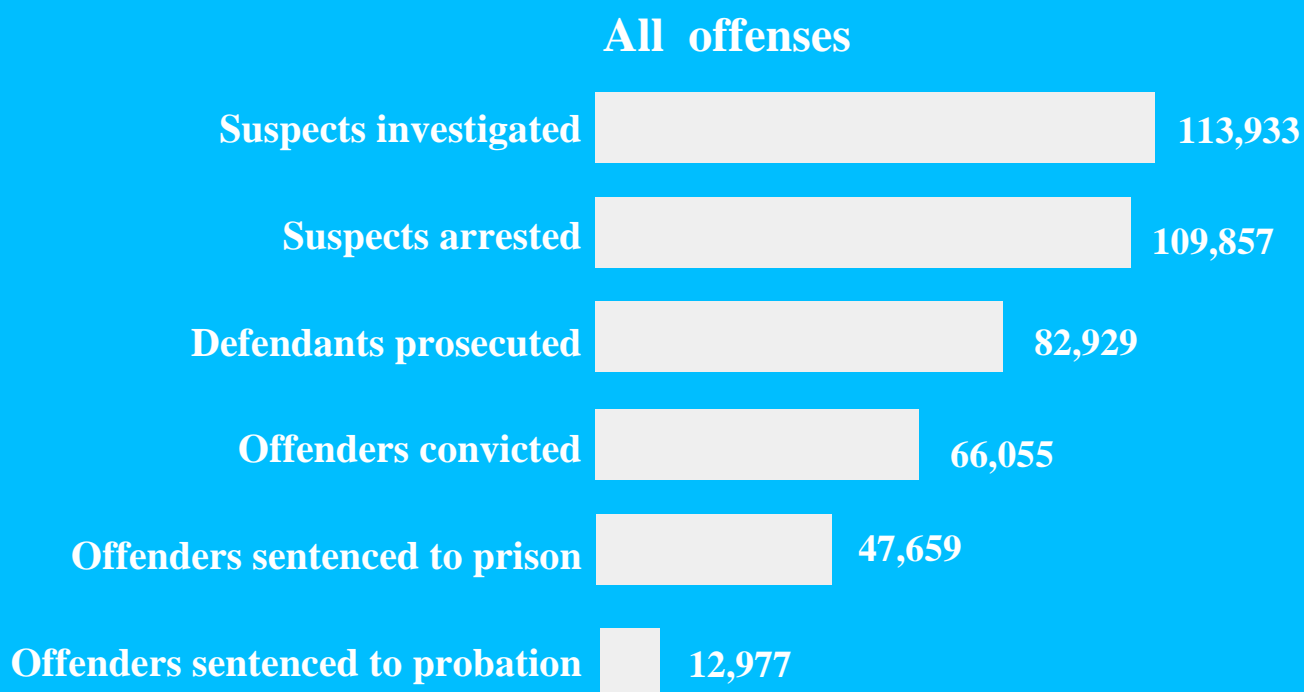




Bureau of Justice Statistics

Compendium of Federal Justice Statistics, 1999

Federal criminal case processing, October 1, 1998, through September 30, 1999



A Federal Justice Statistics Program Report

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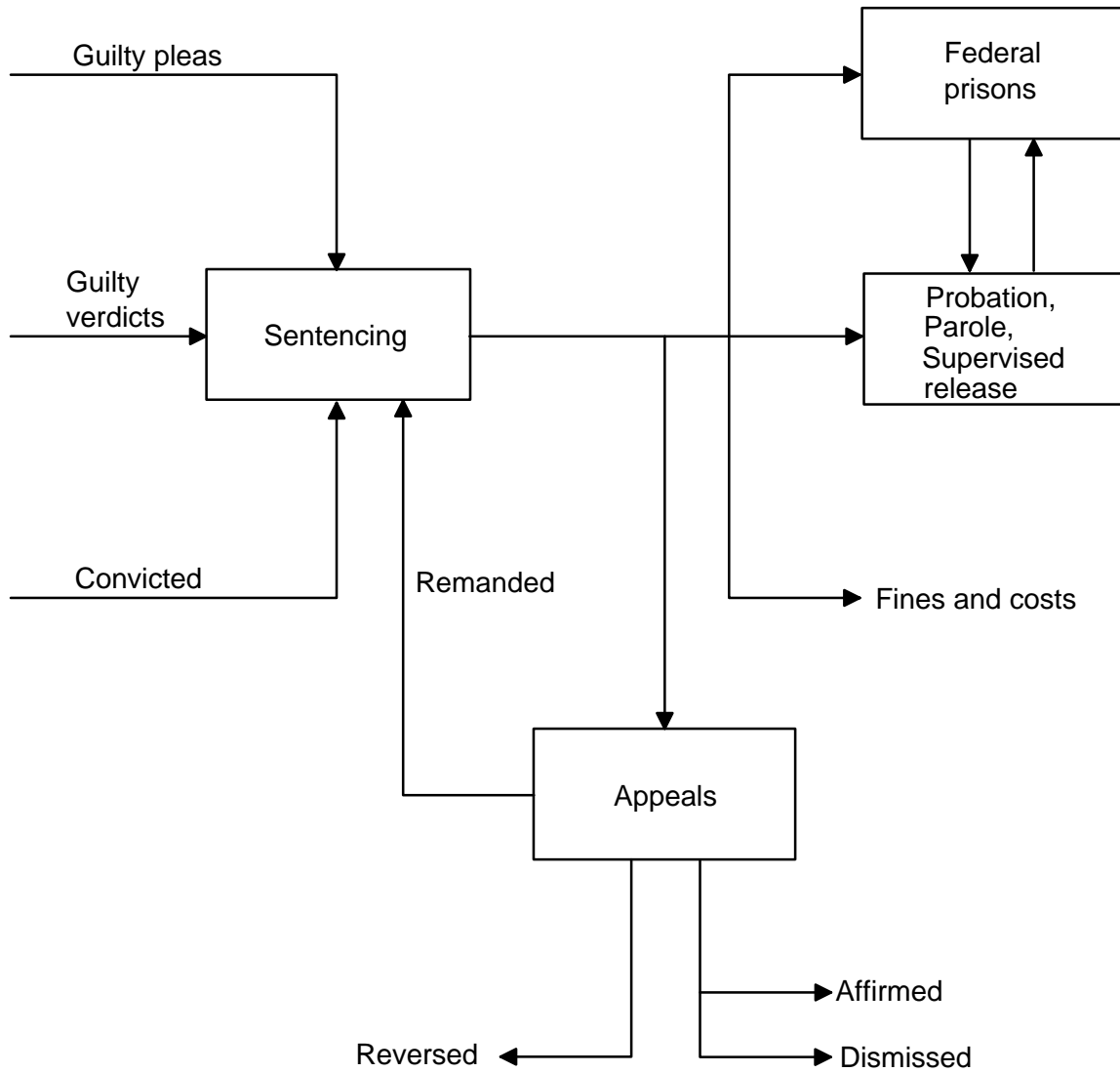
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Chapter 6

Appeals



Prior to implementation of the Sentencing Reform Act of 1984, only criminal convictions could be appealed. However, the Sentencing Reform Act provided for the appellate review of sentences imposed given that the sentence was (1) imposed in violation of the law; (2) imposed as the result of an incorrect sentencing guideline application; (3) outside the recommended guideline sentencing range; or (4) imposed for an offense for which no sentencing guideline exists and is plainly unreasonable. Both the defendant and the Government have the right to appeal an imposed sentence.*

Appeals filed (tables 6.1 and 6.2)

During 1999 the U.S. Court of Appeals received 10,251 criminal appeals. Of all appeals, 4% were filed by the Government (not shown in a table).

Forty-seven percent of appeals filed in 1999 challenged both the conviction and the sentence imposed. About twice as many appeals challenged only the sentence imposed as those that challenged only the conviction (23% versus 13%). Fifteen percent of appeals filed were appeals of convictions for crimes committed before 1987, when the sentencing guidelines took effect (figure 6.1).

The distribution of appeals by type of appeal filed (sentence, conviction, or both) was relatively constant across the major offense categories underlying the appeal. However, 54% of appeals filed for immigration offenses appealed both the sentence and the conviction, compared to 47% for all criminal categories.

Nearly half of all appeals filed (for which the offense is known) were for drug convictions (46%). Appeals for public-order convictions comprised 30% of all appeals filed, property offenses comprised 18%, and the remaining 6% of appeals filed were for violent offenses (figure 6.2).

Nearly half the criminal appeals challenged both the conviction and the sentence imposed

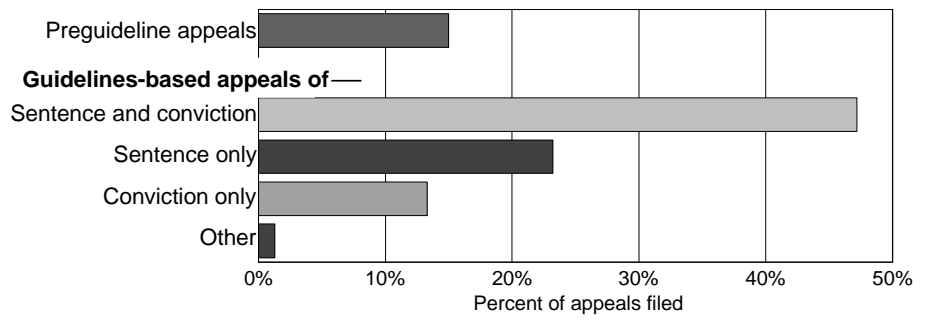


Figure 6.1. Types of criminal appeal cases during October 1, 1998 - September 30, 1999

Appeals terminated (tables 6.2-6.5)

A total of 10,675 appeals terminated during 1999. Of these, 49% were appeals of both the sentence and conviction, 24% were appeals of the sentence only, and 12% were appeals of the conviction only. Fifteen percent were appeals of convictions for offenses sentenced under laws in effect prior to the sentencing guidelines.

In nearly half of all appeals terminated in 1999 (for which the offense is known), drug offense convictions underlie the appeal (48%); the underlying offense in 27% of the appeals was a public-order offense; 19% were property offense appeals; and 6% were appeals for violent offense convictions. For 38% of public-order appeals, the underlying offense of conviction was for weapons. Robbery offenses composed 47% and murder composed 24% of the underlying offenses for appeals of a violent

conviction. Sixty-three percent of property offense appeals were for fraud convictions.

Of the 10,675 appeals terminated during 1999, 77% were terminated on the merits, while the remainder were terminated on procedural grounds (figure 6.3). For appeals based on a conviction of a drug offense or a public-order offense, 78% were terminated on the merits. Also terminated on the merits were 82% of appeals based on a violent conviction and 76% of appeals based on a property conviction. Within these major offense categories, 92% of appeals based on murder convictions were terminated on the merits, as were 81% of weapons offenses, and 78% of robbery offenses.

In 79% of appeals terminated on the merits, the district court ruling was affirmed. In another 5% it was partially affirmed. Eighty-two percent of all

Nearly half of all appeals filed were for drug convictions

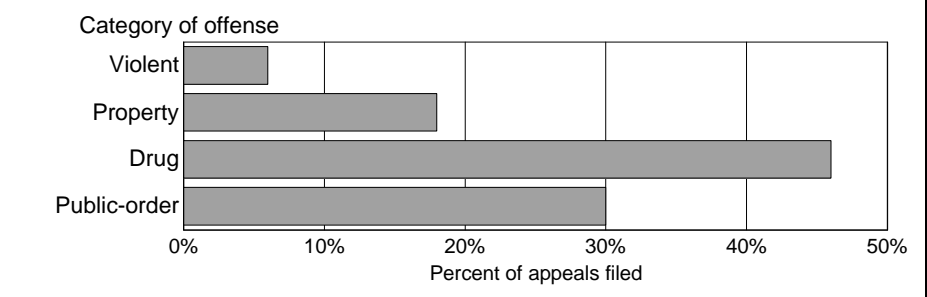


Figure 6.2. Appeals cases filed, by type of offense during October 1, 1998 - September 30, 1999

*18 U.S.C. § 3742

drug offense appeals were affirmed, as were 83% of violent offense appeals and 74% of property appeals. Seventy-six percent of public-order offense appeals were affirmed.

District court decisions were reversed or remanded back to the court in 9% of the cases. Property offenses had the highest rate of reversal or being remanded back to the court (12%). Nine percent of violent and public order offense appeals were reversed or remanded, as were 7% of drug offense appeals.

Overall, appeals were dismissed in 7% of cases. The highest dismissal rate was for public-order appeals (9%).

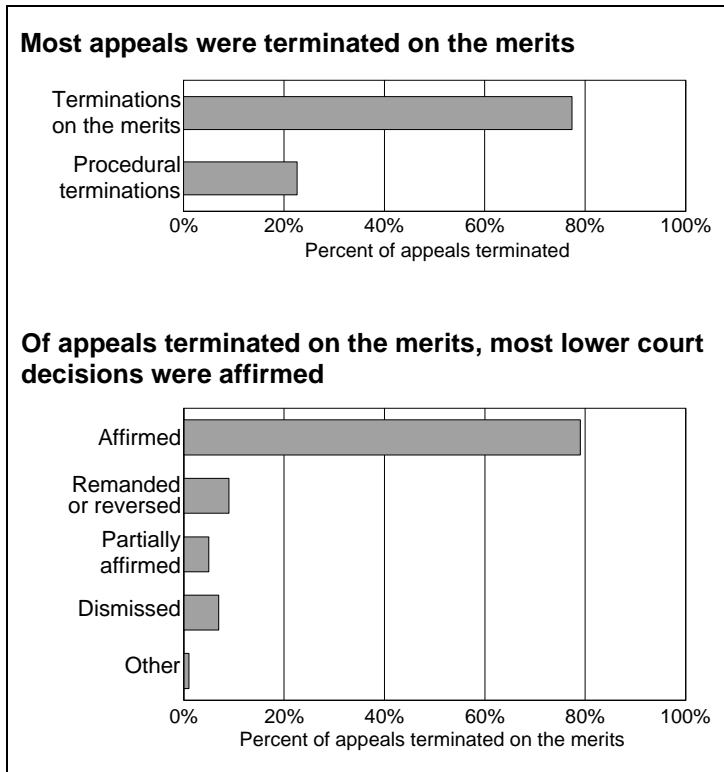


Figure 6.3. Disposition of criminal appeals terminating during October 1, 1998 - September 30, 1999

Table 6.1. Criminal appeals filed, by type of criminal case and offense, October 1, 1998 - September 30, 1999

Offense of conviction	Number of criminal appeals filed						
			Guidelines-based appeals				
	Total	Preguideline	Total	Sentence only	Conviction only	Sentence and conviction	Other
All offenses	10,251	1,535	8,716	2,379	1,368	4,839	130
Violent offenses	559	87	472	114	80	270	8
Murder*	118	30	88	14	19	54	1
Assault	71	11	60	9	12	38	1
Robbery	263	29	234	71	34	126	3
Sexual abuse*	46	9	37	5	7	24	1
Kidnaping	60	8	52	15	7	28	2
Threats against the President	1	0	1	0	1	0	0
Property offenses	1,739	264	1,475	389	216	840	30
Fraudulent	1,338	195	1,143	312	164	642	25
Embezzlement	84	17	67	14	13	38	2
Fraud*	1,101	156	945	266	132	527	20
Forgery	17	1	16	3	3	10	0
Counterfeiting	136	21	115	29	16	67	3
Other	401	69	332	77	52	198	5
Burglary	5	0	5	2	1	2	0
Larceny*	147	26	121	37	16	67	1
Motor vehicle theft	93	6	87	15	11	58	3
Arson and explosives	75	28	47	8	8	31	0
Transportation of stolen property	74	8	66	13	14	38	1
Other property offenses*	7	1	6	2	2	2	0
Drug offenses	4,513	621	3,892	1,044	631	2,160	57
Public-order offenses	2,958	348	2,610	716	402	1,460	32
Regulatory	162	31	131	38	18	74	1
Agriculture	17	4	13	7	1	5	0
Antitrust	6	1	5	0	0	5	0
Transportation	17	0	17	5	1	10	1
Civil rights	30	5	25	4	6	15	0
Communications	3	1	2	1	0	1	0
Custom laws	10	3	7	2	1	4	0
Postal laws	6	3	3	0	2	1	0
Other regulatory offenses	73	14	59	19	7	33	0
Other	2,796	317	2,479	678	384	1,386	31
Weapons	1,070	136	934	225	157	537	15
Immigration offenses	934	30	904	291	108	504	1
Tax law violations*	91	16	75	15	14	46	0
Bribery	23	4	19	7	0	10	2
Perjury, contempt, and intimidation	101	25	76	13	16	44	3
National defense	13	0	13	1	3	9	0
Escape	79	9	70	23	13	34	0
Racketeering and extortion	315	75	240	59	46	126	9
Gambling	7	3	4	0	0	4	0
Nonviolent sex offenses	111	11	100	34	16	50	0
Obscene material*	2	1	1	0	0	1	0
Traffic	17	5	12	5	2	4	1
Migratory birds	3	0	3	0	1	2	0
All other offenses*	30	2	28	5	8	15	0
Unknown or indeterminable offense	482	215	267	116	39	109	3

Note: For further information, see *Chapter notes*, p. 84.

*In this table, "Murder" includes nonnegligent manslaughter; "Sexual abuse" includes only violent sex offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses" excludes

fraudulent property offenses, and includes destruction of property and trespassing; "Tax law violations" includes tax fraud; "Obscene material" denotes the mail or transport thereof; and "All other offenses" includes offenses with unclassifiable offense type.

Table 6.2. Criminal appeals filed and criminal appeals terminated, by offense, October 1, 1998 - September 30, 1999

Offense of conviction	Criminal appeals filed during 1999		Criminal appeals terminated during 1999	
	Number	Percent	Number	Percent
All offenses	10,251	100%	10,675	100%
Violent offenses	559	5.7%	645	6.3%
Murder ^b	118	1.2	157	1.5
Assault	71	0.7	79	0.8
Robbery	263	2.7	304	3.0
Sexual abuse ^b	46	0.5	49	0.5
Kidnaping	60	0.6	53	0.5
Threats against the President	1	—	3	—
Property offenses	1,739	17.8%	1,923	18.8%
Fraudulent	1,338	13.7%	1,462	14.3%
Embezzlement	84	0.9	98	1.0
Fraud ^b	1,101	11.3	1,211	11.8
Forgery	17	0.2	20	0.2
Counterfeiting	136	1.4	133	1.3
Other	401	4.1%	461	4.5%
Burglary	5	0.1	6	0.1
Larceny ^b	147	1.5	164	1.6
Motor vehicle theft	93	1.0	86	0.8
Arson and explosives	75	0.8	107	1.0
Transportation of stolen property	74	0.8	82	0.8
Other property offenses ^b	7	0.1	16	0.2
Drug offenses	4,513	46.2%	4,888	47.8%
Public-order offenses	2,958	30.3%	2,778	27.1%
Regulatory	162	1.7%	180	1.8%
Agriculture	17	0.2	10	0.1
Antitrust	6	0.1	3	—
Food and drug	0	...	2	—
Transportation	17	0.2	18	0.2
Civil rights	30	0.3	41	0.4
Communications	3	—	2	—
Custom laws	10	0.1	13	0.1
Postal laws	6	0.1	2	—
Other regulatory offenses	73	0.7	89	0.9
Other	2,796	28.6%	2,598	25.4%
Weapons	1,070	11.0	1,057	10.3
Immigration offenses	934	9.6	696	6.8
Tax law violations ^b	91	0.9	92	0.9
Bribery	23	0.2	38	0.4
Perjury, contempt, and intimidation	101	1.0	100	1.0
National defense	13	0.1	25	0.2
Escape	79	0.8	83	0.8
Racketeering and extortion	315	3.2	324	3.2
Gambling	7	0.1	15	0.1
Nonviolent sex offenses	111	1.1	125	1.2
Obscene material ^b	2	—	0	...
Traffic	17	0.2	19	0.2
Migratory birds	3	—	2	—
All other offenses ^b	30	0.3	22	0.2
Unknown or indeterminable offense	482		441	

Note: For further information, see *Chapter notes*, p. 84.
 —Less than .05%.

...No case of this type occurred in the data.

^aPercentage distribution based on appeals for which an offense category could be determined.

^bIn this table, "Murder" includes nonnegligent manslaughter; "Sexual abuse" includes only violent sex offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of

stolen property; "Other property offenses" excludes fraudulent property offenses, and includes destruction of property and trespassing; "Tax law violations" includes tax fraud; "Obscene material" denotes the mail or transport thereof; and "All other offenses" includes offenses with unclassifiable offense type.

Table 6.3. Criminal appeals terminated, by type of criminal case and offense, October 1, 1998 - September 30, 1999

Offense of conviction	Number of criminal appeals terminated						
	Total	Preguideline	Guidelines-based appeals				Other
			Total	Sentence only	Conviction only	Sentence and conviction	
All offenses	10,675	1,564	9,111	2,547	1,327	5,188	49
Violent offenses	645	105	540	138	88	312	2
Murder*	157	33	124	21	23	80	0
Assault	79	14	65	11	12	42	0
Robbery	304	36	268	88	36	142	2
Sexual abuse*	49	11	38	10	4	24	0
Kidnaping	53	11	42	8	13	21	0
Threats against the President	3	0	3	0	0	3	0
Property offenses	1,923	336	1,587	441	228	903	15
Fraudulent	1,462	265	1,197	351	173	663	10
Embezzlement	98	19	79	25	11	41	2
Fraud*	1,211	218	993	290	148	549	6
Forgery	20	4	16	5	3	7	1
Counterfeiting	133	24	109	31	11	66	1
Other	461	71	390	90	55	240	5
Burglary	6	2	4	0	1	3	0
Larceny*	164	20	144	42	20	80	2
Motor vehicle theft	86	5	81	14	11	54	2
Arson and explosives	107	34	73	13	11	49	0
Transportation of stolen property	82	9	73	17	11	44	1
Other property offenses*	16	1	15	4	1	10	0
Drug offenses	4,888	639	4,249	1,226	590	2,417	16
Public-order offenses	2,778	292	2,486	655	368	1,447	16
Regulatory	180	24	156	40	31	85	0
Agriculture	10	1	9	6	0	3	0
Antitrust	3	1	2	0	2	0	0
Food and drug	2	0	2	0	0	2	0
Transportation	18	2	16	5	4	7	0
Civil rights	41	3	38	2	8	28	0
Communications	2	1	1	0	0	1	0
Custom laws	13	2	11	5	2	4	0
Postal laws	2	0	2	0	0	2	0
Other regulatory offenses	89	14	75	22	15	38	0
Other	2,598	268	2,330	615	337	1,362	16
Weapons	1,057	119	938	215	168	547	8
Immigration offenses	696	22	674	209	76	388	1
Tax law violations*	92	12	80	18	10	51	1
Bribery	38	4	34	4	6	23	1
Perjury, contempt, and intimidation	100	16	84	11	7	65	1
National defense	25	2	23	7	3	13	0
Escape	83	5	78	23	4	51	0
Racketeering and extortion	324	67	257	75	46	133	3
Gambling	15	2	13	1	1	11	0
Nonviolent sex offenses	125	8	117	45	8	64	0
Traffic	19	5	14	2	5	6	1
Migratory birds	2	0	2	0	0	2	0
All other offenses*	22	6	16	5	3	8	0
Unknown or indeterminable offense	441	192	249	87	53	109	0

Note: For further information, see *Chapter notes*, p. 84.

*In this table, "Murder" includes nonnegligent manslaughter; "Sexual abuse" includes only violent sex offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses" excludes

fraudulent property offenses, and includes destruction of property and trespassing; "Tax law violations" includes tax fraud; and "All other offenses" includes offenses with unclassifiable offense type.

Table 6.4. Disposition of criminal appeals terminated on the merits, by offense, October 1, 1998 - September 30, 1999

Offense of conviction	Total criminal appeals terminated	Criminal appeals terminated on the merits							Procedural terminations
		Total	Percent	Affirmed	Remanded or reversed	Partially affirmed	Dismissed	Other	
All offenses	10,675	8,260	77.4%	6,493	719	423	543	82	2,415
Violent offenses	645	530	82.2%	442	49	18	20	1	115
Murder*	157	144	91.7	116	15	9	3	1	13
Assault	79	65	82.3	57	4	1	3	0	14
Robbery	304	238	78.3	197	22	7	12	0	66
Sexual abuse*	49	40	81.6	34	4	0	2	0	9
Kidnaping	53	40	75.5	35	4	1	0	0	13
Threats against the President	3	3	—	3	0	0	0	0	0
Property offenses	1,923	1,455	75.7%	1,080	167	104	87	17	468
Fraudulent	1,462	1,075	73.5%	801	122	83	58	11	387
Embezzlement	98	70	71.4	48	9	6	5	2	28
Fraud*	1,211	897	74.1	664	103	74	47	9	314
Forgery	20	11	55.0	7	2	2	0	0	9
Counterfeiting	133	97	72.9	82	8	1	6	0	36
Other	461	380	82.4%	279	45	21	29	6	81
Burglary	6	6	—	6	0	0	0	0	0
Larceny*	164	125	76.2	92	20	5	6	2	39
Motor vehicle theft	86	75	87.2	59	3	4	9	0	11
Arson and explosives	107	86	80.4	64	6	3	12	1	21
Transportation of stolen property	82	75	91.5	51	11	8	2	3	7
Other property offenses*	16	13	81.3	7	5	1	0	0	3
Drug offenses	4,888	3,809	77.9%	3,104	279	180	223	23	1,079
Public-order offenses	2,778	2,182	78.5%	1,649	199	112	190	32	596
Regulatory	180	143	79.4%	114	11	13	5	0	37
Agriculture	10	3	—	2	1	0	0	0	7
Antitrust	3	3	—	1	2	0	0	0	0
Food and drug	2	2	—	2	0	0	0	0	0
Transportation	18	15	83.3	12	1	2	0	0	3
Civil rights	41	38	92.7	30	1	6	1	0	3
Communications	2	1	—	1	0	0	0	0	1
Custom laws	13	9	69.2	8	1	0	0	0	4
Postal laws	2	2	—	2	0	0	0	0	0
Other regulatory offenses	89	70	78.7	56	5	5	4	0	19
Other	2,598	2,039	78.5%	1,535	188	99	185	32	559
Weapons	1,057	854	80.8	687	72	44	33	18	203
Immigration offenses	696	530	76.1	336	44	18	123	9	166
Tax law violations*	92	67	72.8	51	2	9	3	2	25
Bribery	38	29	76.3	25	2	2	0	0	9
Perjury, contempt, and intimidation	100	81	81.0	65	11	2	1	2	19
National defense	25	24	96.0	19	2	3	0	0	1
Escape	83	62	74.7	47	8	0	7	0	21
Racketeering and extortion	324	243	75.0	190	29	11	12	1	81
Gambling	15	14	93.3	13	0	1	0	0	1
Nonviolent sex offenses	125	103	82.4	78	13	8	4	0	22
Traffic	19	14	73.7	12	1	1	0	0	5
Migratory birds	2	2	—	1	1	0	0	0	0
All other offenses*	22	16	72.7	11	3	0	2	0	6
Unknown or indeterminable offense	441	284	64.4%	218	25	9	23	9	157

Note: For further information, see *Chapter notes*, p. 84.

—Too few cases to obtain statistically reliable data.

*In this table, "Murder" includes nonnegligent manslaughter; "Sexual abuse" includes only violent sex offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses" excludes fraudulent

property offenses, and includes destruction of property and trespassing; "Tax law violations" includes tax fraud; and "All other offenses" includes offenses with unclassifiable offense type.

Table 6.5. Criminal appeals cases terminated on the merits, by nature of offense, October 1, 1998 - September 30, 1999

Most serious offense	Total	Percent of criminal appeals cases terminated on the merits				
		Affirmed	Remanded or reversed	Partially affirmed	Dismissed	Other
All offenses	8,260	78.6%	8.7%	5.1%	6.6%	1.0%
Violent offenses	530	83.4%	9.2%	3.4%	3.8%	0.2%
Murder*	144	80.6	10.4	6.3	2.1	0.7
Assault	65	87.7	6.2	1.5	4.6	0
Robbery	238	82.8	9.2	2.9	5.0	0
Sexual abuse*	40	85.0	10.0	0	5.0	0
Kidnaping	40	87.5	10.0	2.5	0	0
Threats against the President	3	—	—	—	—	—
Property offenses	1,455	74.2%	11.5%	7.1%	6.0%	1.2%
Fraudulent	1,075	74.5%	11.3%	7.7%	5.4%	1.0%
Embezzlement	70	68.6	12.9	8.6	7.1	2.9
Fraud*	897	74.0	11.5	8.2	5.2	1.0
Forgery	11	63.6	18.2	18.2	0	0
Counterfeiting	97	84.5	8.2	1.0	6.2	0
Other	380	73.4%	11.8%	5.5%	7.6%	1.6%
Burglary	6	—	—	—	—	—
Larceny*	125	73.6	16.0	4.0	4.8	1.6
Motor vehicle theft	75	78.7	4.0	5.3	12.0	0
Arson and explosives	86	74.4	7.0	3.5	14.0	1.2
Transportation of stolen property	75	68.0	14.7	10.7	2.7	4.0
Other property offenses*	13	53.8	38.5	7.7	0	0
Drug offenses	3,809	81.5%	7.3%	4.7%	5.9%	0.6%
Public-order offenses	2,182	75.6%	9.1%	5.1%	8.7%	1.5%
Regulatory	143	79.7%	7.7%	9.1%	3.5%	0%
Agriculture	3	—	—	—	—	—
Antitrust	3	—	—	—	—	—
Food and drug	2	—	—	—	—	—
Transportation	15	80.0	6.7	13.3	0	0
Civil rights	38	78.9	2.6	15.8	2.6	0
Communications	1	—	—	—	—	—
Custom laws	9	—	—	—	—	—
Postal laws	2	—	—	—	—	—
Other regulatory offenses	70	80.0	7.1	7.1	5.7	0
Other	2,039	75.3%	9.2%	4.9%	9.1%	1.6%
Weapons	854	80.4	8.4	5.2	3.9	2.1
Immigration offenses	530	63.4	8.3	3.4	23.2	1.7
Tax law violations*	67	76.1	3.0	13.4	4.5	3.0
Bribery	29	86.2	6.9	6.9	0	0
Perjury, contempt, and intimidation	81	80.2	13.6	2.5	1.2	2.5
National defense	24	79.2	8.3	12.5	0	0
Escape	62	75.8	12.9	0	11.3	0
Racketeering and extortion	243	78.2	11.9	4.5	4.9	0.4
Gambling	14	92.9	0	7.1	0	0
Nonviolent sex offenses	103	75.7	12.6	7.8	3.9	0
Traffic	14	85.7	7.1	7.1	0	0
Migratory birds	2	—	—	—	—	—
All other offenses*	16	68.8	18.8	0	12.5	0
Unknown or indeterminable offense	284	76.8%	8.8%	3.2%	8.1%	3.2%

Note: For further information, see *Chapter notes*, p. 84.

—Too few cases to obtain statistically reliable data.

*In this table, "Murder" includes nonnegligent manslaughter; "Sexual abuse" includes only violent sex offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses"

excludes fraudulent property offenses, and includes destruction of property and trespassing; "Tax law violations" includes tax fraud; and "All other offenses" includes offenses with unclassifiable offense type.

Chapter notes

Tables in chapter 6 were created from the AOUSC appeals database. Records of appeals filed or terminated during October 1, 1998, through September 30, 1999, were selected. Data include records of 10,251 criminal appeals filed during fiscal year 1999 and 10,675 appeals terminated during the same period.

The unit of analysis in the appeals data is a single case. Most records in the appeals data report on a single appellant. Appeals were classified into the offense categories that represent the underlying offense of conviction. Offenses represent the statutory offense charged against a defendant in a criminal appeal. Offenses were classified by the AOUSC into their four-digit offense codes. These were then aggregated into the offense categories shown in the tables.