

# Using Administrative Records to Report Federal Criminal Case Processing Statistics

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Federal criminal case processing statistics help to inform and shape Federal criminal justice policy. They reflect the performance of Federal criminal justice agencies; inform debates about law enforcement and sentencing policy; and allocate budgets. Congress uses statistics describing the number of Federal prosecutions to evaluate the Attorney General’s law enforcement priorities. Public-interest groups use statistics describing the average sentences imposed on Federal offenders to assess Federal sentencing policy. Federal criminal justice agencies routinely use Federal criminal statistics to develop budget requests, allocate resources across Federal judicial districts, and for planning purposes. The Bureau of Prisons uses data describing the flow of offenders through the Federal criminal justice process to develop forecasts of the future Federal prison population.

Information collected through management information systems serve as the basis for annual reports describing the accomplishments of each agency. In their annual reports, the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Federal Bureau of Prisons each report criminal case processing statistics. However, despite the fact that each agency collects information on the same offenders — albeit at different stages of the Federal criminal justice process — and reports statistics describing similar case processing concepts, statistics reported by each agency are not comparable. (See, Table 1). For example, for fiscal year 1997 the U.S. Attorneys reported that 45,375 defendants were convicted and sentenced; for the same reporting period, the U.S. Courts reported 55,648 and the U.S. Sentencing Commission reported 48,681. For policymakers the lack of convergence among seemingly similar statistics can be problematic.

| <b>Table 1. Comparison of the number of defendants processed as reported by Federal criminal justice agencies, fiscal year 1997</b> |                                     |  |                            |                           |
|---|-------------------------------------|--|----------------------------|---------------------------|
| Defendants –  | Executive Office for U.S. Attorneys | Administrative Office of the U.S. Courts | U.S. Sentencing Commission | Federal Bureau of Prisons |
| Cases filed/commenced   | 58,906                              | 69,437                                   | –                          | –                         |
| Cases terminated  | 51,492                              | 63,148                                   | –                          | –                         |
| Convicted and sentenced   | 45,375                              | 55,648                                   | 48,681                     | –                         |
| Imprisoned  | 34,044                              | 43,791                                   | 38,388                     | 38,293                    |

Data Sources: Executive Office for U.S. Attorney, [Annual Statistical Report, Fiscal Year 1997](#); Administrative Office of the U.S. Courts, [Judicial Business of the U.S. Courts, Fiscal Year 1997](#); U.S. Sentencing Commission, [Sourcebook of Federal Sentencing Statistics, Fiscal Year 1997](#); U.S. Department of Justice, Bureau of Prisons, [Key Indicators](#).

In general, the differences in reported statistics arise from differences in the scope of each agency's annual report and the way in which agencies define key concepts in Federal criminal case processing. For example, because the U.S. Courts reports on all defendants convicted and sentenced in each criminal case while the U.S. Sentencing Commission reports on sentencing events — and only those sentences imposed in accordance with the Federal sentencing guidelines — the Sentencing Commission has consistently reported fewer defendants sentenced than the U.S. Courts. Other factors that contribute to the disparity across agencies include differences in the reporting period, methods for classifying offenses, and methods for reporting dispositions and sentences imposed.

This paper addresses the advantages and disadvantages of using administrative records to report criminal case processing statistics; the difference in statistics reported by the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Federal Bureau of Prisons; and steps taken by the Bureau of Justice Statistics to reconcile differences in the information collected by each agency and report comparable case processing statistics.

### **Federal criminal justice agencies and their data**

Each of the agencies involved in the Federal criminal justice process collects data describing offenders processed, key events, and the disposition of the case against an offender. Collectively, the Federal criminal justice agencies compile information describing the processing of offenders through each stage of the Federal criminal justice system. (*See*, Table 2). While each of the agencies collects similar information describing case processing events, the data are collected and reported in ways that address the specific needs and missions of the individual agencies and, therefore, may not be comparable across agencies.

***Executive Office for U.S. Attorneys.*** The Executive Office for U.S. Attorneys collects data on the workload and activities of the 93 United States attorneys.<sup>1</sup> According to the Executive Office, the U.S. attorneys initiate approximately 95% of the criminal cases prosecuted by the Department of Justice. Litigating divisions such as the Criminal and Antitrust divisions within the Department handle the remaining cases.

Data collected by the U.S. attorneys include key events, statutory offenses charged and adjudicated, disposition and sentence imposed.

***Administrative Office of the U.S. Courts.*** The Administrative Office of the U.S. Courts collects data on the caseload and activities of the U.S. Courts including the 13 appellate courts, the 94 district courts, 94 probation agencies and the 42 separate pretrial services agencies.<sup>2</sup> The U.S. Courts handle all Federal criminal cases whether initiated by the U.S. attorneys, the Department of Justice litigating divisions, or special governmental prosecutors such as Independent Counsels.

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1. One U.S. attorney is appointed with jurisdiction for the Federal judicial districts of Guam and the Northern Marianas Islands.

2. In those judicial districts that do not have a separate pretrial services agency, pretrial services are administered by the probation office in those districts.

Court Docket. The court docket database represents criminal proceedings handled by U.S. district court judges and, in the case of Class A misdemeanors, criminal proceedings handled by U.S. magistrates. Data collected include key events, statutory offenses charged and adjudicated, disposition and sentence imposed.

Pretrial Services Agencies. The pretrial services database represents criminal defendants interviewed, investigated, or supervised by Federal pretrial services or Federal probation, as appropriate. Data collected include information used by the Federal courts for making release and detention determination and data describing pretrial hearings, detentions, and releases from the time they are interviewed through the disposition of their cases in U.S. district court.

Probation and Supervised release. The probation and supervised release database represents Federal offenders under post-sentencing community supervision. Data collected include information describing court-imposed conditions of supervision, special offender needs, and key events.

Appellate. The appellate databases represent criminal appeals filed and terminated in the U.S. courts of appeals. Data collected include information on the nature of the criminal appeal, the underlying offense, and the disposition of the appeal.

***U.S. Sentencing Commission.*** The U.S. Sentencing Commission collects data on defendants convicted in the Federal courts who were sentenced pursuant to the provisions of the Sentencing Reform Act of 1984. Unlike the other agencies, the Sentencing Commission is not an operational agency; the Sentencing Commission collects data to support its sentencing guideline development process.

Data collected by the Commission include the offense for which the defendant was convicted, the sentence imposed and the provisions of the sentencing guidelines used by the court to impose the sentence.

***Federal Bureau of Prisons.*** The Federal Bureau of Prisons collects data on Federal prisoners under its jurisdiction including defendants detained in detention centers, illegal immigrants awaiting deportation, and boarders from the District of Columbia.

Data collected by the Bureau of Prisons include the offense for which the defendant was convicted, the sentence imposed, and presumptive release dates.

| <b>Table 2. Scope of coverage of agency statistical reports</b>  |   |  |                                  |                              |
|--|---|--|----------------------------------|------------------------------|
| Universe   | Executive Office<br>for U.S.<br>Attorneys | Administrative<br>Office of the<br>U.S. Courts | U.S.<br>Sentencing<br>Commission | Federal Bureau<br>of Prisons |
| <b>Suspects –</b>  |   |  |                                  |                              |
| Investigated   | ✓   |  |                                  |                              |
| Declined for prosecution   | ✓   |  |                                  |                              |
| In matters disposed of by<br>U.S. magistrates and –  |   |  |                                  |                              |
| convicted and sentenced  | ✓   | ✓  | ✓                                | Imprisoned only              |
| not convicted  | ✓   | ✓  |                                  |                              |
| <b>Defendants –</b>  |   |  |                                  |                              |
| In cases filed with U.S.<br>district court judges  | ✓   | ✓  |                                  |                              |
| In cases terminated by U.S.<br>district court judges and –   |   |  |                                  |                              |
| convicted and sentenced  | ✓   | ✓  | ✓                                | Imprisoned only              |
| not convicted  | ✓   | ✓  |                                  |                              |
| <b>Offense severity</b>  |   |  |                                  |                              |
| Felony   | ✓   | ✓  | ✓                                | ✓                            |
| Misdemeanor  |   |  |                                  |                              |
| Class A  | by U.S. district<br>court judges only     | ✓  | ✓                                | ✓                            |
| Class B & C  |   | by U.S. district<br>court judges only          |                                  | ✓                            |
| Notes: The Administrative Office of the U.S. courts reports on Class B and C misdemeanors handled by U.S. magistrate judges in a separate series of tables that are included in their annual report. The U.S. Sentencing Commission reports on only those defendants who were sentenced pursuant to the Federal sentencing guidelines. |   |  |                                  |                              |

## Using Administrative records to Report Case Processing Statistics

Each of the Federal criminal justice agencies reports on an annual or quarterly basis work- or caseload statistics that reflect the volume of cases and defendants in cases handled during a given reporting period. The statistics prepared and reported respond to each agency's mission. For example, the U.S. attorneys are primarily concerned with describing the number of defendants prosecuted and under what law enforcement program or initiative each defendant was prosecuted. The U.S. Sentencing Commission, on the other hand, is concerned with describing sentences imposed pursuant to the Federal sentencing guidelines by the Federal judiciary. Consequently, statistics reported by the U.S. Attorneys and the Sentencing Commission may not be comparable – both in terms of the type and quality of data collected and the unit of analysis.

The Bureau of Justice Statistics, through its Federal Justice Statistics Program (FJSP), compiles data from each of the Federal criminal justice agencies. The goals of the FJSP are to provide uniform case processing statistics across different stages of the Federal criminal justice system and to track individual defendants from one stage of the process to another. By applying uniform

definitions to commonly used case processing concepts, the FJSP permits valid comparisons across stages of the Federal criminal justice system. Further, because the definitions of concepts used in the FJSP are consistent with other BJS statistics programs, the comparison of Federal and State case processing statistics is facilitated.

## **Problems Associated with Using Federal Criminal Justice Administrative Records**

Using administrative records to report Federal criminal case processing statistics is fraught with problems. Among the problems associated with using these data are: (1) confidentiality of information identifiable to private persons; and (2) compatibility and comparability of data sources.

### ***Confidentiality of information***

Information describing the processing of defendants charged with Federal crimes is part of the public record. For the most part, judicial proceedings are conducted in open court with full access by the general public. However, despite the openness of the Federal criminal justice system, Judiciary agencies – the Administrative Office of the U.S. Courts and the U.S. Sentencing Commission – and the Bureau of Justice Statistics regulate the disclosure of information identifiable to private persons.

**Judiciary agencies.** Information collected as part of pretrial or presentence investigations by Federal pretrial and probation officers is exempted from the Freedom of Information Act and its use for purposes other than bail determination, sentencing, and post-sentencing supervision is strictly limited.<sup>3</sup> In addition, Judiciary policy prohibits the dissemination of information or statistics describing the activities of individual Federal judges or other judiciary staff such as pretrial and probation officers.

**Bureau of Justice Statistics.** Use of information collected by, or provided to, the Bureau of Justice Statistics that is identifiable to a private is regulated.<sup>4</sup> Information identifiable to a private person can only be used for research or statistical purposes.

As a result of the restrictions imposed by Federal regulation and the Judiciary, data compiled by BJS as part of the Federal Justice Statistics Program are sanitized in so far as information reasonably identifiable to private persons (such as name, other personal identifiers, and government identifications numbers) is removed from the data record.

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3. 18 U.S.C. § 3153.

4. 42 U.S.C. § 3789g as implemented by 28 C.F.R. Part 22.

### *Compatibility and comparability of data sources*

Each Federal criminal justice agency collects data describing the processing of offenders in the Federal criminal justice system. In theory, the data collected and the statistics reported should be comparable across agencies. However, because data collection techniques and reporting methods are organized according to each agency's administrative needs and/or legislative mandate, the type of data collected and the manner in which it is collected reflects an agency's specific needs and missions rather than a generic assessment of the Federal criminal justice system. Consequently, the statistics annually reported by each agency narrowly describe each agency's processing of criminal defendants and may not accurately reflect or describe the Federal criminal justice system as a whole or be directly comparable to the statistics reported by other agencies.

As part of an interagency working group that included the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Bureau of Prisons, the Bureau of Justice Statistics identified four factors affecting data collection and reporting that primarily contribute to the observed disparity in Federal criminal case processing statistics reported by the agencies:

- the differing ways the agencies define defendants in key case processing events;
- the methods used to classify offenses and case types;
- the methods used to classify disposition and sentence imposed;
- the time periods covering reported events.

Identifying defendants. Even though there is an identifiable cohort of individuals (and organizations) processed in the Federal criminal justice system, the definition of *defendant* can vary across agencies. While the U.S. Attorneys and the U.S. Courts use a similar definition, the time at which a suspect is considered a defendant varies. For instance, for the U.S. Attorneys, a defendant is a person for whom a significant paper — such as an indictment — has been filed in Federal court; for the U.S. Courts, a defendant is a person against whom a U.S. district court judge or magistrate has taken an action. The lag in time from the filing of the indictment by the U.S. Attorney with the courts, for instance, and an action by a judicial officer can be significant — particularly in instances where the two events occur in different reporting periods.

Additionally, for both the U.S. Attorneys and the U.S. Courts, a defendant may be counted more than once if the defendant was named in more than one criminal case. By contrast, for the U.S. Sentencing Commission, a defendant is a person for whom a sentencing event has occurred. Consequently, in instances where multiple cases involving a single defendant are consolidated for sentencing purposes, the U.S. Sentencing Commission would count those defendants once whereas the U.S. Attorneys and the U.S. Courts would count those defendant multiple times — once for each case. Similarly, because the Bureau of Prisons counts the movements of Federal prisoners, defendants entering Federal prison are counted as one admission regardless of the number of cases in which they may have been convicted.

Classifying offenses. Classifying offenses is a particularly complex issue. The Federal criminal code defines hundreds of laws for which defendants can be criminally prosecuted. While each agency (with the exception of the Bureau of Prisons) collects data describing the statutory provision(s) that the defendant is accused of violating and/or adjudicated of, for reporting purposes, each agency has their own method of consolidating these provisions. For the most part, statutory offenses are consolidated using generic criteria such as the substance of the offense, *e.g.*, murder, fraud, and drugs. However, the exact composition of each agency's offense categories and the method in which they are assigned varies.

The offense categories reported by the U.S. Courts, the U.S. Sentencing Commission, and the Bureau of Prisons are very similar. Each relies exclusively on the statutory provisions charged and/or adjudicated, as appropriate. If a defendant is charged with or adjudicated of more than one offense, both use the same method for identifying the most significant or serious offense — the severity of the statutory penalties (term of imprisonment) and, in the case or ties, the perceived seriousness of the offense.<sup>5</sup>

The offense or program categories used by the U.S. Attorneys are substantively different from those used by the other agencies. The U.S. Attorneys' program categories are not based entirely on statutory provisions and the seriousness of those provisions. Instead, the U.S. Attorneys assign program categories based on the overall offense conduct and specific departmental initiatives relevant to the case. In addition, program category assignments are made at the case rather than the defendant level. Consequently, a defendant in a drug conspiracy who is charged with only money laundering would be classified as a drug defendant despite being charged with a substantively different offense.

Classifying disposition and sentence imposed. Generally, each agency uses similar methods to identify the outcome of a judicial proceeding and the method of adjudication. For each agency, the categorization of the disposition and the method of adjudication follows the same hierarchy: conviction takes precedence over acquittal and dismissal; jury trial takes precedence over bench trial; a guilty plea takes precedence over *nolo contendere*.

However, in classifying the most serious offense at termination, the U.S. Courts — in addition to considering the hierarchy of the statutory penalties — considers the method of disposition. Offenses resulting in a conviction take precedence over those resulting in an acquittal or dismissal. By contrast, the U.S. Attorneys report the original program category regardless of whether the defendant was convicted of the charge associated with that program category.

Each agency uses similar methods to identify the type of sentence imposed — imprisonment, probation, fine, and/or restitution — and the amounts of each sanction imposed. However, the

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5. If two or more offenses have the same statutory penalties, the most serious offense is chosen by rank-ordering the offenses according to the particular harm involved — violent, drugs, firearms, property, moral, and other. For instance, since bank robbery is considered a violent offense, a bank robbery with a statutory maximum penalty of 10 years imprisonment would take precedence over a drug offense with the same statutory maximum penalty.

agencies vary in the amount of information collected describing the sentence imposed. For instance—

- the U.S. Courts collects sentencing information for each of up to five counts of conviction;
- the U.S. Sentencing Commission aggregates sentences of incarceration into the amount of time to be served in Federal prisons, community confinement, intermittent confinement, and home detention;
- the Bureau of Prisons distinguishes the sentence imposed from the time the defendant is obligated to serve.<sup>6</sup>

Reporting period. The official reporting period for each agency is the Federal fiscal year — October 1 through September 30. With the exception of the U.S. Attorneys, each agency report on events that occurred during the fiscal year. The U.S. Attorneys, by contrast, report on events that were recorded, or posted, to their data system during the fiscal year. Consequently, unlike the other agencies, the U.S. Attorneys may include in their official statistics, events that occurred prior to the start of the fiscal year.

Late postings by the U.S. Attorneys can arise for several reasons; for instance, the clerks of the court may not return court necessary documents to the U.S. Attorneys in a timely manner and assistant U.S. Attorneys may not complete necessary paperwork. As part of a detailed audit of cases processed in four Federal judicial districts — Central California, Southern California, Southern Florida, and Eastern Virginia — the Bureau of Justice Statistics found that nearly a quarter (23.2%) of the records reported by the U.S. Attorneys as disposed of during fiscal year 1994 were actually disposed of during fiscal year 1993.

Posting lags are not unique to the U.S. Attorneys. The U.S. Sentencing Commission excludes records of sentencing events that occurred during the reporting period from their official statistics if the sentencing documents were not received by a certain cut-off date — about three months following the end of the reporting period. The Bureau of Justice Statistics estimated that a relatively small proportion (1 to 2%) of sentencing events are reported late to the Commission and therefore excluded from official statistics.

In addition, because the Commission relies on district courts to submit documentation in hard copy, the Commission may experience a certain degree of non-reporting by the district courts. Beginning in fiscal year 1997, the Commission — with the assistance of the Bureau of Justice Statistics — undertook an effort to identify cases for which the district courts failed to submit documentation. The Commission identified more than 4,000 cases for which the district courts did not provide court documents during the course of the fiscal year.

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6. Some defendants may receive credit toward their sentence for the time that they were incarcerated pending adjudication of the charges, their subsequent cooperation with prosecutors, and good conduct while incarcerated.



### *Reconciling differences in criminal case processing data*

Since 1982, the Bureau of Justice Statistics (BJS) has recognized the importance of reconciling the differences between agency statistics.<sup>7</sup> By re-analyzing agency data and applying a set of standard definitions to criminal justice system events, units of count (defendants and cases), offense classifications, and reporting periods, BJS is able to present data that more completely and consistently describes case processing in the entire Federal criminal justice system. As part of its Federal Justice Statistics Program, the Bureau of Justice Statistics re-analyzes the agencies' data using the following method:

- a common unit of count or unit of analysis is used across all statistics. In tables describing the processing of defendants in cases, the unit of analysis adopted was the defendant-case, while in tables describing offenders under correctional supervision, the unit of analysis adopted was the individual offender.
- person-cases are counted once, so that suspects or defendants in matters or cases opened, disposed, or terminated, by transfer are excluded.
- events *occurring* during a reporting period are tabulated. Multiple years of data are used in order to obtain information about case processing events posted late; statistics are reported for the Federal fiscal year.
- uniform offense classification methods are used: Using the Federal statutes charged and adjudicated, where available, defendants are classified into common offense categories.
- the most serious offense charged -- based on statutory maximum penalties -- is used to describe defendants in cases commenced and adjudicated.
- sentences imposed upon defendants are distributed among a most serious offense of conviction -- based on the most serious disposition.
- offenders under Federal supervision or under the jurisdiction of the Bureau of Prisons are classified according the offense with the single longest sentence.

Using this method, the Bureau of Justice Statistics was able to substantially reduce the disparity in the reported case processing statistics. For example, for fiscal year 1997, the U.S. Courts reported 63,148 defendants in cases terminated; the U.S. Attorneys reported 51,492 defendants – representing a difference of 11,656 defendants in cases terminated. (See, Table 1). After reconciling the agencies' fiscal year 1997 case processing data, the number of defendants in cases terminated was 64,956 using the U.S. Courts' data and 63,765 using the U.S. Attorneys (53,758 in cases terminated before a U.S. district court judge and 10,007 concluded by U.S. magistrates) – representing a difference of 1,191 defendants in cases terminated and a 90% reduction in the disparity. (See, Table 3).

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7. See, Bureau of Justice Statistics, Federal Justice Statistics (1982).

| <b>Table 3. Reconciled number of defendants in matters or cases terminated in Federal courts, 1997</b> |                          |        |                               |                     |
|--|--------------------------|--------|-------------------------------|---------------------|
| Most serious offense charged   | Using data provided by – |        |                               |                     |
|  | Federal judiciary        | Total  | U.S. attorneys                |                     |
|  |                          |        | by U.S. district court judges | by U.S. magistrates |
| <b>Total</b>   | 64,956                   | 63,765 | 53,758                        | 10,007              |
| <b>Violent offenses</b>  | 3,482                    | 3,881  | 3,529                         | 352                 |
| <b>Property offenses</b>   | 17,521                   | 15,737 | 13,818                        | 1,919               |
| Fraudulent   | 12,808                   | 13,634 | 11,999                        | 1,635               |
| Other  | 4,713                    | 2,103  | 1,819                         | 284                 |
| <b>Drug offenses</b>   | 23,528                   | 22,773 | 20,870                        | 1,903               |
| <b>Public-order</b>  | 20,361                   | 20,379 | 14,830                        | 5,549               |
| Regulatory   | 1,696                    | 1,494  | 1,228                         | 266                 |
| Other  | 18,665                   | 18,885 | 13,602                        | 5,283               |
| Missing or indeterminable  | 64                       | 995    | 711                           | 284                 |

Data Sources: Administrative Office of the U.S. Courts, Criminal Master File; Executive Office for U.S. Attorneys, Central System File.

## Related Publications

Scalia, John and William J. Sabol, *Reconciling Federal Criminal Case Processing Statistics: A Federal Justice Statistics Methodology Report*, Bureau of Justice Statistics, Washington, DC (1999) NCJ-171680.

— *Federal Criminal Case Processing Statistics, 1998*, Bureau of Justice Statistics, Washington, DC (1999) NCJ-169277.

— *Compendium of Federal Justice Statistics, 1997*, Bureau of Justice Statistics, Washington, DC (1999) NCJ-176328.

— *Comparing Case Processing Statistics*, Bureau of Justice Statistics, Washington, DC (1998) NCJ-168274.