

GAO Note: Data on a district basis will be provided to the Administrative Office.

APPENDIX IV

U.S. Department of Justice

Washington, D.C. 20530

February 8, 1985

Mr. William J. Anderson
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

This letter responds to your request to the Attorney General for the comments of the Department of Justice (Department) on your draft report entitled "Sentences and Fines for Organized Crime Figures and Major Drug Traffickers." The report compares the actual penalties imposed (sentences and fines) with the maximum penalties authorized by statute at the time of sentencing, and analyzes what impact parole or good time have on reducing the period of imprisonment.

The subject of this report is of considerable interest to the Department because, as both the Congress and the General Accounting Office (GAO) know, the Department has always been concerned about the nature and duration of sentences imposed on organized crime figures and major drug traffickers. We expect that many of the deficiencies within the criminal justice system concerning the sentencing and imprisonment of organized crime figures and major drug traffickers have the potential of being alleviated with the creation of the newly enacted Sentencing Commission, as provided in Public Law 98-473, enacted October 12, 1984. The Department looks forward to working with the Sentencing Commission to establish sentencing guidelines which will assure that major drug traffickers receive sentences that will serve as a deterrent to others as well as be adequate punishment for the violators. We are particularly pleased with the provision in the law which requires a judge who imposes a sentence outside the guidelines to set forth his or her reasons for such deviation in writing. Additionally, we believe that the ability of the Federal Government to appeal the imposition of a sentence more lenient than the guidelines and the corresponding ability of the defendant to appeal a sentence harsher than the guidelines will serve to render the sentencing process both consistent and fair.

The report deals primarily with statistics on sentences and fines imposed on organized crime figures and major drug traffickers. Although we are unable to verify the accuracy of the statistics presented, we have no reason to doubt their validity. However, we have several comments to offer with respect to the statistical methodology which GAO used to report statistical results. We believe that use of a different statistical methodology could have provided more useful information and yielded more meaningful insight.

Regarding the time period selected, we recommend that statistics used prior to 1970 be deleted from the report. These figures represent convictions prior to the passage of the Racketeer Influenced and Corrupt Organization Act (Public Law 91-452 of October 15, 1970), and the Drug Abuse Prevention and Control Act (Public Law 91-513 of October 2 1970). These two laws significantly influenced the sentencing rocess after their enactment.

With respect to the application of the statistics, we believe the use of the median sentence possible as a standard of comparison sets that standard at an unrealistically high level. While a defendant may be charged in an indictment with ten 10-year felonies, it is not realistic to assume that any judge will award him a 100-year sentence in one case. We believe a standard of the mean or median sentence received by all other offenders committing similar offenses would have yielded a more meaningful insight.

We also believe that the use of a median figure rather than a mean unnecessarily depresses the figure for actual sentences received by these defendants. At the same time, we will be the first to admit that the several life sentences received by some of the offenders makes the use of the mean difficult and unnecessarily skews it toward higher values. Perhaps we can learn from this study, that in future such studies, we must use some other more sophisticated method of measuring a middle value.

Finally, we note on page 16 that 70% of the organized crime figure sample involves sentences imposed prior to 1980. We realize that GAO's selection period from 1962 through July 1983 was necessary so that parole decisions could be known and tracked, but the Department's Strike Force records reveal that the use of organized crime figure cases sentenced after 1979 would have resulted in a somewhat better sentencing experience for organized crime figures than this study indicates.

The factors we have mentioned above lead us to believe that the courts are presently being somewhat more severe in sentencing cases than the report figures may indicate. If this possibility is allowed for based on the comments we have made, we have no difficulty with the material presented in the report.

We appreciate the opportunity to respond to your report while in draft form. Should you have any questions, please feel free to contact me.

Sincerely,

Anthony C. Liotta
Assistant Attorney General
for Administration

(186701)