

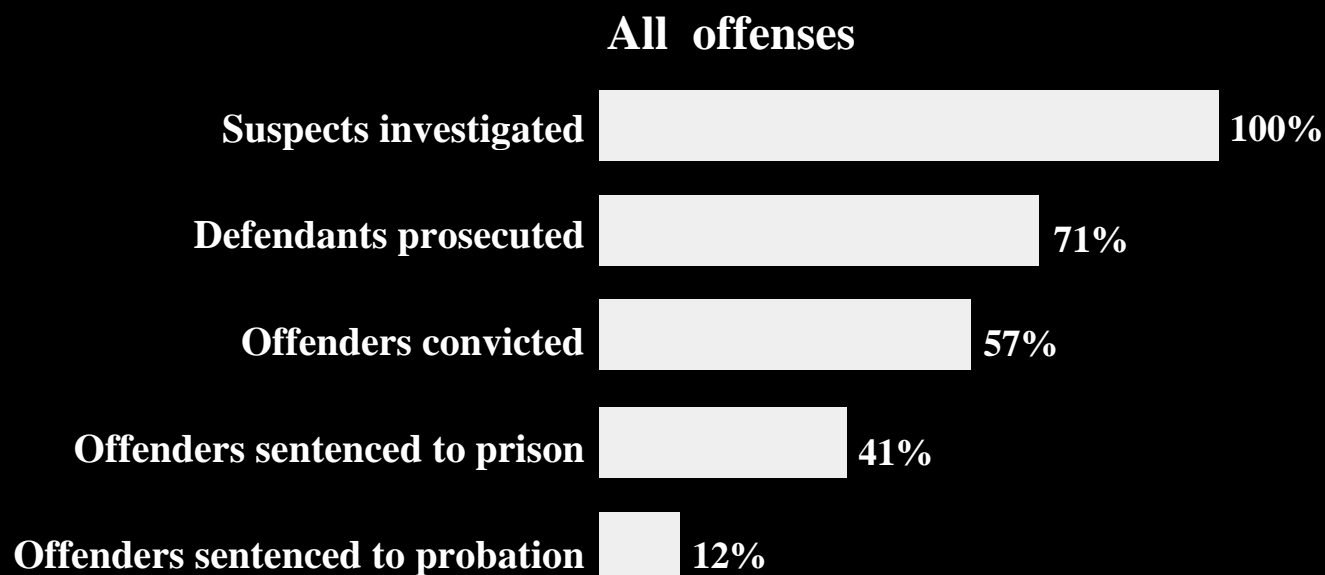


Bureau of Justice Statistics

Compendium of Federal Justice Statistics, 1998

Federal criminal case processing in matters concluded by United States attorneys

October 1, 1997, through September 30, 1998



A Federal Justice Statistics Program Report



Compendium of Federal Justice Statistics, 1998

May 2000, NCJ 180258

Discussion **75**

Tables

October 1, 1997 – September 30, 1998

6.1. Criminal appeals filed, by type of criminal case and offense 77

6.2. Criminal appeals filed and criminal appeals terminated, by offense 78

6.3. Criminal appeals terminated, by type of criminal case and offense 79

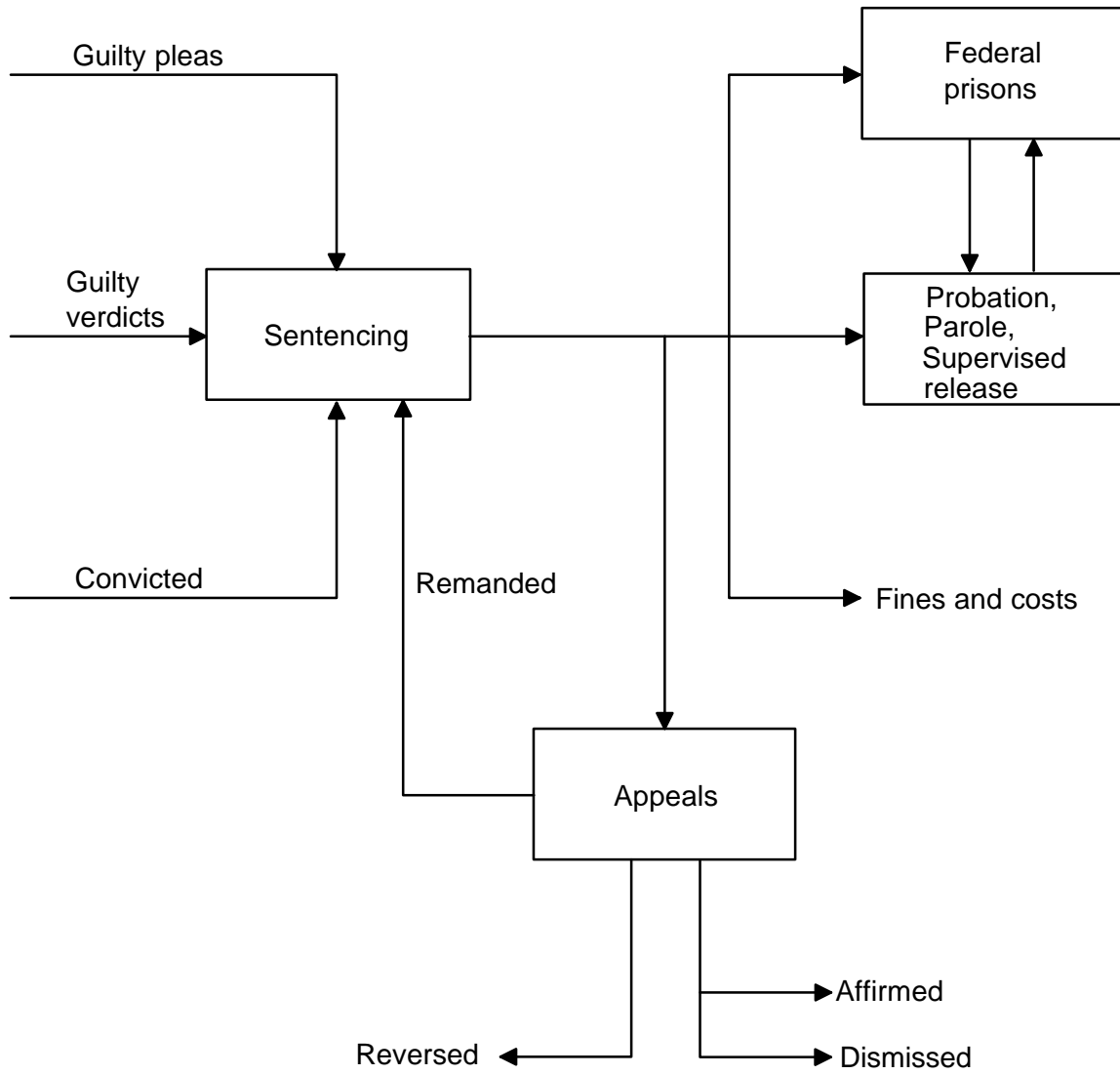
6.4. Disposition of criminal appeals terminated on the merits, by offense 80

6.5. Criminal appeals cases terminated on the merits, by nature of offense 81

Chapter notes **82**

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 (18 U.S.C. § 3742).

Appeals filed (tables 6.1 and 6.2)

During 1998 the U.S. Court of Appeals received 10,535 criminal appeals. Of all appeals, 4% were filed by the Government (not shown in a table).

Forty-seven percent of appeals filed in 1998 challenged both the conviction and the sentence imposed. Twice as many appeals challenged only the sentence imposed as those that challenged only the conviction (24% versus 12%). 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 similar across the major offense categories underlying the appeal. However, 56% of appeals filed for immigration offenses appealed both the sentence and the conviction, compared to 48% for public-order offenses and 47% for all criminal categories.

Nearly half of all appeals filed were for drug convictions (48%). Appeals for public-order convictions comprised 25% of all appeals filed, property offenses comprised 19%, and the remaining 7% of appeals filed were for violent offenses (figure 6.2).

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

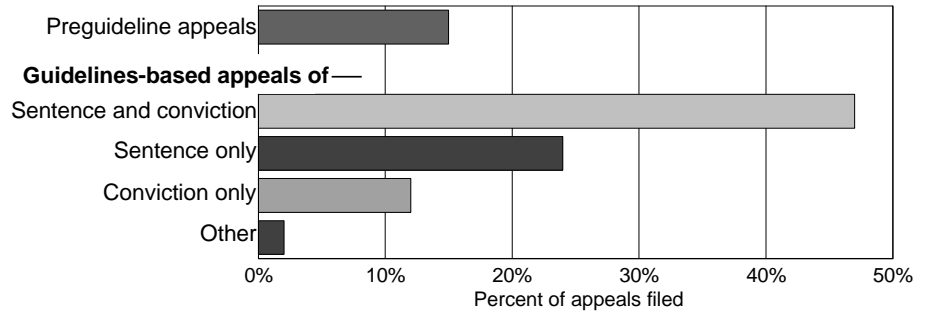


Figure 6.1. Types of criminal appeal cases during October 1, 1997 - September 30, 1998

Appeals terminated (tables 6.3-6.5)

A total of 10,105 appeals terminated during 1998. Of these, 47% were appeals of both the sentence and conviction, 24% were appeals of the sentence only, and 14% were appeals of the conviction only. Fourteen 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 1998, drug offense convictions underlie the appeal (46%); the underlying offense in 24% of the appeals was a public-order offense; 19% were property offense appeals; and 7% were appeals for violent offense convictions. For 43% of public-order appeals, the underlying offense of conviction was for weapons. Robbery offenses composed 42% and murder composed 16% of the underlying offenses for appeals of a violent

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

Of the 10,105 appeals terminated during 1998, 76% 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 79% of appeals based on a violent conviction and 72% of appeals based on a property conviction. Within these major offense categories, the appeals having the highest rates of termination on the merits were those based on a conviction for a weapons offense (83%), a rape or a murder conviction (81%), or a conviction for racketeering and extortion (80%).

In 82% of appeals terminated on the

Nearly half of all appeals filed were for drug convictions

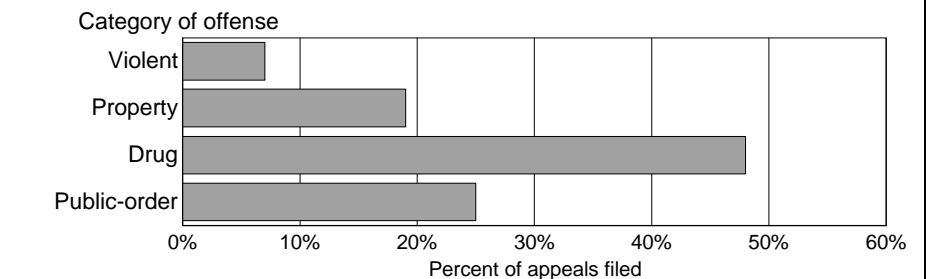


Figure 6.2. Appeals cases filed, by type of offense during October 1, 1997 - September 30, 1998

merits, the district court ruling was affirmed. In another 4% it was partially affirmed. Eighty-three percent of all drug offense appeals were affirmed, as were 80% of violent offense appeals and property appeals. Eighty-two percent of public-order offense appeals were affirmed.

District court decisions were reversed or remanded back to the court in 8% of the cases. Violent offenses had the highest rate of reversal or being remanded back to the court (12%). Nine percent of property offense appeals were reversed or remanded, as were 8% of public-order and 7% of drug offense appeals.

Overall, appeals were dismissed in 5% of cases. Across major offense categories, this dismissal rate remained relatively constant.

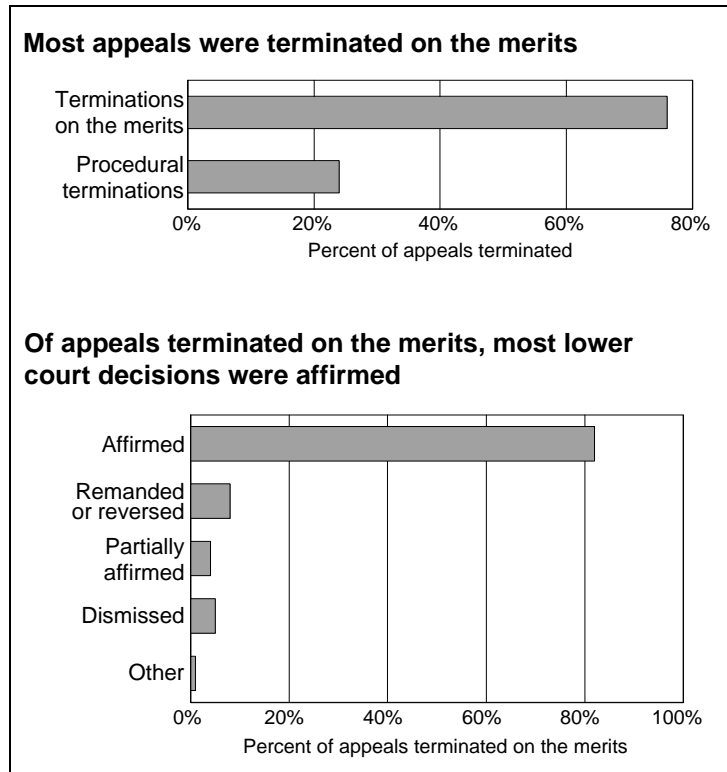


Figure 6.3. Disposition of criminal appeals terminating during October 1, 1997 - September 30, 1998

Table 6.1. Criminal appeals filed, by type of criminal case and offense, October 1, 1997 - September 30, 1998

Offense of conviction	Number of criminal appeals filed						
			Guidelines-based appeals				
	Total	Preguideline	Total	Sentence only	Conviction only	Sentence and conviction	Other
All offenses	10,535	1,592	8,943	2,493	1,258	4,996	196
Violent offenses	742	111	631	177	101	347	6
Murder*	118	24	94	15	14	64	1
Negligent manslaughter	1	0	1	1	0	0	0
Assault	79	14	65	16	14	34	1
Robbery	307	34	273	79	39	152	3
Rape	56	13	43	14	6	22	1
Other sex offenses*	114	11	103	40	16	47	0
Kidnaping	63	15	48	12	12	24	0
Threats against the President	4	0	4	0	0	4	0
Property offenses	1,947	333	1,614	464	233	870	47
Fraudulent	1,439	248	1,191	359	170	623	39
Embezzlement	130	21	109	38	13	56	2
Fraud*	1,151	191	960	285	142	501	32
Forgery	15	3	12	3	1	4	4
Counterfeiting	143	33	110	33	14	62	1
Other	508	85	423	105	63	247	8
Burglary	12	3	9	3	1	4	1
Larceny*	202	38	164	46	30	85	3
Motor vehicle theft	94	7	87	19	10	57	1
Arson and explosives	110	25	85	17	12	55	1
Transportation of stolen property	67	10	57	15	6	34	2
Other property offenses*	23	2	21	5	4	12	0
Drug offenses	4,845	652	4,193	1,216	567	2,308	102
Public-order offenses	2,553	295	2,258	553	313	1,358	34
Regulatory	178	26	152	35	31	85	1
Agriculture	8	2	6	4	0	2	0
Antitrust	3	1	2	0	2	0	0
Food and drug	3	0	3	1	0	2	0
Transportation	15	2	13	4	4	5	0
Civil rights	42	5	37	3	5	29	0
Communications	5	0	5	2	2	1	0
Custom laws	16	1	15	6	6	3	0
Postal laws	3	0	3	1	0	2	0
Other regulatory offenses	83	15	68	14	12	41	1
Other	2,375	269	2,106	518	282	1,273	33
Weapons	982	116	866	180	149	523	14
Immigration offenses	693	28	665	208	68	389	0
Tax law violations*	122	21	101	20	10	64	7
Bribery	30	5	25	3	4	18	0
Perjury, contempt, and intimidation	90	11	79	12	7	57	3
National defense	17	4	13	7	0	5	1
Escape	88	10	78	21	5	52	0
Racketeering and extortion	298	61	237	57	31	141	8
Gambling	13	4	9	1	1	7	0
Obscene material*	2	0	2	1	0	1	0
Traffic	16	3	13	3	3	7	0
Migratory birds	3	0	3	0	1	2	0
All other offenses*	21	6	15	5	3	7	0
Unknown or indeterminable offense	448	201	247	83	44	113	7

Note: For further information, see *Chapter notes*, p. 82.

*In this table, "Murder" includes nonnegligent manslaughter; "Other sex offenses" may include some nonviolent offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses" excludes

fraudulent property offenses, and includes destruction of property and trespass; "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, 1997 - September 30, 1998

Offense of conviction	Criminal appeals filed during 1998		Criminal appeals terminated during 1998	
	Number	Percent	Number	Percent
All offenses	10,535	100%	10,105	100%
Violent offenses	742	7.4%	716	7.4%
Murder ^b	118	1.2	113	1.2
Negligent manslaughter	1	—	0	...
Assault	79	0.8	82	0.8
Robbery	307	3.0	299	3.1
Rape	56	0.6	66	0.7
Other sex offenses ^b	114	1.1	90	0.9
Kidnaping	63	0.6	61	0.6
Threats against the President	4	—	5	0.1
Property offenses	1,947	19.3%	1,887	19.5%
Fraudulent	1,439	14.3%	1,425	14.7%
Embezzlement	130	1.3	112	1.2
Fraud ^b	1,151	11.4	1,172	12.1
Forgery	15	0.1	16	0.2
Counterfeiting	143	1.4	125	1.3
Other	508	5.0%	462	4.8%
Burglary	12	0.1	10	0.1
Larceny ^b	202	2.0	182	1.9
Motor vehicle theft	94	0.9	80	0.8
Arson and explosives	110	1.1	95	1.0
Transportation of stolen property	67	0.7	81	0.8
Other property offenses ^b	23	0.2	14	0.1
Drug offenses	4,845	48.0%	4,643	48.0%
Public-order offenses	2,553	25.3%	2,434	25.1%
Regulatory	178	1.8%	200	2.1%
Agriculture	8	0.1	13	0.1
Antitrust	3	—	3	—
Food and drug	3	—	1	—
Transportation	15	0.1	27	0.3
Civil rights	42	0.4	27	0.3
Communications	5	—	8	0.1
Custom laws	16	0.2	10	0.1
Postal laws	3	—	7	0.1
Other regulatory offenses	83	0.8	104	1.1
Other	2,375	23.5%	2,234	23.1%
Weapons	982	9.7	1,038	10.7
Immigration offenses	693	6.9	453	4.7
Tax law violations ^b	122	1.2	156	1.6
Bribery	30	0.3	31	0.3
Perjury, contempt, and intimidation	90	0.9	97	1.0
National defense	17	0.2	23	0.2
Escape	88	0.9	77	0.8
Racketeering and extortion	298	3.0	297	3.1
Gambling	13	0.1	11	0.1
Liquor offenses	0	...	2	—
Obscene material ^b	2	—	5	0.1
Traffic	16	0.2	22	0.2
Migratory birds	3	—	1	—
All other offenses ^b	21	0.2	21	0.2
Unknown or indeterminable offense	448		425	

Note: For further information, see *Chapter notes*, p. 82.

—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;

"Other sex offenses" may include some nonviolent offenses;

"Fraud" excludes tax fraud; "Larceny" excludes transportation of

stolen property; "Other property offenses" excludes fraudulent property offenses, and includes destruction of property and trespass; "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, 1997 - September 30, 1998

Offense of conviction	Number of criminal appeals terminated						
	Total	Preguideline	Total	Guidelines-based appeals			
				Sentence only	Conviction only	Sentence and conviction	Other
All offenses	10,105	1,452	8,653	2,440	1,370	4,770	73
Violent offenses	716	95	621	174	98	347	2
Murder*	113	18	95	12	19	64	0
Assault	82	15	67	13	16	37	1
Robbery	299	27	272	93	33	145	1
Rape	66	15	51	14	9	28	0
Other sex offenses*	90	12	78	28	13	37	0
Kidnaping	61	8	53	14	7	32	0
Threats against the President	5	0	5	0	1	4	0
Property offenses	1,887	247	1,640	487	263	876	14
Fraudulent	1,425	174	1,251	377	193	670	11
Embezzlement	112	14	98	31	18	49	0
Fraud*	1,172	143	1,029	313	162	544	10
Forgery	16	5	11	4	1	6	0
Counterfeiting	125	12	113	29	12	71	1
Other	462	73	389	110	70	206	3
Burglary	10	2	8	3	1	2	2
Larceny*	182	36	146	55	22	68	1
Motor vehicle theft	80	7	73	23	13	37	0
Arson and explosives	95	15	80	13	15	52	0
Transportation of stolen property	81	11	70	12	15	43	0
Other property offenses*	14	2	12	4	4	4	0
Drug offenses	4,643	606	4,037	1,146	614	2,239	38
Public-order offenses	2,434	320	2,114	536	358	1,207	13
Regulatory	200	35	165	38	37	89	1
Agriculture	13	2	11	2	5	4	0
Antitrust	3	0	3	0	3	0	0
Food and drug	1	0	1	0	1	0	0
Transportation	27	7	20	4	7	9	0
Civil rights	27	5	22	5	5	12	0
Communications	8	0	8	3	4	1	0
Custom laws	10	3	7	4	1	2	0
Postal laws	7	1	6	2	0	4	0
Other regulatory offenses	104	17	87	18	11	57	1
Other	2,234	285	1,949	498	321	1,118	12
Weapons	1,038	122	916	224	156	530	6
Immigration offenses	453	35	418	135	60	223	0
Tax law violations*	156	36	120	25	16	78	1
Bribery	31	5	26	9	4	13	0
Perjury, contempt, and intimidation	97	18	79	18	11	47	3
National defense	23	2	21	7	3	11	0
Escape	77	13	64	22	13	29	0
Racketeering and extortion	297	46	251	50	39	160	2
Gambling	11	3	8	0	1	7	0
Liquor offenses	2	0	2	0	0	2	0
Obscene material*	5	0	5	1	1	3	0
Traffic	22	2	20	3	11	6	0
Migratory birds	1	0	1	0	1	0	0
All other offenses*	21	3	18	4	5	9	0
Unknown or indeterminable offense	425	184	241	97	37	101	6

Note: For further information, see *Chapter notes*, p. 82.

*In this table, "Murder" includes nonnegligent manslaughter; "Other sex offenses" may include some nonviolent offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses" excludes

fraudulent property offenses, and includes destruction of property and trespass; "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 6.4. Disposition of criminal appeals terminated on the merits, by offense, October 1, 1997 - September 30, 1998

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	10,105	7,699	76.2%	6,292	621	311	377	98	2,406
Violent offenses	716	565	78.9%	454	66	18	19	8	151
Murder*	113	92	81.4	77	6	6	1	2	21
Assault	82	61	74.4	49	8	2	2	0	21
Robbery	299	242	80.9	202	21	3	13	3	57
Rape	66	50	75.8	35	13	1	1	0	16
Other sex offenses*	90	69	76.7	53	13	0	0	3	21
Kidnaping	61	47	77.0	35	4	6	2	0	14
Threats against the President	5	4	—	3	1	0	0	0	1
Property offenses	1,887	1,359	72.0%	1,081	116	92	53	17	528
Fraudulent	1,425	1,028	72.1%	816	87	62	49	14	397
Embezzlement	112	88	78.6	71	6	7	2	2	24
Fraud*	1,172	854	72.9	674	77	51	44	8	318
Forgery	16	11	68.8	7	2	1	1	0	5
Counterfeiting	125	75	60.0	64	2	3	2	4	50
Other	462	331	71.6%	265	29	30	4	3	131
Burglary	10	6	—	5	1	0	0	0	4
Larceny*	182	129	70.9	97	12	15	2	3	53
Motor vehicle theft	80	61	76.3	56	3	1	1	0	19
Arson and explosives	95	70	73.7	57	8	4	1	0	25
Transportation of stolen property	81	56	69.1	43	3	10	0	0	25
Other property offenses*	14	9	64.3	7	2	0	0	0	5
Drug offenses	4,643	3,604	77.6%	3,003	250	134	172	45	1,039
Public-order offenses	2,434	1,895	77.9%	1,551	156	63	103	22	539
Regulatory	200	153	76.5%	112	28	7	4	2	47
Agriculture	13	10	76.9	5	3	1	0	1	3
Antitrust	3	3	—	3	0	0	0	0	0
Food and drug	1	1	—	1	0	0	0	0	0
Transportation	27	23	85.2	13	10	0	0	0	4
Civil rights	27	19	70.4	11	1	4	2	1	8
Communications	8	3	—	0	2	0	1	0	5
Custom laws	10	6	—	3	2	1	0	0	4
Postal laws	7	3	—	3	0	0	0	0	4
Other regulatory offenses	104	85	81.7	73	10	1	1	0	19
Other	2,234	1,742	78.0%	1,439	128	56	99	20	492
Weapons	1,038	859	82.8	726	51	31	43	8	179
Immigration offenses	453	327	72.2	252	23	9	40	3	126
Tax law violations*	156	104	66.7	92	3	1	2	6	52
Bribery	31	21	67.7	15	3	2	0	1	10
Perjury, contempt, and intimidation	97	77	79.4	51	17	8	0	1	20
National defense	23	21	91.3	14	6	1	0	0	2
Escape	77	52	67.5	45	2	1	3	1	25
Racketeering and extortion	297	237	79.8	207	16	3	11	0	60
Gambling	11	9	81.8	5	4	0	0	0	2
Liquor offenses	2	2	—	2	0	0	0	0	0
Obscene material*	5	4	—	3	1	0	0	0	1
Traffic	22	16	72.7	15	1	0	0	0	6
Migratory birds	1	1	—	1	0	0	0	0	0
All other offenses*	21	12	57.1	11	1	0	0	0	9
Unknown or indeterminable offense	425	276	64.9%	203	33	4	30	6	149

Note: For further information, see *Chapter notes*, p. 82.

—Too few cases to obtain statistically reliable data.

*In this table, "Murder" includes nonnegligent manslaughter; "Other sex offenses" may include some nonviolent offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses" excludes fraudulent

property offenses, and includes destruction of property and trespass; "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 6.5. Criminal appeals cases terminated on the merits, by nature of offense, October 1, 1997 - September 30, 1998

Most serious offense	Total	Percent of criminal appeals cases terminated on the merits				
		Affirmed	Remanded or reversed	Partially affirmed	Dismissed	Other
All offenses	7,699	81.7%	8.1%	4.0%	4.9%	1.3%
Violent offenses	565	80.4%	11.7%	3.2%	3.4%	1.4%
Murder*	92	83.7	6.5	6.5	1.1	2.2
Assault	61	80.3	13.1	3.3	3.3	0
Robbery	242	83.5	8.7	1.2	5.4	1.2
Rape	50	70.0	26.0	2.0	2.0	0
Other sex offenses*	69	76.8	18.8	0	0	4.3
Kidnaping	47	74.5	8.5	12.8	4.3	0
Threats against the President	4	—	—	—	—	—
Property offenses	1,359	79.5%	8.5%	6.8%	3.9%	1.3%
Fraudulent	1,028	79.4%	8.5%	6.0%	4.8%	1.4%
Embezzlement	88	80.7	6.8	8.0	2.3	2.3
Fraud*	854	78.9	9.0	6.0	5.2	0.9
Forgery	11	63.6	18.2	9.1	9.1	0
Counterfeiting	75	85.3	2.7	4.0	2.7	5.3
Other	331	80.1%	8.8%	9.1%	1.2%	0.9%
Burglary	6	—	—	—	—	—
Larceny*	129	75.2	9.3	11.6	1.6	2.3
Motor vehicle theft	61	91.8	4.9	1.6	1.6	0
Arson and explosives	70	81.4	11.4	5.7	1.4	0
Transportation of stolen property	56	76.8	5.4	17.9	0	0
Other property offenses*	9	—	—	—	—	—
Drug offenses	3,604	83.3%	6.9%	3.7%	4.8%	1.2%
Public-order offenses	1,895	81.8%	8.2%	3.3%	5.4%	1.2%
Regulatory	153	73.2%	18.3%	4.6%	2.6%	1.3%
Agriculture	10	—	—	—	—	—
Antitrust	3	—	—	—	—	—
Food and drug	1	—	—	—	—	—
Transportation	23	56.5	43.5	0	0	0
Civil rights	19	57.9	5.3	21.1	10.5	5.3
Communications	3	—	—	—	—	—
Custom laws	6	—	—	—	—	—
Postal laws	3	—	—	—	—	—
Other regulatory offenses	85	85.9	11.8	1.2	1.2	0
Other	1,742	82.6%	7.3%	3.2%	5.7%	1.1%
Weapons	859	84.5	5.9	3.6	5.0	0.9
Immigration offenses	327	77.1	7.0	2.8	12.2	0.9
Tax law violations*	104	88.5	2.9	1.0	1.9	5.8
Bribery	21	71.4	14.3	9.5	0	4.8
Perjury, contempt, and intimidation	77	66.2	22.1	10.4	0	1.3
National defense	21	66.7	28.6	4.8	0	0
Escape	52	86.5	3.8	1.9	5.8	1.9
Racketeering and extortion	237	87.3	6.8	1.3	4.6	0
Gambling	9	—	—	—	—	—
Liquor offenses	2	—	—	—	—	—
Obscene material*	4	—	—	—	—	—
Traffic	16	93.8	6.3	0	0	0
Migratory birds	1	—	—	—	—	—
All other offenses*	12	91.7	8.3	0	0	0
Unknown or indeterminable offense	276	73.6%	12.0%	1.4%	10.9%	2.2%

Note: For further information, see *Chapter notes*, p. 82.

—Too few cases to obtain statistically reliable data.

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

*In this table, "Murder" includes nonnegligent manslaughter; "Other sex offenses" may include some nonviolent offenses; "Fraud" excludes tax fraud; "Larceny" excludes transportation of stolen property; "Other property offenses"

excludes fraudulent property offenses, and includes destruction of property and trespass; "Tax law violations" includes tax fraud; "Obscene material" denotes the mail or transport thereof; 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, 1997, through September 30, 1998, were selected. Data include records of 10,535 criminal appeals filed during fiscal year 1998 and 10,105 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.