

**INSTITUTE FOR SOCIAL RESEARCH
UNIVERSITY OF NEW MEXICO**

WORKING PAPER NO. 25

**SENTENCING IN NEW MEXICO:
A PRELIMINARY DESCRIPTION**

February 1998

Prepared for the
New Mexico Criminal and Juvenile Justice Coordinating Council

NOTE:

This Working Paper provides research information for the
New Mexico Criminal and Juvenile Justice Coordinating Council.
It is **NOT** a statement of the Council's views or opinions.

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The data on which this report is based were kindly provided by
the Administrative Office of the New Mexico District Attorneys
and the office of the Second Judicial District Attorney.

We gratefully acknowledge the assistance of the following staff:
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Shirley Rice
of the Administrative Office of the New Mexico District Attorneys;
Haden Bowling
of the Office of the Second Judicial District Attorney

TABLE OF CONTENTS

PAGE #

EXECUTIVE SUMMARY 1

1. INTRODUCTION 4

2. AN OVERVIEW OF THE TYPES OF OFFENSE BEING SENTENCED 6

3. A SUMMARY VIEW OF SENTENCING 7

4. SENTENCES TO PRISON 11

5. SENTENCES TO PROBATION 14

6. SENTENCES TO JAIL 16

7. FINES 18

8. TYPES OF SANCTION AND LENGTH OF SENTENCE 21

8.1 Sentencing Disparities? 22

9. DEMOGRAPHIC CHARACTERISTICS AND SENTENCING 23

9.1 Gender 23

9.2 Ethnicity 26

APPENDIX A: TABLES 30

APPENDIX B: BREAKDOWN OF OFFENSE CATEGORIES 52

TABLES**PAGE #**

Table A.1:	Most Serious Offense at Sentencing	31
Table A.2:	Cases by Type of Offense and Level of Seriousness	32
Table A.3:	Type of Sentence by Offense Type	33
Table A.4:	Proportion of Cases Sentenced to Prison by Type of Offense, and Proportion of Prison Sentences Deriving from Each Offense Type	34
Table A.5:	Average Length (in years) of Sentenced Prison Terms and Average Length of Sentences Including a Prison Term, for Each Offense Type	35
Table A.6:	Proportion of Cases Sentenced to Probation by Type of Offense, and Proportion of Probation Sentences Deriving from Each Offense Type	36
Table A.7:	Average Length (in years) of Sentenced Probation Terms for Each Offense Type	37
Table A.8:	Proportion of Cases Sentenced to Jail by Type of Offense, and Proportion of Jail Sentences Deriving from Each Offense Type	38
Table A.9:	Average Length (in years) of Sentenced Jail Terms and Average Length of Sentences Including a Jail Term, for Each Offense Type	39
Table A.10:	Proportion of Sentences Including a Fine, and Proportion of Fines Deriving from Each Offense Type	40
Table A.11:	Average Amount of Fines (in dollars) Each Offense Type	41
Table A.12:	Average Length (in years) of Sentenced Prison Terms, Jail Terms and Probation Terms, for Each Offense Type	42
Table A.13:	Most Serious Offense at Sentencing, by Gender	43
Table A.14:	Female Offenders: Type and Length (in years) of Sanctions, for Each Offense Type	44
Table A.15:	Male Offenders: Type and Length (in years) of Sanctions, for Each Offense Type	45
Table A.16:	Most Serious Offense at Sentencing, by Ethnicity	46
Table A.17:	African American Offenders: Type and Length (in years) of Sanctions, for Each Offense Type	47
Table A.18:	Hispanic Offenders: Type and Length (in years) of Sanctions, for Each Offense Type	48
Table A.19:	White Offenders: Type and Length (in years) of Sanctions, for Each Offense Type	49
Table A.20:	Average, Median, Minimum and Maximum Length of Prison Sentences (In Years), by Type of Offense	50
Table A.21:	Average, Median, Minimum and Maximum Length of Prison Sentences (In Years), by Level of Offense	51

EXECUTIVE SUMMARY

- This Working Paper presents information on sentences imposed in 5,258 criminal cases in New Mexico. Cases from the Second Judicial District (Bernalillo County) were sentenced during fiscal year 1995 (7/1/94-6/30/95); cases from the rest of the state were sentenced during calendar year 1995. Juvenile offenders were excluded from this study. Information refers to the type and duration (or amount) of sanctions imposed, focusing on prison, probation, jail and fines.

The Types of Offense being Sentenced

- Property and public order offenses each represented about one quarter of cases being sentenced, while violent, drug and “other” offenses each accounted for about 17% of cases.
- Three quarters of all sentenced cases involved a fourth degree felony or a misdemeanor as the most serious charge.

The Types of Sentence Imposed

- Slightly less than one quarter of all sentences led to imprisonment; slightly more than one quarter led to a jail term; and about half of all sentences resulted in probation.
- Violent offenses in general (and the more serious violent offenses in particular) were more likely than other offenses to lead to imprisonment.
- Public order offenses represented a relatively unique sentencing pattern, with the majority of sentences leading to a jail term. Nearly 70% of DWI cases involved a sentence to jail.
- The proportion of cases sentenced to imprisonment increased with the seriousness of the offense.

Sentences to Prison

- Violent offenses had the highest rates of imprisonment. However, because the most serious violent offenses were relatively infrequent, these offenses made up only a small proportion of cases leading to imprisonment.
- Third and fourth degree felony offenses had relatively low rates of imprisonment, but accounted for more than three quarters of all cases leading to imprisonment.
- The average length of prison terms was 3.7 years. The average prison term for a first degree felony was 16.4 years, compared to 2.3 years for a fourth degree felony.
- The average prison sentences for first and second degree felonies were lower than the statutory sentence, while average sentences for third and fourth degree felonies were higher than the statutory sentence.

Sentences to Probation

- The proportion of cases sentenced to probation did not vary greatly by major offense category or level of seriousness.
- The largest category of cases sentenced to probation was property offenses.
- Fourth degree felonies and misdemeanors contributed three quarters of all cases sentenced to probation.
- The average probation term was 1.3 years. Probation terms were longest for the most serious offenses and shortest for the least serious offenses.

Sentences to Jail

- Rates of sentencing to jail were highest for public order offenses (notably DWI cases), followed by “other” offenses. Rates of sentencing to jail were comparatively low for violent, property and drug offenses.
- Fully 42% of all sentences to jail were imposed for DWI offenses (many of which involved mandatory jail terms).
- Almost two thirds of jail terms were imposed for misdemeanor offenses.
- The average length of jail time imposed at sentencing was about 2.5 months. When probation time following jail is added in, the average total sentence length for these cases was about seven months.
- The length of jail term imposed did not vary much by major or specific offense categories.

Fines (no information was available for the Second Judicial District)

- Fines were imposed in 37.8% of cases, but as the sole sanction in only 1.5% of cases.
- Nearly 70% of DWI sentences included a fine, and fines for DWI convictions represented more than half of all fines imposed. (Fines are mandatory for many DWI offenses.)
- The average fines imposed were greater for felony offenses than for misdemeanors. However, not only were fines used much more frequently for misdemeanor cases, they were also applied with greater comparative severity.
- The average fine was \$412.

Types of Sanction and Length of Sentence

- Prison terms involved the longest sentences (on average, 4.2 years), followed by probation terms (average 1.3 years). Sentences involving jail terms were the shortest (average 0.6 years).
- When adjustments are made for likely meritorious deductions on prison terms, second, third and fourth degree felons sentenced to prison or probation would probably have served similar term lengths.
- Sentencing disparities were detected in the study. For example: 70.8% of armed robbery cases were sentenced to imprisonment for an average term

of 9.3 years, but 20.8% were sentenced to probation for an average term of 5 years, and 8.3% were sentenced to jail terms and subsequent probation for an average of 3 years. Sentencing disparities could have resulted from one or more of the following factors: the offender's criminal history; the number of charges sentenced in a case; the specific characteristics of the offense; and extralegal factors, such as ethnicity or region of the state. The impact of these factors on sentencing decisions cannot be determined from the data used in the present study.

Demographic Characteristics and Sentencing

Gender

- 84.5% of the offenders were male; 15.5% were female.
- Males were more likely than females to be sentenced for violent and public order offenses.
- Male offenders were more likely than female offenders to be sentenced to prison in almost every category of offense. Female offenders were more likely than males to be sentenced to probation.
- The difference between male and female offenders in the type and length of sanction were smallest for DWI offenses.
- Males were generally sentenced to longer prison terms than females; whereas females were sentenced to longer probation terms than males.

Ethnicity

- 58.2% of offenders were Hispanic; 27.9% were White; 10.6% were African American; 2.4% were Native American; and 0.9% were Asian American.
- Hispanic and White offenders were distributed very similarly across offense categories, but African American offenders showed a different pattern. Specifically, 53.3% of African American offenders were sentenced for drug offenses, compared to only 16.5% of Hispanic offenders and 14.1% of White offenders.
- African American offenders were also much more likely than Hispanic or White offenders to have been sentenced for first and second degree felonies. Thus, African American offenders were also significantly more likely to receive sentences to prison, and more likely to receive longer prison sentences.

1. INTRODUCTION

Sentencing is the procedure through which a court imposes a sanction on a person convicted of a felony or misdemeanor. Sanctions vary in several ways, but two of the most important are:

- ▶ the type of sanction (e.g., prison, jail, probation)
- ▶ the duration (or amount) of the sanction

The cumulative results of sentencing decisions have consequences for a jurisdiction's responses to crime. They affect the number of prison beds that will be needed and reflect the relative importance of punishment and treatment as measures to deal with crime. Thus, the type and duration of sanctions are also at the heart of many policy debates about the appropriate response to crime.

Information about sentencing is very important when monitoring and planning for existing sentencing procedures, or when considering possible changes to those procedures. One of the principal tasks assigned to the New Mexico Criminal and Juvenile Justice Coordinating Council (CJJCC) is to "study past and current criminal sentencing and release practices and create a statistical database for simulating the impact of various sentencing policies" (9-3-10 NMSA 1978 D). This task is especially significant given that, prior to the Council's creation, no information on patterns of sentencing was being routinely compiled. Indeed, the only detailed information on sentencing was to be found in a study prepared in 1989 by the New Mexico Statistical Analysis Center, which examined samples of incarcerated felons, probationers and offenders in pre-prosecution diversion programs.

The following report presents information from the CJJCC's first project to study sentencing in New Mexico. The information is drawn from the District Attorneys' computerized Case Management System - a database that tracks prosecutorial activity and sentencing decisions for all cases handled by each district attorney's office.

The Content of this Study

- ▶ This study focuses on **the type and duration (or amount) of sanctions imposed at sentencing**. Cases that were rejected, dismissed or acquitted, and all cases involving juveniles, are not included.
- ▶ **Both felony offenses and misdemeanors are included.** Felonies are offenses punishable by death or by incarceration for one year or more. Felony offenses are classified into five levels:
 - ▶ **Capital felonies:** punishable by death, or incarceration for life
 - ▶ **First degree felonies:** 18 years incarceration
 - ▶ **Second degree felonies:** 9 years incarceration (15 years if the crime causes the death of a victim)
 - ▶ **Third degree felonies:** 3 years incarceration (six years if the crime causes the death of a victim)
 - ▶ **Fourth degree felonies:** 18 months incarceration

Misdemeanors are offenses punishable by incarceration for less than one year, and are classified into two levels:

- ▶ **Misdemeanors:** punishable by incarceration for more than six months and less than one year
- ▶ **Petty misdemeanors:** punishable by incarceration for less than six months

▶ **The information refers to calendar year 1995 or fiscal year 1995.**

Until recently, the case management systems used by New Mexico prosecutors were not uniform: the Second Judicial District (Bernalillo County), which was automated in the 1980s, used a different system from the rest of the state, which was automated in the 1990s. Based on an analysis of each database that was designed to identify likely maximum coverage, records from the Second Judicial district were selected for fiscal year 1995, and records for the rest of the state were selected for calendar year 1995. Records for the 11th Judicial District (Farmington) were not available.

▶ **The information is reported for cases.**

Prosecution and sentencing are complex procedures to model. A crime incident may involve several offenders, and each offender may be arrested on more than one charge. As used in this report:

- ▶ “case” refers to one or more charges attached to one defendant
- ▶ “charge” refers to each separate offense charged to a defendant, irrespective of the number of counts appearing for the charge.

When a case involves more than one charge, sentences are given for each charge and then are cumulated (with indications about whether or not the sentences are to be served concurrently or consecutively) to give an overall sentence. Enhancements, such as the habitual offender enhancement, may also add mandatory prison time to the sentence.

Case-based analyses indicate the sentence given to each defendant, and may involve more than one charge. They are useful for examining the flow of offenders to different types of sanctions. In this report, we present information for 5,258 cases sentenced in New Mexico during calendar year 1995 or fiscal year 1995. Where cases involved more than one charge, each is classified by the most serious charge leading to conviction.

The report is organized by sections that cover the following aspects of sentencing:

- ▶ [An overview of the types of offense being sentenced](#)
- ▶ [A summary view of sentencing](#)
- ▶ [Sentences to prison](#)
- ▶ [Sentences to jail](#)
- ▶ [Sentences to probation](#)
- ▶ [Fines](#)
- ▶ [Demographic characteristics and sentencing](#)

Detailed results are included in Appendix A (Tables A.1 to A.21) and are referenced at the appropriate point in the text. Total numbers in all tables may vary somewhat due to missing data.

2. AN OVERVIEW OF THE TYPES OF OFFENSES BEING SENTENCED

(See also Tables A.1 and A.2)

Most Serious Offense at Sentencing		
	N	%
Violent	910	17.4
Property	1280	24.5
Drug	864	16.5
Public-Order	1302	24.9
Other	877	16.7
Total	5233	100.0

- Burglary - 8.1%
- Drug possession - 6.8%

- Property and public order offenses were the most frequent type of case. Each of these categories accounted for about one quarter of all cases. Violent, drug and “other” offenses each accounted for about 17% of cases.
- Table A.1 shows that the most frequent specific offenses were:
 - DWI offenses - 17.4%
 - Batteries or assaults - 10.4%
 - Drug trafficking - 9.7%

The most serious offenses were far less frequent than the least serious offenses:

- Capital offenses and first degree felonies accounted for only 0.8% of all cases.
- Three quarters of all cases involved a fourth degree felony or a misdemeanor as the most serious charge.

This is a typical pattern in all criminal justice systems.

Level of Most Serious Offense

	N	%
Capital Offense	6	0.1
First Degree Felony	35	0.7
Second Degree Felony	406	8.0
Third Degree Felony	817	16.1
Fourth Degree Felony	1915	37.7
Misdemeanor	1901	37.4
TOTAL	5080	100.0

TYPE OF OFFENSE AND LEVEL OF SERIOUSNESS

When cases are compared by type of offense and level of seriousness (Table A.2) we find that - as expected - the most serious offenses were violent offenses and the least serious were public order or “other” offenses:

- 97% of capital and first degree offenses were violent crimes
- 82% of misdemeanors were public order or “other” offenses

However, note that violent, property and drug offenses were spread across the levels of seriousness:

- Only 4% of violent offenses were capital or first degree felonies, and 47% were fourth degree felonies or misdemeanors

3. A SUMMARY VIEW OF SENTENCING

(See also Table A.3)

The following statutory provisions govern the type of sanction that a court may impose on a convicted offender:

- Sentences to a term of imprisonment of one year or more are generally served in prison (that is, a facility under the supervision of the Department of Corrections). In some cases, a sentence of imprisonment for one year but not more than 18 months may be served in a county jail.
- Sentences to a term of imprisonment of less than one year are served in county jails.
- If the offense is not a capital or first degree felony, the court may suspend or defer all or part of the sentence of imprisonment. The suspended portion of the sentence, or the period during which the sentence is deferred, is served as probation, up to a maximum of five years.
- When special circumstances are present in the offense or the offender’s criminal history, mandatory periods of imprisonment are applicable. Thus, offenders with three violent felony convictions or two violent sexual offense convictions are sentenced to mandatory life imprisonment. Similarly, habitual offenders, offenders who use firearms to commit the crime, and offenders who victimize a handicapped person or a person 60 years of age or older, receive a mandatory prison term as part of their sentence.
- Fines may also be imposed as part of the sentence for crimes other than capital felonies.

These provisions lead to a number of typical sentencing outcomes. The most basic types of

sanction are:

- **Prison:** the offender serves time in a facility under the supervision of the Department of Corrections, followed by a period of one or two years on parole.
- **Jail:** the offender serves time in a county jail.
- **Probation:** the offender submits to a regimen of control and treatment under the supervision of the Division of Probation and Parole (part of the Department of Corrections).
- **Fines:** The offender is required to pay a fine to the court.

There are also combinations of these sanctions:

- Prison followed by additional probation time
- Jail followed by probation
- Prison, or jail, and a fine
- Probation and a fine

Type of Sentence by Offense Type

	Prison		Jail		Probation		Total
	N	%	N	%	N	%	%
Violent Offenses	311	34.9	150	16.8	430	48.2	100.0
Property Offenses	374	29.9	193	15.4	684	54.6	100.0
Drug Offenses	217	25.6	97	11.5	533	62.9	100.0
Public-Order Offenses	116	10.0	670	57.8	373	32.2	100.0
Other Offenses	105	12.6	269	32.3	459	55.1	100.0
TOTAL	1123	22.5	1379	27.7	2479	49.8	100.0

- Slightly less than one quarter of all sentences led to imprisonment, slightly more than one quarter led to a jail term, and about one half of all sentences resulted in probation. These proportions mirror quite well the number of offenders serving each kind of sentence in the state. Thus, during 1995 there were approximately:
 - 4,000 offenders in prison 25%
 - 4,000 offenders in jail 25%
 - 8,000 offenders on probation 50%

- Violent offenses in general (and the more serious violent offenses in particular - see Table A.3) were more likely than other offenses to lead to imprisonment. Thus:
 - 76.9% of murders, and 70.8% of armed robberies led to sentences of imprisonment.
 - 38.5% of burglary cases were sentenced to imprisonment.
 - Only 4.9% of DWI cases resulted in imprisonment.

- Property and drug offenses were more likely than other offenses to involve a sentence of probation.
 - 66.9% of fraud cases and 63.8% of drug trafficking cases led to sentences of probation.
 - Only 20.8% of sexual offense cases and 25.3% of DWI cases led to sentences of probation.

- Public order offenses represented a relatively unique sentencing pattern, with the majority of sentences (57.8%) leading to a jail term. This pattern is produced entirely by sentences for DWI cases, which represented the bulk of public order offenses. Nearly 70% of DWI cases involved a sentence to jail, presumably because second and subsequent convictions for a DWI offense lead to a mandatory jail term.

A MORE DETAILED LOOK AT SANCTIONS

Data for the whole state can only be examined in terms of the major sanctions imposed at sentencing (prison, jail, and probation). However, data for all but District 2 (Bernalillo County) can be examined in terms of an additional sanction (fines) and some combined sanction options. The following table shows sanctions imposed outside the Second Judicial District:

	All Offenses %	Violent %	Property %	Drugs %	Public Order %	Other %
Prison	10.5	14.5	15.2	17.8	3.8	9.8
Prison+Prob.	6.1	10.8	8.5	12.8	1.9	2.8
Jail	13.1	7.1	4.5	3.0	18.8	21.8
Jail+Prob.	26.0	16.0	16.3	11.9	45.3	16.0
Probation	27.7	35.4	47.9	37.1	9.0	26.1
Prob.+Fine	15.0	15.0	7.0	17.2	20.1	18.4
Fine	1.5	1.2	0.6	0.3	1.1	5.2
Total	100.0	100.0	100.0	100.0	100.0	100.0

From these data, we see that:

- almost half of all sentences (47.1%) involved a combination of sanctions, the most frequent combination being jail time plus probation.
- fines were imposed as the sole sanction in only 1.5% of sentences, although a further 15.0% of sentences involved probation and a fine.
- Overall, the most frequent sentences were to jail, and jail plus probation.
- Sentences involving imprisonment were most frequent for drug offenses, while sentences involving jail and jail plus probation were by far the most frequent for public order (mainly DWI) offenses.
- Sentences involving probation were the most frequent for property offenders.

NOTE: 53% of cases in this data set involved misdemeanors, compared to only 16% in the Second Judicial District. Therefore, compared to the statewide data (presented previously) these data reflect a greater

Type of Sanction Imposed at Each Level of Offense

	Prison		Jail		Probation		Total
	N	%	N	%	N	%	%
Capital Offense	4	100.0	0	0.0	0	0.0	100.0
First Degree Felony	22	100.0	0	0.0	0	0.0	100.0
Second Degree Felony	195	48.4	28	6.9	180	44.7	100.0
Third Degree Felony	298	37.0	110	13.7	396	49.3	100.0
Fourth Degree Felony	532	28.6	357	19.2	973	52.2	100.0
Misdemeanor	0	0.0	856	49.8	864	50.2	100.0
TOTAL	1051	21.6	1351	27.8	2413	49.7	100.0

- As expected, the proportion of cases sentenced to imprisonment increased with the seriousness of the offense. Thus, 100% of capital and first degree felonies were sentenced to imprisonment, compared to only 28.5% of fourth degree felonies.
- The proportion of cases sentenced to jail increased as the seriousness of the offense decreased.
- The proportion of cases sentenced to probation was relatively similar across all levels of offenses for which probation was imposed.

We also see that:

- Half of cases sentenced to imprisonment involved fourth degree felony offenses.
- The majority of cases (63%) sentenced to jail involved misdemeanors.
- Three quarters of all cases sentenced to probation involved fourth degree felonies and misdemeanors.

A More Detailed Look at Sanctions (excluding the Second Judicial District)						
	Capital	Felony 1	Felony 2	Felony 3	Felony 4	Misdemeanor
Prison	100.0%	100.0%	25.4%	20.0%	21.0%	0.0%
Prison+Prob.	0.0	0.0	33.9	15.9	8.8	0.0
Jail	0.0	0.0	4.2	3.8	6.4	19.3
Jail+Prob.	0.0	0.0	6.8	17.5	17.9	33.8
Probation	0.0	0.0	26.3	35.3	39.6	19.1
Prob.+Fine	0.0	0.0	3.4	7.2	6.0	24.9
Fine	0.0	0.0	0.0	0.3	0.3	2.8
Total	100.0	100.0	100.0	100.0	100.0	100.0

- A probation term subsequent to prison was most likely to be assigned for second degree felonies.
- A probation term subsequent to jail was most likely to be assigned for misdemeanors.

4. SENTENCES TO PRISON

(See also Tables A.4, A.5, A.20 and A.21)

Cases Sentenced to Prison - by Type of Offense

	No. of Cases Sent to Prison	% of Cases Sent to Prison	% of all Prison Sentences
Violent	311	34.7	27.7
Property	374	29.8	33.3
Drug	217	25.6	19.3
Public-Order	116	9.9	10.3
Misdemeanor	105	12.2	9.3
Total	1123	22.3	100.0

Violent offenses had the highest rates of imprisonment. However, because the most serious violent offenses were relatively infrequent, these offenses made up only a small proportion of cases going to prison. Table A.4 shows that:

- 76.9% of first and second degree murder cases were sentenced to imprisonment, but these offenses only contributed 2.7% of cases going to prison.
- 70.8% of armed robberies were sentenced to imprisonment, but contributed only 3% of cases going to prison.

By contrast, nonviolent offenses had lower rates of imprisonment. However, because some nonviolent offenses were more frequent than serious violent offenses, the former made up a considerable proportion of cases going to prison. Table A.4 shows that:

- While only 38.5% of burglary cases were sentenced to prison, these offenses contributed 14.2% of cases going to prison.

- Only 28.2% of drug trafficking cases were sentenced to imprisonment, but these offenses contributed 12.6% of all cases going to prison.

The data opposite shows even more strongly the pattern detected previously. Although rates of imprisonment were highest for the most serious offenses, these offenses contributed a small proportion of the cases going to prison.

- 100% of capital and first degree felony cases led to imprisonment, but contributed only 2.5% of prison sentences.
- Only 28.5% of fourth degree felonies were sentenced to prison, but contributed 50.6% of prison sentences.

Cases Sentenced to Prison - by Level

	No. of Cases Sent to Prison	% of Cases Sent to Prison	% of all Prison Sentences
Capital Offense	4	100.0	0.4
First Degree Felony	22	100.0	2.1
Second Degree Felony	195	48.4	18.6
Third Degree Felony	298	37.0	28.4
Fourth Degree Felony	532	28.5	50.6
Misdemeanor	0	0.0	0.0
TOTAL	1051	21.6	100.0

Average Length (years) of Prison Terms - by Type of Offense

	Prison Term	Including Probation
Violent	5.9	6.2
Property	3.1	3.3
Drug	3.5	4.2
Public-Order	2.6	2.5
Other	1.6	1.7
Total	3.7	4.1

- The average length of a prison term was 3.7 years (4.1 years when subsequent probation was included).
- As expected, violent offenses (particularly serious violent offenses) received the longest sentences to prison (see Table A.5):
 - Murder: 12.5 years
 - Kidnapping: 14.3 years
- Drug offenses received slightly higher prison terms than property offenses because average sentences for drug trafficking (4.2 years) were longer than for any type of property crime.

Average Length (years) of Prison Terms - by Level

	Prison Term	Including Probation
Capital Offense	NA	NA
First Degree Felony	16.4	16.5
Second Degree Felony	6.8	7.7
Third Degree Felony	3.7	4.1
Fourth Degree Felony	2.3	2.5
Misdemeanor	0.0	0.0
TOTAL	3.8	4.2

The data opposite show that the average length of sentenced imprisonment increased with the seriousness of the offense.

A Technical Note on Prison Term Data

- Sentence lengths do not include any estimated reduction for meritorious deductions (“good time”) earned while in prison.
- We were unable to determine with certainty which prison sentences included a mandatory term for habitual offenders, the use of a firearm, or the commission of a crime against an older or handicapped victim. Thus, some prison terms - especially for less serious offenses - may have resulted from mandatory enhancements.

STATUTORY SENTENCES AND THE LENGTH OF PRISON TERMS

When the average lengths of prison terms are compared with the determinate sentence lengths set out in section 31-18-15 of the New Mexico Criminal Statutes, some apparent anomalies exist:

- The average prison sentence for first degree felony offenses was 16.4 years, yet the prison term for first degree felony offenses is set by statute at 18 years. One possible explanation of this difference is that the court found mitigating circumstances in some cases and thus reduced the basic sentence.
- The average prison sentence for second degree felonies was 6.8 years, whereas the statutory sentence for second degree felonies is nine years (15 years if the offense results in the death of a human being). This difference undoubtedly arises because substantial portions of many second degree felony sentences were suspended, leading to shorter prison sentences than those assigned by statute. Mitigating circumstances may also have played a part in reducing sentences.
- The average prison sentence for third degree felonies (3.7 years) fell between the statutory prison terms (three years, or six years if the felony resulted in death). This result could arise, in part, because some cases involved deaths; or because mandatory enhancements or concurrent sentences were being served.
- The average prison term for fourth degree felonies (2.3 years) was higher than the statutory sentence (1.5 years). Again, this result could arise because mandatory enhancements or concurrent sentences were being served.

What is most interesting about these findings is that the average sentences for first and second degree felonies were lower than the statutory sentence, while average sentences for third and fourth degree felonies were higher than the statutory sentence.

5. SENTENCES TO PROBATION

(See also Tables A.6 and A.7)

Cases Sentenced to Probation - By Type of Offense

	No. of Cases Sent to Probation	% of Cases Sent to Probation	% of all Probation Sentences
Violent	430	48.0	17.3
Property	684	54.5	27.6
Drug	533	62.9	21.5
Public-Order	373	31.9	15.0
Misdemeanor	459	53.4	18.5
Total	2479	49.3	100.0

- The largest category of cases sentenced to probation involved property offenses. The smallest category was public order cases (which, as we have seen, were mainly sentenced to jail terms).

Table A.6 shows that:

- Although 17.3% of violent offenses were sentenced to probation, two thirds of those offenses involved battery or assault. The number of sentences to probation for the most violent offenses was very low.

- The largest categories of specific offenses contributing cases to probation were:
 - Drug trafficking - 12.9%
 - Battery and assault - 11.8%
 - Fraud - 9.3%

The data opposite show that, while the proportion of cases sentenced to probation at each level of seriousness was about the same, the less serious offenses (i.e., fourth degree felonies and misdemeanors) contributed three quarters of all cases sentenced to probation. This pattern occurred because the less serious offenses were far more frequent than the more serious offenses.

Cases Sentenced to Probation - by Level

	No. of Cases Sent to Probation	% of Cases Sent to Probation	% of all Probation Sentences
Capital Offense	0	0.0	0.0
First Degree Felony	0	0.0	0.0
Second Degree Felony	180	44.7	7.5
Third Degree Felony	396	49.2	16.4
Fourth Degree Felony	973	52.2	40.3
Misdemeanor	864	49.1	35.8
TOTAL	2413	49.7	100.0

Average Length (years) of Probation Terms - by Type of Offense

Violent	1.6
Property	1.9
Drug	2.0
Public-Order	0.5
Other	0.8
Total	1.3

- The average length of a probation term was 1.3 years.
- There was a clear difference between violent, property and drug offenses, that received longer average probation terms (between 18 months and two years), and public order and other offenses, that received substantially shorter probation terms (six to ten months). These variations presumably reflected differences in the seriousness of the offenses being sentenced.

Table A.7 shows that:

- In terms of specific offense categories, the longest average probation sentences were given for the few serious violent offenses that received probation:
 - Homicide 4.5 years
 - Sexual offenses 4.9 years
 - Kidnapping 5.0 years
 - Armed robbery 5.0 years
- The shortest probation terms were given for DWI offenses (averaging about 3.5 months).

Average Length (years) of Probation Terms - by Level

Capital Offense	-
First Degree Felony	-
Second Degree Felony	3.7
Third Degree Felony	2.5
Fourth Degree Felony	1.5
Misdemeanor	0.6
TOTAL	1.3

The data opposite confirm the link between the level of the offense and the length of the probation term. Thus, probation terms were longest for the most serious offenses and shortest for the least serious offenses.

6. SENTENCES TO JAIL

(See also Tables A.8 and A.9)

Cases Sentenced to Jail - by Type of Offense

	No. of Cases Sent to Jail	% of Cases Sent to Jail	% of all Jail Sentences
Violent	150	16.7	10.9
Property	193	15.4	14.0
Drug	97	11.4	7.0
Public-Order	670	57.3	48.5
Misdemeanor	269	31.2	19.5
Total	1379	27.4	100.0

Rates of sentencing to jail were highest for public order offenses (notably DWI cases), followed by “other” offenses.

Rates of sentencing to jail were comparatively low for violent, property and drug offenses. Thus, Table A.8 shows that:

- Only 8.0% of drug trafficking cases resulted in a sentence to jail time, but 69% of DWI cases resulted in jail time.

Almost half (48.5%) of all sentences to jail involved public order offenses, and fully 42% of all sentences to jail were imposed for DWI offenses. As mentioned previously, second and subsequent DWI convictions involve mandatory jail terms.

Cases Sentenced to Jail - by Level

	No. of Cases Sent to Jail	% of Cases Sent to Jail	% of all Jail Sentences
Capital Offense	0	0.0	0.0
First Degree Felony	0	0.0	0.0
Second Degree Felony	28	6.9	2.1
Third Degree Felony	110	13.7	8.1
Fourth Degree Felony	357	19.2	26.4
Misdemeanor	856	49.6	63.4
TOTAL	1051	21.6	100.0

The data opposite shows that the proportion of cases resulting in a jail sentence increased as the seriousness of the offense decreased.

Given that convictions for lower level offenses were also more frequent, these categories of offenses contributed the most offenders going to jail.

Average Length (years) of Jail Terms - by Type of Offense

	Jail Term	Including Probation
Violent	0.3	0.7
Property	0.3	0.8
Drug	0.3	0.8
Public-Order	0.2	0.5
Other	0.3	0.5
Total	0.2	0.6

- The average length of a jail term was 0.2 years (about 2.5 months). When probation time following jail is added in, the average total sentence length for these cases was 0.6 years (about 7 months).
- The length of jail terms did not vary much by major or specific offense categories. Thus, all major offense categories except public order offenses received jail terms of 0.3 years (about 3.5 months).
- Total sentences (jail terms plus probation) were somewhat longer for violent, property and drug offenses, than for public order and other offenses.

The data opposite show two different patterns in sentences that included a jail term:

- The average length of jail terms increased as the felony level of the offense decreased.
- The average total length of sentence (including a jail term) decreased as the seriousness of the offense also decreased.

Average Length (years) of Jail Terms - by Level

	Jail Term	Including Probation
Capital Offense	-	-
First Degree Felony	-	-
Second Degree Felony	0.2	1.5
Third Degree Felony	0.3	1.2
Fourth Degree Felony	0.4	0.8
Misdemeanor	0.2	0.5
TOTAL	0.2	0.6

These different patterns indicate that probation was a relatively more important component in jail sentences for second and third degree felonies than it was in jail sentences for fourth degree felonies and misdemeanors.

7. FINES

(See also Tables A.10 and A.11)

While data from the Second Judicial District provides information for the sanctions of prison, jail and probation, data from the rest of the state also provides information on fines. Section 3 of this report (see page 9) showed that fines were imposed as the sole sanction in 1.5% of cases outside District 2, while 15.0% of sentences involved a probation term plus a fine. In fact, fines can be imposed for all but capital felonies, and a more detailed look at information for the rest of the state shows that fines were imposed in almost 38% of sentences.

Fines as a Proportion of all Sentences

	Total Sentences	Sentences with Fine	%
Prison	448	16	3.6
Jail	1056	556	52.7
Probation	1150	405	35.2
Fine Only	41	41	100.0
Total	2695	1018	37.8

- Fines were rarely imposed when the primary sanction was imprisonment

The use of fines was very limited for some offense categories, but relatively frequent for others:

- Fines were rarely used for property crimes.
- About one fifth of drug and violent offenses and one third of “other” offenses involved a fine.
- However, nearly 70% of DWI sentences included a fine, and fines for DWI convictions represented more than half of all fines imposed (see Table A.10). The frequent use of fines for DWI cases undoubtedly occurred because second and third convictions for DWI carry a mandatory fine.

Sentences With Fines - by Type of Offense

	No. of Sentences with a Fine	% of Sentences Including a Fine	% of all Sentences with a Fine
Violent	81	19.3	8.0
Property	35	6.3	3.4
Drug	75	21.2	7.4
Public-Order	638	62.2	62.7
Misdemeanor	188	36.2	18.5
Total	1017	37.8	100.0

Sentences Including Fines - by Level

	No. of Cases with a Fine	% of Cases with a Fine	% of all Cases with Fines
Capital Offense	0	0.0	0.0
First Degree Felony	0	0.0	0.0
Second Degree Felony	7	5.8	0.7
Third Degree Felony	25	7.5	2.5
Fourth Degree Felony	64	7.7	6.3
Misdemeanor	917	59.4	90.5
TOTAL	1013	37.7	100.0

- Almost 60% of misdemeanor sentences involved a fine, and misdemeanor cases represented over 90% of sentences for which a fine was imposed. Fines were primarily used for misdemeanor DWI offenses.

The average amount imposed as a fine was \$412.

- The minimum fine was \$3
- The maximum fine was \$14,000

Table A.11 shows that fine amounts varied quite markedly across specific offense categories, in part because the numbers of sentences including fines were very low.

- The lowest average fines were imposed for cases involving drug possession.

Average Fine - by Type of Offense

	\$
Violent	556
Property	859
Drug	243
Public-Order	431
Other	249
Total	412

Fine Amount - by Level

	\$
Capital Offense	0.0
First Degree Felony	0.0
Second Degree Felony	854
Third Degree Felony	980
Fourth Degree Felony	678
Misdemeanor	370
TOTAL	412

- The average fines imposed were greater for felony offenses than for misdemeanors.

FINES: A LITTLE USED SANCTION?

STATUTORY AMOUNTS OF FINES

<u>OFFENSE</u>	<u>Maximum</u>	<u>Mandatory Minimum</u>
First Degree Felony	\$15,000	None
Second Degree Felony (causing death)	\$12,500	None
Second Degree Felony (other)	\$10,000	None
Third Degree Felony (causing death)	\$ 5,000	None
Third Degree Felony (other)	\$ 5,000	None
Fourth Degree Felony	\$ 5,000	None
Misdemeanor	\$ 1,000	None
Petty Misdemeanor	\$ 500	None
<u>DWI</u>		
First Conviction	\$ 500	None
Second Conviction	\$ 1,000	\$500
Third Conviction	\$ 1,000	\$750
Fourth Conviction	\$ 5,000	None

The average fines imposed were greater for felony offenses than for misdemeanors, which is obviously explained by the larger fine amounts that the criminal statutes allow for felony offenses. However, the fines imposed for felony offenses as a proportion of the maximum possible were less than the fines imposed for misdemeanors:

<u>Level of Offense</u>	<u>Maximum Fine Permissible</u>	<u>Average Fine Imposed</u>	<u>Average Fine as % of Maximum Permissible</u>
Felony 2	\$10,000	\$854	8.5%
Felony 3	\$5,000	\$980	19.6%
Felony 4	\$5,000	\$678	13.6%
Misdemeanor	\$1,000	\$370	37.0%

Thus, the average fines imposed for second degree felonies represented only about 8.5% of the maximum permissible amount, whereas the fines imposed for misdemeanors represented about 37% of the maximum permissible amount. Not only were fines used much more frequently for misdemeanor cases, they were also applied with greater comparative severity.

The information presented here suggests that fines are infrequently used as sanctions for felony offenses and when used, they are frequently levied for comparatively small amounts. One reason why this may occur is because many people convicted of criminal offenses appear to have low incomes. For example, a study conducted by the CJJCC in early 1997 showed that the average monthly reported income for a random sample of 461 New Mexico probationers was \$653. Given low incomes such as these, the imposition of substantial fines for many offenders may be an unrealistic option because they simply would not be able to pay.

8. TYPES OF SANCTION AND LENGTH OF SENTENCE

(See also Table A.12)

	Prison		Probation		Jail		Total
	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years	%
Violent Offenses	34.9	6.2	48.2	1.6	16.8	0.7	100.0
Property Offenses	29.9	3.4	54.6	1.9	15.4	0.8	100.0
Drug Offenses	25.6	4.4	62.9	2.0	11.5	0.8	100.0
Public-Order Offenses	10.0	3.0	32.2	0.5	57.8	0.5	100.0
Other Offenses	12.6	1.8	55.1	0.8	32.3	0.5	100.0
TOTAL	22.5	4.2	49.8	1.3	27.7	0.6	100.0

- Overall, prison terms involved the longest sentences (on average, 4.2 years), followed by probation terms (average 1.3 years). Sentences involving jail terms were the shortest (average 0.6 years). These rankings are found in almost all specific offense categories.
- However, note that the real difference between the length of prison and probation sentences served by offenders would not have been as great as indicated here, because most prisoners would receive meritorious deductions from their prison terms. Indeed, information gathered by the CJJCC for a sample of offenders who exited the prison system during 1995 and early 1996 indicated that prisoners serve, on average, 67% of their sentenced confinement. When this adjustment is applied to the above data, the difference in the length of prison and probation terms is reduced, although it does not disappear.

	Prison		Probation		Jail		Total
	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years	%
Capital Offenses	100.0	NA	0.0	-	0.0	-	100.0
First Degree Felony	100.0	16.4	0.0	-	0.0	-	100.0
Second Degree Felony	48.4	6.8	44.7	3.7	6.9	1.5	100.0
Third Degree Felony	37.0	3.7	49.3	2.5	13.7	1.2	100.0
Fourth Degree Felony	28.6	2.3	52.2	1.5	19.2	0.8	100.0
Misdemeanor	0.0	-	50.2	0.6	49.8	0.5	100.0
TOTAL	21.8	4.2	50.1	1.3	28.1	0.6	100.0

- At each offense level, prison terms involved the longest sentences, followed by probation terms and then jail terms.
- Allowing for the likely impact of meritorious reductions on prison terms, the differences between time served in prison and time served on probation disappear for third and fourth degree felonies, and almost disappear for second degree felonies. Thus, second, third and fourth degree felons sentenced to prison or probation would likely have served similar term lengths.

- There was almost no difference in average time served on probation and average time served in jail (perhaps followed by probation) for misdemeanor offenses.

8.1 Sentencing Disparities?

Sentencing disparity exists when offenders with similar criminal histories and current offenses are sentenced to different types of sanction and/or different lengths of sanction. The information presented in Table A.12 and on the previous page reveals some disparities in the sentences imposed for the cases included in this study. For example:

- 70.8% of armed robbery cases were sentenced to imprisonment for an average term of 9.3 years, but 20.8% were sentenced to probation for an average term of 5 years, and 8.3% were sentenced to jail terms and subsequent probation for an average of 3 years.
- 61.4% of drug possession cases were sentenced to probation for an average of 1.1 years, but 21.7% were sentenced to prison for an average of 2.8 years and 16.5% were sentenced to jail and probation for an average of about 7 months.
- 48.4% of second degree felony offenses were sentenced to imprisonment for an average term of 6.8 years, but 44.7% were sentenced to probation for an average term of 3.7 years and 6.9% were sentenced to jail terms and subsequent probation for an average of 1.3 years.
- 52.2% of fourth degree felonies were sentenced to probation for an average of 1.5 years, but 28.6% were sentenced to imprisonment for an average of 2.3 years and 19.2% were sentenced to jail and probation for an average of about 10 months.

Several potential sources of sentencing disparity may be cited:

- **Criminal History.** Repeat offenders were likely to be given more severe sentences than first time offenders. Habitual offenders, formally charged as such, would also have received mandatory terms of imprisonment, whereas other offenders would not necessarily have been sentenced to prison. No data were available on the criminal history of offenders being sentenced, and data on habitual offender enhancements were not available for the Second Judicial District.
- **Cases and Charges.** The information reported here refers to cases, that is, one or more charges attached to one defendant. To avoid excessive complexity, sentences are reported in relation to the most serious charge attached to the case. However, the sentence refers to all charges involved in the case and thus may include sanctions for additional offenses. In addition, in some cases separate charges were sentenced concurrently, while in other cases separate charges were sentenced consecutively.
- **Offense Characteristics.** Offenses charged under the same statutory definition can vary markedly in the way they are committed (aggravated battery and child abuse resulting in death are but two examples of this) and would likely lead to different kinds of sentence. However, no information was available on the characteristics of each offense being sentenced. In addition, offenses committed with firearms, or offenses committed against handicapped persons or persons 60 years of age or older, may lead to mandatory terms of imprisonment; while many DWI offenses lead to mandatory jail terms.
- **Extralegal factors.** Factors such as the gender, race or age of the offender, or the values of the community in which the offender was convicted and sentenced.

The study of sentencing disparities requires, first, a determination regarding the legal factors that should affect sentencing decisions; and, second, systematic empirical inquiry into the legal and extralegal factors that actually affect sentencing decisions. The cases examined in the current report did not contain sufficient information for a detailed study of sentencing disparities.

9. DEMOGRAPHIC CHARACTERISTICS AND SENTENCING

9.1 Gender (See also Tables A.13, A.14 and A.15)

- 84.5% of offenders were male
- 15.5% of offenders were female

Gender by Offense Type

	Males %	Females %
Violent	18.2	13.2
Property	23.9	27.9
Drug	15.6	21.2
Public-Order	25.5	21.6
Other	16.8	16.2
Total	100.0	100.0

- Males were more likely than females to be sentenced for violent and public order offenses.
- Females were more likely to be sentenced for property and drug offenses.
- The biggest difference between males and females was found for the offense of fraud. Fifteen percent of females, but only 5.2% of males, were sentenced for fraud (Table A.13).

[Differences significant at $p = .0000$]

Gender by Offense Level

	Males %	Females %
Capital Offense	0.1	0.0
First Degree Felony	0.8	0.3
Second Degree Felony	8.2	7.1
Third Degree Felony	15.4	20.0
Fourth Degree Felony	37.7	36.7
Misdemeanor	37.7	35.9
Total	100.0	100.0

There was much similarity between males and females in terms of the proportional distribution across different levels of offense seriousness.

- Males were somewhat more likely to be sentenced for capital, first and second degree felonies.
- Females were somewhat more likely to be sentenced for third degree felonies.

Although statistically significant ($p = .01673$), the differences were not great.

Female Offenders: Type and Length of Sanctions - by Type of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	103	14.6	3.6	75.7	1.3	9.7	0.6
Property Offenses	218	16.1	2.8	68.3	2.0	15.6	1.2
Drug Offenses	165	15.8	3.6	77.6	2.1	6.7	0.6
Public-Order Offenses	150	4.0	2.5	38.7	0.6	57.3	0.5
Other Offenses	128	7.0	3.7	75.8	0.8	7.0	0.5
TOTAL	764	11.9	3.2	66.8	1.5	21.3	0.6

Male Offenders: Type and Length of Sanctions - by Type of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	773	37.9	6.4	44.8	1.6	17.3	0.8
Property Offenses	1014	32.9	3.5	51.6	1.7	15.5	1.0
Drug Offenses	669	27.8	4.5	59.3	1.7	12.9	1.0
Public-Order Offenses	995	10.7	2.6	31.0	0.5	58.4	0.5
Other Offenses	690	13.5	1.6	51.3	0.8	35.2	0.5
TOTAL	4141	24.4	4.2	46.6	1.3	29.0	0.6

In terms of the type of sanction imposed, the tables above (and Tables A.14 and A.15) show that:

- Male offenders were more likely than female offenders to be sentenced to prison in almost every category of offense (except for larceny thefts, motor vehicle thefts and drug possession).
- Female offenders were more likely than male offenders to be sentenced to probation in almost every category of offense (except for larceny thefts and drug possession).
- Female and male offenders did not differ consistently in the proportions sentenced to jail terms, although in general, more male offenders were sentenced to jail terms.

In terms of sentence length:

- Males were sentenced to longer prison terms than females, except for burglary and “other” public order offenses.
- Females were sentenced to longer probation terms than males, although the difference was not as great as that for prison terms.
- There was little difference between male and female offenders in the length

of jail terms (including subsequent probation).

Female Offenders: Type and Length of Sanctions - by Level of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Capital Offenses	0	-	-	-	-	-	-
First Degree Felony	1	100.0	4.0	0.0	-	0.0	-
Second Degree Felony	54	22.2	4.1	75.9	3.9	1.9	g
Third Degree Felony	151	17.2	3.9	70.2	2.7	12.6	1.5
Fourth Degree Felony	272	17.6	2.8	65.8	1.5	16.5	0.8
Misdemeanor	263	0	-	63.9	0.6	36.1	0.4
TOTAL	741	11.7	3.2	66.7	1.5	21.2	0.6

Male Offenders: Type and Length of Sanctions - by Level of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Capital Offenses	4	100.0	NA	0.0	-	0.0	-
First Degree Felony	21	100.0	17.1	0.0	-	0.0	-
Second Degree Felony	346	52.3	8.1	40.2	3.7	7.5	1.5
Third Degree Felony	642	41.6	4.2	44.5	2.5	13.9	1.1
Fourth Degree Felony	1556	30.3	2.5	49.8	1.5	19.9	0.9
Misdemeanor	1430	0	-	52.6	0.6	47.4	0.5
TOTAL	3999	23.6	3.2	47.0	1.5	29.4	0.6

At all felony levels, males were more likely than females to be sentenced to prison, while females were more likely to be sentenced to probation. Also note:

- the variation across felony levels in average length of imprisonment was much greater for males than for females. Male offenders received much longer average prison terms than female offenders for first and second degree felonies.
- female offenders were likely to receive slightly longer probation sentences than males for second and third degree felonies. However, the average probation terms at all levels of offense were very similar, and exactly the same for males and females sentenced for fourth degree felonies and misdemeanors.

Males and Females Were Most Similar on Sentences for DWI Offenses

Tables A.14 and A.15 show that 71.3% of female DWI offenders and 70.0% of male DWI offenders were sentenced to jail terms for an average of 5 months and 6 months respectively. Part of the explanation for this similarity is that jail sentences are mandatory for many DWI offenses, thus minimizing judicial discretion and the possibility of disparate sentencing.

9.2 Ethnicity (See also Tables A.16, A.17, A.18, and A.19)

	% Total	% Valid
African American	6.9	10.6
Asian American	0.6	0.9
Hispanic	38.1	58.2
Native American	1.6	2.4
White	18.2	27.9
No Information	34.6	-
TOTAL	100.0	100.0

Given that Asian American and Native American offenders were present in very small numbers among the offenders in this data set, they will not be included in subsequent analyses referring to the type and length of sanction imposed at sentencing.

Ethnicity by Offense Type

	African American %	Hispanic %	White %
Violent	15.2	19.2	18.8
Property	14.1	29.2	33.4
Drug	53.3	16.5	14.1
Public-Order	8.8	18.5	18.3
Other	8.6	16.8	15.4
Total	100.0	100.0	100.0

Hispanic and White offenders were distributed very similarly across offense categories, but African American offenders showed a very different pattern [$p = .00000$]. Specifically, 53.3% of African American offenders were sentenced for drug offenses, compared to only 16.5% of Hispanic offenders and 14.1% of White offenders. While African American offenders did not constitute the majority of drug offenders, they were highly concentrated in that group.

Ethnicity by Offense Level

	African American %	Hispanic %	White %
Capital	0.0	0.0	0.1
First Degree	1.1	0.4	0.9
Second Degree	33.0	8.5	6.8
Third Degree	17.3	18.3	18.9
Fourth Degree	39.5	43.7	42.0
Misdemeanor	9.1	29.2	31.3
Total	100.0	100.0	100.0

- African American offenders were much more likely than Hispanic or White offenders to have been sentenced for second degree felonies; and much less likely to have been sentenced for misdemeanors. [$p = .00000$]
- The differences between Hispanic and White offenders in terms of their distribution across different levels of offense were very small.

African American Offenders: Type and Length of Sanctions - by Type of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	55	54.5	8.8	27.3	2.1	18.2	0.5
Property Offenses	51	29.4	3.8	60.8	1.8	9.8	2.1
Drug Offenses	193	32.1	4.5	57.0	2.8	10.9	0.5
Public-Order Offenses	13	40.6	1.8	25.0	1.5	34.4	0.7
Other Offenses	31	12.9	4.0	51.6	0.9	51.6	0.5
TOTAL	362	34.3	5.2	49.7	2.2	16.0	0.7

Hispanic Offenders: Type and Length of Sanctions - by Type of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	374	37.2	4.8	45.2	1.8	17.6	0.8
Property Offenses	571	35.0	3.6	49.9	1.9	15.1	1.1
Drug Offenses	322	26.7	4.3	62.1	2.0	11.2	0.7
Public-Order Offenses	362	13.8	3.0	29.8	0.7	56.4	0.6
Other Offenses	328	14.9	1.5	53.4	1.0	31.7	0.5
TOTAL	1661	26.7	3.7	47.8	1.6	25.4	0.7

White Offenders: Type and Length of Sanctions - by Type of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	177	40.1	7.3	42.4	1.8	17.5	0.6
Property Offenses	315	26.3	3.4	56.8	1.9	16.8	0.9
Drug Offenses	133	22.6	4.6	65.4	1.6	12.0	1.4
Public-Order Offenses	172	9.9	2.5	33.1	0.7	57.0	0.6
Other Offenses	145	16.6	2.2	50.3	0.9	33.1	0.6
TOTAL	943	23.9	4.6	50.1	1.5	26.1	0.7

- Overall, African American offenders were significantly ($p = 0.0010$) more likely than Hispanic or White offenders to receive sentences to prison, and less likely to be sentenced to jail. This pattern might be explained, at least in part, by the fact that African American were more likely to have been convicted of more serious crimes.
- Approximately half of offenders in all three ethnic groups were sentenced to probation.
- African American offenders also received significantly longer prison sentences ($p = 0.0067$), and longer sentences to probation ($p = 0.001$). There was no difference

between the three groups in average length of jail sentences.

African American Offenders: Type and Length of Sanctions - by Level of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Capital Offenses	0	-	-	-	-	-	-
First Degree Felony	4	100.0	21.9	0.0	-	0.0	-
Second Degree Felony	116	44.0	5.7	53.4	3.7	2.6	NA
Third Degree Felony	61	39.3	6.4	42.6	2.7	18.0	1.0
Fourth Degree Felony	139	30.2	2.4	50.4	1.3	19.4	0.6
Misdemeanor	30	0	-	59.4	1.1	40.6	0.6
TOTAL	350	34.6	5.2	50.0	2.2	15.4	0.7

Hispanic Offenders: Type and Length of Sanctions - by Level of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Capital Offenses	0	-	-	-	-	-	-
First Degree Felony	3	100.0	9.3	0.0	-	0.0	-
Second Degree Felony	163	52.8	7.7	41.1	3.5	6.1	0.2
Third Degree Felony	350	40.6	4.3	47.1	2.7	12.3	1.3
Fourth Degree Felony	838	30.4	2.5	51.1	1.5	18.5	0.9
Misdemeanor	525	0	-	47.8	0.8	52.2	0.5
TOTAL	1879	25.9	3.8	48.4	1.6	25.7	0.7

White Offenders: Type and Length of Sanctions - by Level of Offense

	Total	Prison		Probation		Jail	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Capital Offenses	1	100.0	NA	0.0	-	0.0	-
First Degree Felony	7	100.0	17.5	0.0	-	0.0	-
Second Degree Felony	63	46.0	11.3	42.9	4.1	11.1	1.8
Third Degree Felony	175	33.1	4.0	56.0	2.8	10.9	1.1
Fourth Degree Felony	389	30.1	2.9	49.1	1.5	20.8	0.8
Misdemeanor	278	0	-	50.8	0.6	49.2	0.5
TOTAL	913	23.2	4.6	50.1	1.5	26.7	0.7

Regarding type and length of sanctions across offense levels for each ethnic group, the information on the previous page indicates that:

- There were few clearly identifiable differences between the three ethnic groups in terms of the proportion of cases at each felony level sentenced to prison, probation or jail, or in terms of average sentence length. For example, the proportion of second degree felony cases sentenced to prison was 44.0% for African American offenders, 52.8% for Hispanics and 46.0% for Whites; the proportion of fourth degree felony cases sentenced to prison was 30.2%, 30.4% and 30.1%, respectively. Similarly, the average length of a probation sentence was 3.7 years for African American offenders, 3.5 years for Hispanics and 4.1 years for Whites.
- Thus, the major differences between African American offenders and Hispanic and White offenders regarding the severity of sanctions appear to derive mainly from the fact (noted earlier) that African American offenders were more likely to have been convicted of more serious crimes. Less than 10% of sentences involving African American offenders involved misdemeanors, compared to 28% and 30% of sentences involving Hispanic and White offenders, respectively. It is not clear why misdemeanor convictions represented such a comparatively small proportion of cases involving African American offenders. However, factors affecting the inclusion (or exclusion) of cases in the sample analyzed here - such as the proportion of misdemeanor cases recorded in each judicial district, and the completeness and accuracy of information - should not be ruled out.

APPENDIX A: TABLES

NOTE: TOTAL NUMBERS MAY VARY DUE TO MISSING INFORMATION

Table A.1: Most Serious Offense at Sentencing ^a

	N	%
Violent Offenses	910	17.4
Homicide ^b	42	0.8
Sexual Offenses ^c	46	0.9
Kidnapping	8	0.2
Armed Robbery	48	0.9
Other Homicides ^d	20	0.4
Other Sexual Offenses ^e	120	2.3
Robbery	70	1.3
Battery and Assault	543	10.4
Other Violent ^f	13	0.2
Property Offenses	1280	24.5
Burglary	422	8.1
Larceny-Theft	165	3.2
Motor Vehicle Theft	189	3.6
Arson	4	0.1
Fraud	352	6.7
Stolen Property	51	1.0
Other Property	97	1.9
Drug Offenses	864	16.5
Trafficking	510	9.7
Possession	354	6.8
Public-Order Offenses	1302	24.9
Weapons	42	0.8
DWI	909	17.4
Other Public-Order ^g	351	6.7
Other Offenses^h	877	16.7
TOTAL	5233	100.0

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b Homicide includes First and Second Degree Murder.

^c Sexual Offenses include Rape and Criminal Sexual Penetration, First and Second Degree.

^d Other Homicides include Voluntary and Involuntary Manslaughter, and Homicide by Vehicle.

^e Other Sexual Offenses include Assault with Intent to Rape, Attempted Sodomy or Sodomy, Incest, Sexual Assault, and Criminal Sexual Penetration, Third Degree.

^f Other Violent Offenses include Attempt to Commit a Violent Felony, Child Abuse, Child Abuse Resulting in Death, and Extortion.

^g Other Public Order Offenses include Criminal Solicitation, Escape from Jail/PNM, Evading and Officer, Failure to Appear, Taking Contraband into PNM, Tampering with Evidence, or Violation of Probation.

^h Other Offenses include Civil Disorder, Conspiracy, and Contributing to the Delinquency of a Minor.

Table A.2: Cases by Type of Offense and Level of Seriousness

	Violent Offense	Property Offense	Drug Offense	Public Order Offense	Other Offense	Total
Capital	0.7% 6					0.1% 6
First Degree Felony	3.3% 30		0.1% 1			0.7% 31
Second Degree Felony	10.8% 98	3.1% 39	29.8% 257	0.9% 11		8.0% 405
Third Degree Felony	38.1% 345	31.0% 394	7.8% 67	0.3% 4	0.8% 7	16.1% 817
Fourth Degree Felony	28.7% 260	57.9% 737	53.3% 460	21.5% 251	24.0% 207	37.7% 1915
Misdemeanor	18.3% 166	8.0% 102	9.0% 78	77.3% 904	75.2% 650	37.4% 1900
Total	905 100.0	1272 100.0	863 100.0	1170 100.0	864 100.0	5074 100.0

Table A.3: Type of Sentence by Offense Type^{a, b}

	Prison ^c		Jail ^d		Probation ^e		Total
	N	%	N	%	N	%	
Violent Offenses	311	34.9	150	16.8	430	48.2	100.0
Homicide	30	76.9	7	17.9	2	5.1	100.0
Sexual Offenses	26	56.5	7	15.2	13	28.3	100.0
Kidnapping	5	62.5	0	0.0	3	37.5	100.0
Armed Robbery	34	70.8	4	8.3	10	20.8	100.0
Other Homicides	10	50.0	2	10.0	8	40.0	100.0
Other Sexual Offenses	36	30.5	17	14.4	65	55.1	100.0
Robbery	27	38.6	12	17.1	31	44.3	100.0
Battery and Assault	137	25.8	100	18.9	292	55.2	100.0
Other Violent	6	46.2	1	7.7	6	46.2	100.0
Property Offenses	374	29.9	193	15.4	684	54.6	100.0
Burglary	159	38.5	64	15.5	190	46.0	100.0
Larceny-Theft	56	34.6	24	14.8	82	50.6	100.0
Motor Vehicle Theft	58	31.2	30	16.1	98	52.7	100.0
Arson	0	0.0	0	0.0	4	100.0	100.0
Fraud	67	19.5	47	13.7	230	66.9	100.0
Stolen Property	16	32.0	6	12.0	28	56.0	100.0
Other Property	18	19.6	22	23.9	52	56.5	100.0
Drug Offenses	217	25.6	97	11.5	533	62.9	100.0
Trafficking	142	28.2	40	8.0	321	63.8	100.0
Possession	75	21.7	57	16.5	212	61.4	100.0
Public-Order Offenses	116	10.0	670	57.8	373	32.2	100.0
Weapons	18	42.9	4	9.5	20	47.6	100.0
DWI	41	4.9	580	69.8	210	25.3	100.0
Other Public-Order	57	19.9	86	30.1	143	50.0	100.0
Other Offenses	105	12.6	269	32.3	459	55.1	100.0
TOTAL	1123	22.5	1379	27.7	2479	49.8	100.0

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b This table excludes 45 cases (outside of District 2) where a fine was the only sentence imposed.

^c Prison includes sentences to prison followed by a period of probation

^d Jail includes sentences to jail followed by a period of probation

^e Probation includes sentences to probation, accompanied by a fine

Table A.4: Proportion of Cases Sentenced to Prison by Type of Offense, and Proportion of Prison Sentences Deriving from Each Offense Type ^a

	Number of Cases Sentenced to Prison ^b	% of Cases Sentenced to Prison	% of all Prison Sentences
Violent Offenses	311	34.7	27.7
Homicide	30	76.9	2.7
Sexual Offenses	26	56.5	2.3
Kidnapping	5	62.5	0.4
Armed Robbery	34	70.8	3.0
Other Homicides	10	50.0	0.9
Other Sexual Offenses	36	30.5	3.2
Robbery	27	38.6	2.4
Battery and Assault	137	25.7	12.2
Other Violent	6	46.2	0.5
Property Offenses	374	29.8	33.3
Burglary	159	38.5	14.2
Larceny-Theft	56	34.4	5.0
Motor Vehicle Theft	58	31.0	5.2
Arson	0	0.0	0.0
Fraud	67	19.5	6.0
Stolen Property	16	32.0	1.4
Other Property	18	19.4	1.6
Drug Offenses	217	25.6	19.3
Trafficking	142	28.2	12.6
Possession	75	21.7	6.7
Public-Order Offenses	116	9.9	10.3
Weapons	18	42.9	1.6
DWI	41	4.9	3.7
Other Public-Order	57	19.9	5.1
Other Offenses	105	12.2	9.3
TOTAL	1123	22.3	100.0

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b Prison includes sentences to prison followed by a period of probation.

Table A.5: Average Length (in years) of Sentenced Prison Terms and Average Length of Sentences Including a Prison Term, for Each Offense Type ^a

	Number of Cases Sentenced to Prison	Average Length of Sentenced Prison Term ^b	Average Length of Sentence Including a Prison Term ^c
Violent Offenses	311	5.9	6.2
Homicide	30	12.5	13.1
Sexual Offenses	26	12.1	12.6
Kidnapping	5	14.3	14.3
Armed Robbery	34	8.7	9.2
Other Homicides	10	5.5	5.5
Other Sexual Offenses	36	5.6	6.0
Robbery	27	3.6	4.0
Battery and Assault	137	2.9	3.2
Other Violent	6	2.2	2.7
Property Offenses	374	3.1	3.3
Burglary	159	3.8	4.0
Larceny-Theft	56	2.5	2.7
Motor Vehicle Theft	58	2.4	2.5
Arson	0	-	-
Fraud	67	2.6	3.0
Stolen Property	16	2.3	2.6
Other Property	18	3.1	3.2
Drug Offenses	217	3.5	4.2
Trafficking	142	4.2	5.0
Possession	75	2.3	2.6
Public-Order Offenses	116	2.6	2.5
Weapons	18	3.0	3.6
DWI	41	1.7	1.7
Other Public-Order	57	3.2	2.8
Other Offenses	105	1.6	1.7
TOTAL	1123	3.7	4.1

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b This column refers only to the prison terms imposed at sentencing, and does not include any additional sentence to probation following imprisonment. Sentence length does not include any estimated reduction for meritorious deductions (“good time”) earned while in prison.

^c This column refers to the total length of sentence imposed, including the length of the prison term and any additional sentence to probation following imprisonment. Sentence length does not include the parole term (one or two years, depending on the level of the offense) that must be served following release from prison. Where probation was ordered following imprisonment, the probation and parole terms would be served concurrently.

Table A.6: Proportion of Cases Sentenced to Probation by Type of Offense, and Proportion of Probation Sentences Deriving from Each Offense Type ^a

	Number of Cases Sentenced to Probation ^b	% of Cases Sentenced to Probation	% of all Probation Cases
Violent Offenses	430	48.0	17.3
Homicide	2	5.1	0.1
Sexual Offenses	13	28.3	0.5
Kidnapping	3	37.5	0.1
Armed Robbery	10	20.8	0.4
Other Homicides	8	40.0	0.3
Other Sexual Offenses	65	55.1	2.6
Robbery	31	44.3	1.3
Battery and Assault	292	54.7	11.8
Other Violent	6	46.2	0.2
Property Offenses	684	54.5	27.6
Burglary	190	46.0	7.7
Larceny-Theft	82	50.3	3.3
Motor Vehicle Theft	98	52.4	4.0
Arson	4	100.0	0.2
Fraud	230	66.9	9.3
Stolen Property	28	56.0	1.1
Other Property	52	55.9	2.1
Drug Offenses	533	62.9	21.5
Trafficking	321	63.8	12.9
Possession	212	61.4	8.6
Public-Order Offenses	373	31.9	15.0
Weapons	20	47.6	0.8
DWI	210	25.0	8.5
Other Public-Order	143	49.8	5.8
Other Offenses	459	53.4	18.5
TOTAL	2479	49.3	100.0

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b Probation includes sentences to probation that also involve a fine.

Table A.7: Average Length (in years) of Sentenced Probation Terms for Each Offense Type ^a

	Number of Cases Sentenced to Probation	Average Length of Sentenced Probation Term ^b
Violent Offenses	271	1.6
Homicide	2	4.5
Sexual Offenses	5	4.9
Kidnapping	1	5.0
Armed Robbery	2	5.0
Other Homicides	4	1.0
Other Sexual Offenses	36	2.2
Robbery	11	2.9
Battery and Assault	204	1.2
Other Violent	6	1.1
Property Offenses	407	1.9
Burglary	103	2.2
Larceny-Theft	43	1.3
Motor Vehicle Theft	49	1.3
Arson	4	1.5
Fraud	154	2.1
Stolen Property	20	1.8
Other Property	34	1.6
Drug Offenses	275	2.0
Trafficking	154	2.6
Possession	121	1.1
Public-Order Offenses	284	0.5
Weapons	10	1.3
DWI	206	0.3
Other Public-Order	68	1.2
Other Offenses	299	0.8
TOTAL	1536	1.3

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b Probation includes sentences to probation that also involve a fine.

Table A.8: Proportion of Cases Sentenced to Jail by Type of Offense, and Proportion of Jail Sentences Deriving from Each Offense Type ^a

	Number of Cases Sentenced to Jail ^b	% of Cases Sentenced to Jail	% of all Jail Sentences
Violent Offenses	150	16.7	10.9
Homicide	7	17.9	0.5
Sexual Offenses	7	15.2	0.5
Kidnapping	0	0.0	0.0
Armed Robbery	4	8.3	0.3
Other Homicides	2	10.0	0.1
Other Sexual Offenses	17	14.4	1.2
Robbery	12	17.1	0.9
Battery and Assault	100	18.7	7.3
Other Violent	1	7.7	0.1
Property Offenses	193	15.4	14.0
Burglary	64	15.5	4.6
Larceny-Theft	24	14.7	1.7
Motor Vehicle Theft	30	16.0	2.2
Arson	0	0.0	0.0
Fraud	47	13.7	3.4
Stolen Property	6	12.0	0.4
Other Property	22	23.7	1.6
Drug Offenses	97	11.4	7.0
Trafficking	40	8.0	2.9
Possession	57	16.5	4.1
Public-Order Offenses	670	57.3	48.5
Weapons	4	9.5	0.3
DWI	580	69.0	42.0
Other Public-Order	86	30.0	6.2
Other Offenses	269	31.3	19.5
TOTAL	1379	27.4	100.0

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b Jail includes sentences to jail followed by a period of probation.

Table A.9: Average Length (in years) of Sentenced Jail Terms and Average Length of Sentences Including a Jail Term, for Each Offense Type ^a

	Number of Cases Sentenced to Jail	Average Length of Sentenced Jail Term ^b	Average Length of Sentence Including a Jail Term ^c
Violent Offenses	129	0.3	0.7
Homicide	5	0.2	0.7
Sexual Offenses	4	0.3	0.5
Kidnapping	0	-	-
Armed Robbery	2	0.4	3.0
Other Homicides	1	0.1	1.5
Other Sexual Offenses	14	0.4	0.5
Robbery	10	0.4	0.9
Battery and Assault	92	0.3	0.7
Other Violent	1	0.5	3.5
Property Offenses	144	0.3	0.8
Burglary	45	0.3	1.3
Larceny-Theft	21	0.5	1.1
Motor Vehicle Theft	14	0.5	0.6
Arson	0	-	-
Fraud	40	0.3	1.1
Stolen Property	6	0.4	1.7
Other Property	18	0.2	0.5
Drug Offenses	77	0.3	0.8
Trafficking	30	0.3	1.5
Possession	47	0.3	0.6
Public-Order Offenses	642	0.2	0.5
Weapons	4	0.3	0.8
DWI	577	0.2	0.5
Other Public-Order	61	0.2	0.8
Other Offenses	249	0.3	0.5
TOTAL	1241	0.2	0.6

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b This column refers only to the jail terms imposed at sentencing, and does not include any additional sentence to probation following time in jail.

^c This column refers to the total length of sentence imposed, including the length of the jail term and any additional sentence to probation following time in jail.

Table A.10: Proportion of Sentences Including a Fine, and Proportion of Fines Deriving from Each Offense Type^a

	Number of Sentences Including a Fine ^b	% of Cases Including a Fine	% of all Sentences with Fines
Violent Offenses	81	19.3	8.0
Homicide	0	0.0	0.0
Sexual Offenses	0	0.0	0.0
Kidnapping	0	0.0	0.0
Armed Robbery	0	0.0	0.0
Other Homicides	0	0.0	0.0
Other Sexual Offenses	6	16.2	0.6
Robbery	0	0.0	0.0
Battery and Assault	74	24.8	7.3
Other Violent	1	9.1	0.1
Property Offenses	35	6.3	3.4
Burglary	6	4.1	0.6
Larceny-Theft	8	10.5	0.8
Motor Vehicle Theft	7	14.0	0.7
Arson	0	0.0	0.0
Fraud	7	3.7	0.7
Stolen Property	1	3.1	0.1
Other Property	6	11.3	0.6
Drug Offenses	75	21.2	7.4
Trafficking	27	14.9	2.7
Possession	48	27.9	4.7
Public-Order Offenses	638	62.2	62.7
Weapons	2	11.1	0.2
DWI	587	69.8	57.7
Other Public-Order	49	29.3	4.8
Other Offenses	188	36.2	18.5
TOTAL	1017	37.8	100.0

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b Fines may have been applied as the sole sanction, or in combination with other sanctions.

Table A.11: Average Amount of Fines (in dollars) Each Offense Type ^a

	Number of Sentences Including a Fine	Average Amount of Fines
Violent Offenses	81	\$556
Homicide	0	-
Sexual Offenses	0	-
Kidnapping	0	-
Armed Robbery	0	-
Other Homicides	0	-
Other Sexual Offenses	6	\$1,317
Robbery	0	-
Battery and Assault	74	\$380
Other Violent	1	\$9,000
Property Offenses	35	\$859
Burglary	6	\$620
Larceny-Theft	8	\$325
Motor Vehicle Theft	7	\$493
Arson	0	-
Fraud	7	\$2,430
Stolen Property	1	\$1,000
Other Property	6	\$382
Drug Offenses	75	\$243
Trafficking	27	\$328
Possession	48	\$195
Public-Order Offenses	634	\$431
Weapons	2	\$ 500
DWI	587	\$427
Other Public-Order	45	\$474
Other Offenses	188	\$249
TOTAL	1018	\$412

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

Table A.12: Average Length (in years) of Sentenced Prison Terms, Jail Terms and Probation Terms, for Each Offense Type ^{a, b}

	Total	Prison^c		Probation^d		Jail^e	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	891	34.9	6.2	48.2	1.6	16.8	0.7
Homicide	42	76.9	12.8	5.1	4.5	17.9	0.7
Sexual Offenses	46	56.5	12.7	28.3	4.9	15.2	0.5
Kidnapping	8	62.5	14.3	37.5	5.0	0.0	-
Armed Robbery	48	70.8	9.3	20.8	5.0	8.3	3.0
Other Homicides	20	50.0	5.5	40.0	1.0	10.0	1.5
Other Sexual Offenses	120	30.5	6.0	55.1	2.2	14.4	0.5
Robbery	70	38.6	4.0	44.3	2.9	17.1	0.9
Battery and Assault	529	25.8	3.1	55.2	1.2	18.9	0.7
Other Violent	13	46.2	2.6	46.2	1.1	7.7	3.5
Property Offenses	1251	29.9	3.4	54.6	1.9	15.4	0.8
Burglary	413	38.5	4.1	46.0	2.2	15.5	1.3
Larceny-Theft	162	34.6	2.8	50.6	1.3	14.8	1.1
Motor Vehicle Theft	186	31.2	2.5	52.7	1.3	16.1	0.6
Arson	4	0.0	-	100.0	1.5	0.0	-
Fraud	344	19.5	3.5	66.9	2.1	13.7	1.1
Stolen Property	50	32.0	2.6	56.0	1.8	12.0	1.7
Other Property	92	19.6	3.2	56.5	1.6	23.9	0.5
Drug Offenses	847	25.6	4.4	62.9	2.0	11.5	0.8
Trafficking	503	28.2	5.2	63.8	2.6	8.0	1.5
Possession	344	21.7	2.8	61.4	1.1	16.5	0.6
Public-Order Offenses	1159	10.0	3.0	32.2	0.5	57.8	0.5
Weapons	42	42.9	3.6	47.6	1.3	9.5	0.8
DWI	831	4.9	1.7	25.3	0.3	69.8	0.5
Other Public-Order	286	19.9	3.7	50.0	1.2	30.1	0.8
Other Offenses	833	12.6	1.8	55.1	0.8	32.3	0.5
TOTAL	4981	22.5	4.2	49.8	1.3	27.7	0.6

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b This table excludes cases outside of District 2 where a fine was the only sentence imposed.

^c Prison includes sentences to prison followed by a period of probation

^d Probation includes sentences to probation, accompanied by a fine

^e Jail includes sentences to jail followed by a period of probation

Table A.13: Most Serious Offense at Sentencing, by Gender ^a

	MALES		FEMALES	
	N	%	N	%
Violent Offenses	790	18.2	105	13.2
Homicide	42	1.0	0	0.0
Sexual Offenses	45	1.0	1	0.1
Kidnapping	7	0.2	1	0.1
Armed Robbery	44	1.0	3	0.4
Other Homicides	17	0.4	3	0.4
Other Sexual Offenses	92	2.1	28	3.5
Robbery	60	1.4	9	1.1
Battery and Assault	472	10.8	58	7.3
Other Violent	11	0.3	2	0.3
Property Offenses	1038	23.9	223	27.9
Burglary	385	8.8	31	3.9
Larceny-Theft	118	2.7	45	5.6
Motor Vehicle Theft	170	3.9	15	1.9
Arson	4	0.1	0	0.0
Fraud	226	5.2	120	15.0
Stolen Property	47	1.1	4	0.5
Other Property	88	2.0	8	1.0
Drug Offenses	681	15.6	169	21.2
Trafficking	399	9.2	102	12.8
Possession	282	6.5	67	8.4
Public-Order Offenses	1110	25.5	172	21.6
Weapons	42	1.0	0	0.0
DWI	791	18.2	106	13.3
Other Public-Order	277	6.4	129	16.2
Other Offenses	733	16.8	129	16.2
TOTAL	4352	100.0	798	100.0

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

Table A.14: Female Offenders: Type and Length (in years) of Sanctions, for Each Offense Type^{a, b, c}

	Total	Prison^d		Probation^e		Jail^f	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	103	14.6	3.6	75.7	1.3	9.7	0.6
Homicide	0	-	-	-	-	-	-
Sexual Offenses	1	0.0	-	100.0	1.5	0.0	-
Kidnapping	1	100.0	4.0	0.0	-	0.0	-
Armed Robbery	2	50.0	3.0	50.0	5.0	0.0	-
Other Homicides	3	33.3	1.0	66.7	0.8	0.0	-
Other Sexual Offenses	17	11.8	4.0	76.5	1.7	11.8	0.2
Robbery	4	75.0	6.3	25.0	3.0	0.0	-
Battery and Assault	40	17.5	2.7	67.5	1.0	15.0	0.6
Other Violent	2	0.0	-	100.0	0.5	0.0	-
Property Offenses	218	16.1	2.8	68.3	2.0	15.6	1.2
Burglary	20	25.0	5.0	70.0	2.4	5.0	3.0
Larceny-Theft	27	48.1	2.1	37.0	1.3	14.8	1.1
Motor Vehicle Theft	8	37.5	1.2	50.0	0.8	12.5	0.8
Arson	0	-	-	-	-	-	-
Fraud	85	15.3	3.1	69.4	2.1	15.3	0.9
Stolen Property	4	25.0	1.5	25.0	1.5	50.0	3.3
Other Property	3	0.0	-	33.3	1.5	66.7	0.3
Drug Offenses	165	15.8	3.6	77.6	2.1	6.7	0.6
Trafficking	48	27.1	3.7	70.8	2.5	2.1	0.2
Possession	35	37.1	3.6	51.4	1.4	11.4	0.7
Public-Order Offenses	150	4.0	2.5	38.7	0.6	57.3	0.5
Weapons	0	-	-	-	-	-	-
DWI	101	2.0	1.3	26.7	0.3	71.3	0.4
Other Public-Order	49	8.2	3.1	63.3	1.1	28.6	0.9
Other Offenses	128	7.0	3.7	75.8	0.8	7.0	0.5
TOTAL	764	11.9	3.2	66.8	1.5	21.3	0.6

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b This table excludes cases outside of District 2 where a fine was the only sentence imposed.

^c Proportional distribution of sanctions is based on 764 cases, whereas average sentence length is based on only 518 cases. No sentence length was recorded for the other 246 cases.

^d Prison includes sentences to prison followed by a period of probation

^e Probation includes sentences to probation, accompanied by a fine

^f Jail includes sentences to jail followed by a period of probation

Table A.15: Male Offenders: Type and Length (in years) of Sanctions, for Each Offense Type^{a, b, c}

	Total	Prison^d		Probation^e		Jail^f	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	773	37.9	6.4	44.8	1.6	17.3	0.8
Homicide	39	76.9	13.2	5.1	4.0	17.9	0.8
Sexual Offenses	45	57.8	12.7	26.7	3.7	15.6	0.4
Kidnapping	7	57.1	16.9	42.9	5.0	0.0	-
Armed Robbery	44	75.0	9.5	18.2	5.0	6.8	3.0
Other Homicides	17	52.9	6.0	35.3	1.3	11.8	1.5
Other Sexual Offenses	90	37.8	6.1	47.8	2.2	14.4	0.5
Robbery	60	38.3	3.7	41.7	2.9	20.0	0.9
Battery and Assault	460	27.8	3.2	52.8	1.3	19.3	0.7
Other Violent	11	54.5	2.7	36.4	1.4	9.1	3.5
Property Offenses	1014	32.9	3.5	51.6	1.7	15.5	1.0
Burglary	376	40.7	4.0	43.9	2.0	15.4	1.2
Larceny-Theft	116	37.1	3.0	46.6	1.3	16.4	1.0
Motor Vehicle Theft	167	31.7	2.6	52.7	1.4	15.6	0.6
Arson	4	0	-	100.0	1.5	0	-
Fraud	221	23.5	3.6	62.4	2.0	14.0	1.2
Stolen Property	46	32.6	2.6	58.7	1.8	8.7	0.9
Other Property	84	21.4	3.2	56.0	1.2	22.6	0.6
Drug Offenses	669	27.8	4.5	59.3	1.7	12.9	1.0
Trafficking	395	31.6	5.4	59.2	2.3	9.1	1.5
Possession	274	22.3	2.6	59.5	1.1	18.2	0.6
Public-Order Offenses	995	10.7	2.6	31.0	0.5	58.4	0.5
Weapons	42	42.9	3.6	47.6	1.3	9.5	0.8
DWI	721	5.1	1.8	24.8	0.3	70.0	0.5
Other Public-Order	232	22.0	2.8	47.0	1.2	31.0	0.7
Other Offenses	690	13.5	1.6	51.3	0.8	35.2	0.5
TOTAL	4141	24.4	4.2	46.6	1.3	29.0	0.6

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b This table excludes cases outside of District 2 where a fine was the only sentence imposed.

^c Proportional distribution of sanctions is based on 4141 cases, whereas average sentence length is based on only 3345 cases. No sentence length was recorded for the other 796 cases.

^d Prison includes sentences to prison followed by a period of probation

^e Probation includes sentences to probation, accompanied by a fine

^f Jail includes sentences to jail followed by a period of probation

Table A.16: Most Serious Offense at Sentencing, by Ethnicity ^a

	AFRICAN AMERICAN		HISPANIC		WHITE	
	N	%	N	%	N	%
Violent Offenses	55	15.2	374	19.1	177	18.8
Homicide	5	1.4	15	0.8	8	0.8
Sexual Offenses	2	0.6	17	0.9	10	1.1
Kidnapping	1	0.3	1	0.1	3	0.3
Armed Robbery	5	1.4	24	1.2	13	1.4
Other Homicides	1	0.3	12	0.6	3	0.3
Other Sexual Offenses	6	1.7	41	2.1	27	2.9
Robbery	9	2.5	36	1.8	12	1.3
Battery and Assault	25	6.9	222	11.3	100	10.6
Other Violent	1	0.3	6	0.3	1	0.1
Property Offenses	51	14.1	571	29.2	315	33.4
Burglary	17	4.7	247	12.6	75	8.0
Larceny-Theft	7	1.9	85	4.3	28	3.0
Motor Vehicle Theft	4	1.1	78	4.0	62	6.6
Arson	1	0.3	2	0.1	1	0.1
Fraud	17	4.7	89	4.5	114	12.1
Stolen Property	3	0.8	25	1.3	11	1.2
Other Property	2	0.6	45	2.3	24	2.5
Drug Offenses	193	53.3	322	16.5	133	14.1
Trafficking	128	35.4	201	10.3	62	6.6
Possession	65	18.0	121	6.2	71	7.5
Public-Order Offenses	32	8.8	362	18.5	172	18.3
Weapons	6	1.7	20	1.0	6	0.6
DWI	4	1.1	233	11.9	117	12.4
Other Public-Order	22	6.1	109	5.6	49	5.2
Other Offenses	31	8.6	328	16.8	145	15.4
TOTAL	362	100.0	1957	100.0	942	100.0

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

Table A.17: African American Offenders: Type and Length (in years) of Sanctions, for Each Offense Type^{a, b, c}

	Total	Prison^d		Probation^e		Jail^f	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	55	54.5	8.8	27.3	2.1	18.2	0.5
Homicide	5	100.0	17.9	0.0	-	0.0	-
Sexual Offenses	2	100.0	21.3	0.0	-	0.0	-
Kidnapping	1	100.0	10.0	0.0	-	0.0	-
Armed Robbery	5	80.0	10.9	20.0	^g	0.0	-
Other Homicides	1	100.0	3.0	0.0	-	0.0	-
Other Sexual Offenses	6	50.0	4.7	50.0	^g	0.0	-
Robbery	9	44.4	5.5	22.2	3.0	33.3	0.3
Battery and Assault	25	36.0	4.1	36.0	1.8	28.0	0.6
Other Violent	1	100.0	5.5	0.0	-	0.0	-
Property Offenses	51	29.4	3.8	60.8	1.8	9.8	2.1
Burglary	17	41.2	5.4	47.1	1.8	11.8	0.5
Larceny-Theft	7	42.9	1.7	57.1	^g	0.0	-
Motor Vehicle Theft	4	50.0	3.0	50.0	^g	0.0	-
Arson	1	0.0	-	100.0	1.5	0.0	-
Fraud	17	11.8	3.5	82.4	1.9	5.9	0.5
Stolen Property	3	0.0	-	66.7	1.0	33.3	5.3
Other Property	2	50.0	1.5	50.0	^g	0.0	-
Drug Offenses	193	32.1	4.5	57.0	2.8	10.9	0.5
Trafficking	128	35.2	5.2	57.8	3.3	7.0	0.4
Possession	65	26.2	2.7	55.4	1.4	18.5	0.6
Public-Order Offenses	13	40.6	1.8	25.0	1.5	34.4	0.7
Weapons	6	66.7	1.8	33.3	1.5	0.0	-
DWI	4	0.0	-	0.0	-	100.0	0.9
Other Public-Order	22	40.9	1.9	27.3	1.5	31.8	0.7
Other Offenses	31	12.9	4.0	51.6	0.9	51.6	0.5
TOTAL	362	34.3	5.2	49.7	2.2	16.0	0.7

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b This table excludes cases outside of District 2 where a fine was the only sentence imposed.

^c Proportional distribution of sanctions is based on 362 cases, whereas average sentence length is based on only 227 cases. No sentence length was recorded for the other 135 cases.

^d Prison includes sentences to prison followed by a period of probation

^e Probation includes sentences to probation, accompanied by a fine

^f Jail includes sentences to jail followed by a period of probation

^g No information was available on sentence length for this group of sentences.

Table A.18: Hispanic Offenders: Type and Length (in years) of Sanctions, for Each Offense Type^{a, b, c}

	Total	Prison^d		Probation^e		Jail^f	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	374	37.2	4.8	45.2	1.8	17.6	0.8
Homicide	15	73.3	9.8	6.7	3.0	20.0	0.2
Sexual Offenses	17	35.3	8.2	35.3	3.8	29.4	0.5
Kidnapping	1	100.0	14.0	0.0	-	0.0	-
Armed Robbery	24	75.0	8.7	12.5	^g	12.5	3.0
Other Homicides	12	50.0	6.9	41.7	1.5	8.3	^g
Other Sexual Offenses	41	26.8	3.8	51.2	1.9	22.0	0.5
Robbery	36	41.7	4.4	50.0	2.8	8.3	0.3
Battery and Assault	222	30.2	2.9	51.4	1.6	18.5	0.8
Other Violent	6	66.7	1.9	16.7	3.0	16.7	3.5
Property Offenses	571	35.0	3.6	49.9	1.9	15.1	1.1
Burglary	247	43.3	4.3	42.1	2.1	14.6	1.5
Larceny-Theft	85	38.8	2.9	45.9	1.4	15.3	1.1
Motor Vehicle Theft	78	34.6	2.0	48.7	1.4	16.7	0.7
Arson	2	0.0	-	100.0	1.5	0.0	-
Fraud	89	18.0	3.0	69.7	2.2	12.4	1.2
Stolen Property	25	32.0	3.1	60.0	1.8	8.0	0.6
Other Property	45	20.0	3.5	55.6	1.3	24.4	0.5
Drug Offenses	322	26.7	4.3	62.1	2.0	11.2	0.7
Trafficking	201	27.9	5.2	65.2	2.3	7.0	1.0
Possession	121	24.8	2.6	57.0	1.4	18.2	0.6
Public-Order Offenses	362	13.8	3.0	29.8	0.7	56.4	0.6
Weapons	20	45.0	5.4	50.0	1.4	5.0	0.3
DWI	233	9.0	1.8	18.5	0.4	72.5	0.6
Other Public-Order	109	18.3	3.2	50.5	1.3	31.2	0.8
Other Offenses	328	14.9	1.5	53.4	1.0	31.7	0.5
TOTAL	1961	26.7	3.7	47.8	1.6	25.4	0.7

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b This table excludes cases outside of District 2 where a fine was the only sentence imposed.

^c Proportional distribution of sanctions is based on 1961 cases, whereas average sentence length is based on only 1446 cases. No sentence length was recorded for the other 515 cases.

^d Prison includes sentences to prison followed by a period of probation

^e Probation includes sentences to probation, accompanied by a fine

^f Jail includes sentences to jail followed by a period of probation

^g No information was available on sentence length for this group of sentences.

Table A.19: White Offenders: Type and Length (in years) of Sanctions, for Each Offense Type^{a, b, c}

	Total	Prison^d		Probation^e		Jail^f	
	Number of Cases	% of Cases	Av. Years	% of Cases	Av. Years	% of Cases	Av. Years
Violent Offenses	177	40.1	7.3	42.4	1.8	17.5	0.6
Homicide	8	87.5	13.0	0.0	-	12.5	^g
Sexual Offenses	10	80.0	18.8	10.0	3.0	10.0	0.3
Kidnapping	3	66.7	16.3	33.3	^g	0.0	-
Armed Robbery	13	61.5	9.2	38.5	5.0	0.0	-
Other Homicides	3	100.0	3.5	0.0	-	0.0	-
Other Sexual Offenses	27	37.0	6.8	51.9	2.3	11.1	0.6
Robbery	12	16.7	2.5	50.0	3.0	33.3	1.1
Battery and Assault	100	30.0	2.9	48.0	1.3	22.0	0.5
Other Violent	1	100.0	3.0	0.0	-	0.0	-
Property Offenses	315	26.3	3.4	56.8	1.9	16.8	0.9
Burglary	75	33.3	3.5	49.3	2.1	17.3	0.9
Larceny-Theft	28	25.0	3.1	57.1	1.7	17.9	1.0
Motor Vehicle Theft	62	30.6	2.8	51.6	1.4	17.7	0.6
Arson	1	0.0	-	100.0	1.5	0.0	-
Fraud	114	21.1	4.3	65.8	2.2	13.2	1.0
Stolen Property	11	36.4	2.3	45.5	1.8	18.2	1.5
Other Property	24	16.7	2.6	54.2	1.0	29.2	0.7
Drug Offenses	133	22.6	4.6	65.4	1.6	12.0	1.4
Trafficking	62	24.2	5.8	69.4	2.2	6.5	3.7
Possession	71	21.1	3.4	62.0	1.3	16.9	0.6
Public-Order Offenses	172	9.9	2.5	33.1	0.7	57.0	0.6
Weapons	6	50.0	2.0	16.7	^g	33.3	1.5
DWI	117	2.6	1.5	26.5	0.3	70.9	0.6
Other Public-Order	49	22.4	3.0	51.0	1.9	26.5	0.6
Other Offenses	145	16.6	2.2	50.3	0.9	33.1	0.6
TOTAL	943	23.9	4.6	50.1	1.5	26.1	0.7

^a Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^b This table excludes cases outside of District 2 where a fine was the only sentence imposed.

^c Proportional distribution of sanctions is based on 943 cases, whereas average sentence length is based on only 728 cases. No sentence length was recorded for the other 215 cases.

^d Prison includes sentences to prison followed by a period of probation

^e Probation includes sentences to probation, accompanied by a fine

^f Jail includes sentences to jail followed by a period of probation

^g No information was available on sentence length for this group of sentences.

Table A.20: Average, Median, Minimum and Maximum Length of Prison Sentences (In Years), by Type of Offense^{a, b}

	Average	Median ^c	Minimum	Maximum
Violent Offenses (311)	6.2	3.0	1.0	60.0
Homicide (30)	13.1	9.0	3.0	39.0
Sexual Offenses (30)	12.6	9.5	1.0	60.0
Kidnapping (5)	14.3	14.0	4.0	28.5
Armed Robbery (34)	9.2	6.1	1.0	29.0
Other Homicides (10)	5.5	4.3	1.0	14.0
Other Sexual Offenses (36)	6.0	3.0	1.0	40.0
Robbery (27)	4.0	3.0	1.0	12.0
Battery and Assault (137)	3.2	2.5	1.0	20.5
Other Violent (6)	2.7	2.5	1.0	5.5
Property Offenses (374)	3.3	2.5	1.0	24.0
Burglary (159)	4.0	3.0	1.0	24.0
Larceny-Theft (56)	2.7	2.3	1.0	9.5
Motor Vehicle Theft (58)	2.5	1.5	1.0	8.0
Arson (0)	-	-	-	-
Fraud (67)	3.0	3.0	1.0	8.0
Stolen Property (16)	2.6	1.5	1.0	9.5
Other Property (18)	3.2	2.5	1.0	9.0
Drug Offenses (217)	4.2	2.5	1.0	38.5
Trafficking (142)	5.0	3.0	1.0	38.5
Possession (75)	2.6	1.5	1.0	15.0
Public-Order Offenses (116)	2.5	1.5	1.0	13.0
Weapons (18)	3.6	1.6	1.2	13.0
DWI (41)	1.7	1.5	1.0	9.0
Other Public-Order (57)	2.8	1.5	1.0	10.0
Other Offenses (105)	1.7	1.5	1.0	13.0
TOTAL (1123)	4.1	2.5	1.0	60.0

^a Prison includes sentences to prison followed by a period of probation.

^b Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^c The median value splits the group in half. Thus, 50% of the group had sentences shorter than this value and 50% of the group had sentences longer than this value.

Table A.21: Average, Median, Minimum and Maximum Length of Prison Sentences (In Years), by Level of Offense ^{a, b}

	Average	Median ^c	Minimum	Maximum
First Degree Felony (22)	16.5	12.8	3.0	60.0
Second Degree Felony (195)	7.7	6.5	1.0	40.0
Third Degree Felony (298)	4.1	3.0	1.0	33.5
Fourth Degree Felony (532)	2.5	1.5	1.0	15.0
TOTAL (1047)	4.2	2.5	1.0	60.0

^a Prison includes sentences to prison followed by a period of probation.

^b Offenses in this table represent the most serious offense among offenses in the sentence (sentences may include more than one offense). A detailed offense classification is available in Appendix B.

^c The median value splits the group in half. Thus, 50% of the group had sentences shorter than this value and 50% of the group had sentences longer than this value.

APPENDIX B: BREAKDOWN OF OFFENSE CATEGORIES

VIOLENT:

Homicide: Murder, first degree; Murder, second degree

Sexual Offense: Rape; Rape of a child under age 13; Sexual penetration, first degree; Sexual penetration, second degree

Kidnapping: Kidnapping; Custodial interference

Armed Robbery: Robbery, armed

Other Homicide: Homicide by vehicle; Manslaughter, voluntary; Manslaughter, involuntary

Other Sexual Offense: Assault with intent to rape; Attempted sodomy or sodomy; Rape, statutory; Sexual assault; Sexual penetration, third degree; Sexual contact; Sex exploitation of a child; Enticement of a child

Robbery: Robbery

Assault: Aggravated assault; Aggravated battery; Assault; Assault/battery on peace officer; Assault with a deadly weapon; Assault with intent to kill

Other Violent Offense: Attempt to commit violent felony; Child abuse; Child abuse resulting in death; Extortion; False imprisonment; Intimidating a witness; Great bodily harm by vehicle

NON-VIOLENT:

Property

Burglary: Breaking and entering; Burglary; Aggravated burglary

Larceny-Theft: Larceny, grand; Shoplifting; Theft or larceny; Stealing from an auto

Motor Vehicle Theft: Theft of auto

Arson: Attempted arson or arson

Fraud: Embezzlement; Fraud; Fraudulent use of credit cards; Forgery; Issuing worthless checks; Obtaining money or property under false pretenses

(NON-VIOLENT, Property)

Stolen Property: Receiving, concealing, or possessing stolen property

Other Property Offense: Damage to property; Possession of burglary tools; Unauthorized entry

Drug

Drug Trafficking: Sale/manufacture-controlled substance; Trafficking/distribution-controlled substance

Drug Possession: Possession of controlled substance

Public-Order

Weapons Offense: Possession of deadly weapon; Unlawful firearms in liquor store; Felon in possession of firearm

Driving While Intoxicated: DWI or driving on a revoked license; Driving while intoxicated

Other Public-Order Offense: Escape from jail or PNM; Failure to appear; Harboring or aiding a felon; Tampering with evidence; Habitual; Bribery of witness; Violation of probation; Taking contraband into PNM; Perjury; Dangerous use of explosives; Criminal solicitation; Evading an officer; Under influence of alcohol; Possession of explosive/incendiary device; Driving recklessly (auto); Driving/revoked license

Other

Other Offense: Conspiracy; Contributing to delinquency of minors; Antiterrorism act/civil disorder; Antiterrorism act/unlawful acts