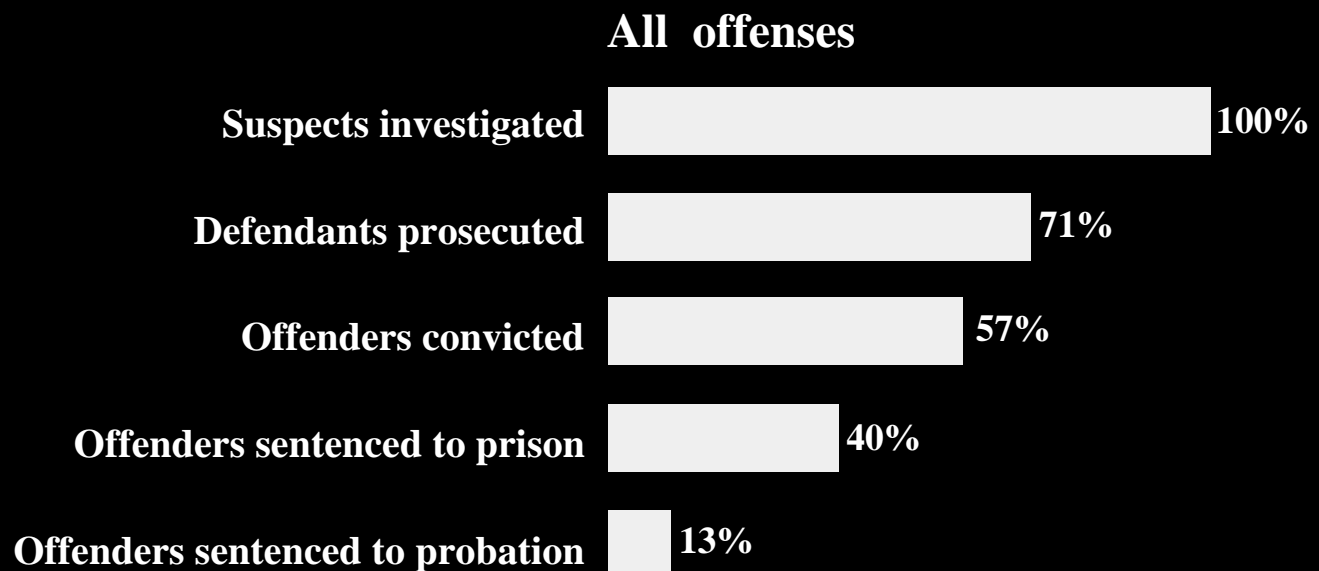




## Bureau of Justice Statistics

# Compendium of Federal Justice Statistics, 1997

**Federal criminal case processing in matters  
concluded by United States attorneys  
October 1, 1996, through September 1997**



**A Federal Justice Statistics Program Report**

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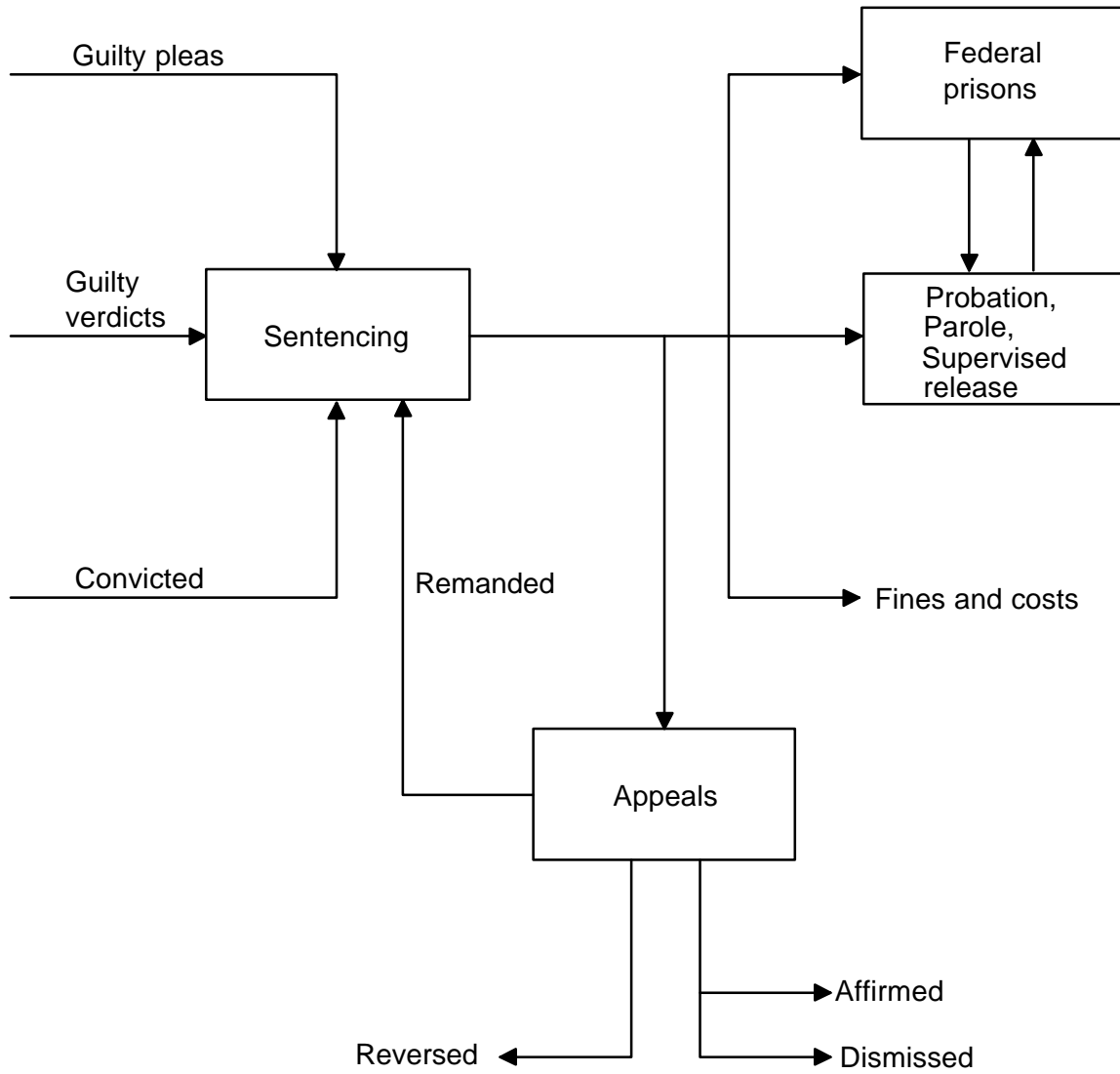
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# Chapter 5

## Appeals

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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 5.1 and 5.2)

During 1997 the U.S. Court of Appeals received 10,521 criminal appeals. Of all appeals, 4% were filed by the Government (not shown in a table).

Forty-six percent of appeals filed in 1997 challenged both the conviction and the sentence imposed. Nearly twice as many appeals challenged only the sentence imposed as those that challenged only the conviction (25% versus 13%). Fourteen percent of appeals filed were appeals of convictions for crimes committed before 1987, when the sentencing guidelines took effect (figure 5.1).

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, 32% of appeals filed for immigration offenses appealed only the sentence, compared to 23% for public-order offenses and 25% for all criminal categories. Thirty-four percent of appeals filed for robbery convictions were appealing only the sentence.

Nearly half of all appeals filed (for which the offense is known) were for drug convictions (47%). Appeals for public-order convictions comprised 26% of all appeals filed, property offenses comprised 20%, and the remaining 7% of appeals filed were for violent offenses (figure 5.2).

### Nearly half of all appeals filed challenged both the conviction and the sentence imposed

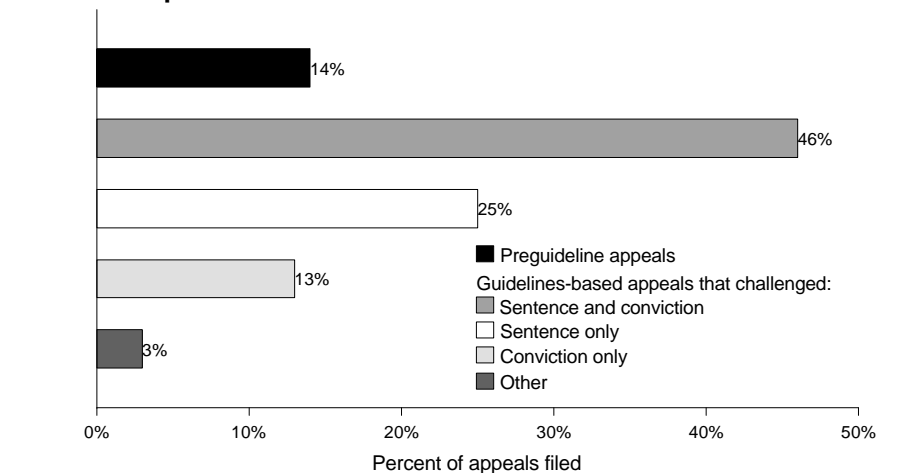


Figure 5.1. Types of criminal appeal cases during October 1, 1996 - September 30, 1997

### Appeals terminated (tables 5.3-5.5)

A total of 10,466 appeals terminated during 1997. Of these, 46% were appeals of both the sentence and conviction, 25% were appeals of the sentence only, and 12% 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 1997 (for which the offense is known), drug offense convictions underlie the appeal (49%); for 25%, the

underlying offense was a public-order offense; for 19%, the underlying offense was a property offense; and 7% were appeals for violent offense convictions. For 46% of public-order appeals, the underlying offense of conviction was for weapons. Robbery offenses composed 43% and murder composed 20% of the underlying offenses for appeals of a violent conviction.

Of the 10,466 appeals terminated during 1997, 78% were terminated on the merits, while the remainder were terminated on procedural grounds (figure

### Nearly half of all appeals filed were for drug convictions

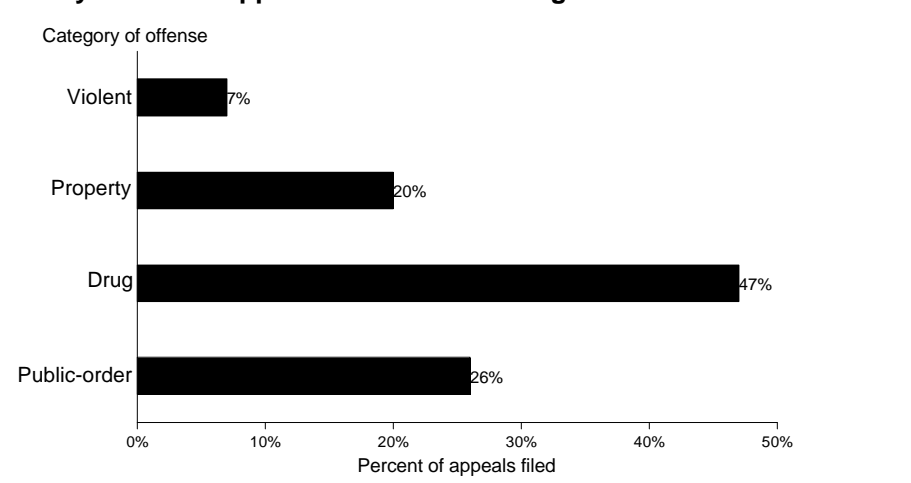


Figure 5.2. Appeals cases filed, by type of offense during October 1, 1996 - September 30, 1997

5.3). For appeals based on a conviction of a violent offense or a public-order offense, 80% were terminated on the merits. Also terminated on the merits were 79% of appeals based on a drug conviction and 76% of appeals based on a property conviction. Within these major offense categories, the appeals having the highest rates of termination on the merits were based on a conviction for a custom law violation (94%), a rape conviction (92%), and a conviction for escaping from a Federal prison (91%).

In 80% of appeals terminated on the merits, the district court ruling was affirmed. In another 6% it was partially affirmed. Eighty-three percent of all drug offense appeals were affirmed, as were 79% of violent offense appeals and public-order appeals. Seventy-seven percent of property offense appeals were affirmed.

District court decisions were reversed or remanded back to the court in 8% of the cases. Public-order offenses had the highest rate of reversal or being remanded back to the court (11%). Nine percent of property offense appeals were reversed or remanded, as were 8% of violent and 7% of drug offense appeals.

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

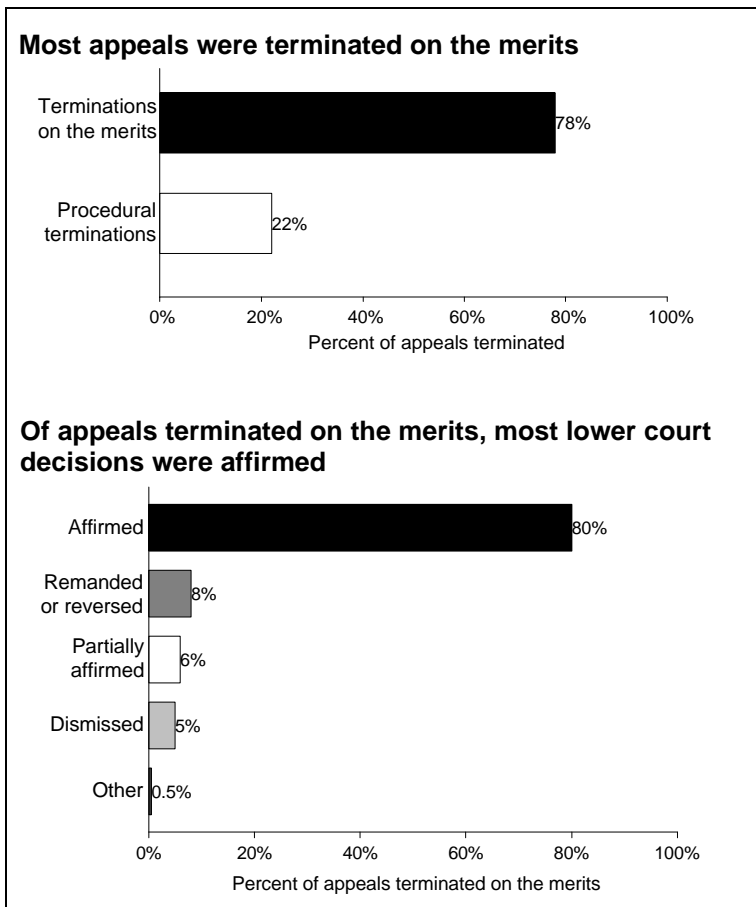


Figure 5.3. Disposition of criminal appeals terminating during October 1, 1996 - September 30, 1997

**Table 5.1. Criminal appeals filed, by type of criminal case and offense, October 1, 1996 - September 30, 1997**

Offense of conviction	Number of criminal appeals filed						
	Total	Preguideline	Guidelines-based appeals				Other
			Total	Sentence only	Conviction only	Sentence and conviction	
<b>All offenses</b>	10,521	1,421	9,100	2,585	1,400	4,799	316
<b>Violent offenses</b>	739	90	649	189	91	359	10
Murder*	140	25	115	19	21	74	1
Negligent manslaughter	0	0	0	0	0	0	0
Assault	89	13	76	9	12	53	2
Robbery	299	27	272	101	30	136	5
Rape	53	8	45	12	5	26	2
Other sex offenses*	100	7	93	35	11	47	0
Kidnaping	52	8	44	13	10	21	0
Threats against the President	6	2	4	0	2	2	0
<b>Property offenses</b>	1,972	219	1,753	493	288	893	79
<b>Fraudulent</b>	1,519	160	1,359	387	216	692	64
Embezzlement	107	17	90	26	20	41	3
Fraud*	1,269	131	1,138	336	182	571	49
Forgery	24	4	20	9	2	9	0
Counterfeiting	119	8	111	16	12	71	12
<b>Other</b>	453	59	394	106	72	201	15
Burglary	6	2	4	0	2	1	1
Larceny*	176	24	152	53	21	74	4
Motor vehicle theft	76	9	67	22	10	33	2
Arson and explosives	86	11	75	15	17	41	2
Transportation of stolen property	99	12	87	14	19	49	5
Other property offenses*	10	1	9	2	3	3	1
<b>Drug offenses</b>	4,750	595	4,155	1,204	587	2,220	144
<b>Public-order offenses</b>	2,602	321	2,281	599	390	1,224	68
<b>Regulatory</b>	224	41	183	38	30	111	4
Agriculture	16	3	13	1	5	7	0
Antitrust	4	0	4	1	3	0	0
Food and drug	1	0	1	0	1	0	0
Transportation	24	7	17	4	2	10	1
Civil rights	28	7	21	6	2	13	0
Communications	4	0	4	1	2	1	0
Custom laws	6	1	5	1	1	3	0
Postal laws	6	2	4	0	1	3	0
Other regulatory offenses	135	21	114	24	13	74	3
<b>Other</b>	2,378	280	2,098	561	360	1,113	64
Weapons	1,135	122	1,013	267	170	553	23
Immigration offenses	417	31	386	133	55	194	4
Tax law violations*	150	29	121	29	25	59	8
Bribery	42	5	37	8	8	20	1
Perjury, contempt, and intimidation	105	16	89	18	9	60	2
National defense	13	2	11	4	2	5	0
Escape	85	9	76	32	18	24	2
Racketeering and extortion	368	57	311	65	51	173	22
Gambling	11	2	9	0	1	8	0
Liquor offenses	2	0	2	0	0	1	1
Obscene material*	2	0	2	0	1	1	0
Traffic	27	5	22	2	14	6	0
Migratory birds	1	0	1	1	0	0	0
All other offenses*	20	2	18	2	6	9	1
<b>Unknown or indeterminable offense</b>	458	196	262	100	44	103	15

Note: For further information, see *Chapter notes*, p. 70.

\*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 5.2. Criminal appeals filed and criminal appeals terminated, by offense, October 1, 1996 - September 30, 1997**

Offense of conviction	Criminal appeals filed during 1997		Criminal appeals terminated during 1997	
	Number	Percent	Number	Percent
<b>All offenses</b>	10,521	100%	10,466	100%
<b>Violent offenses</b>	739	7.3%	733	7.3%
Murder <sup>b</sup>	140	1.4	143	1.4
Negligent manslaughter	0	—	3	—
Assault	89	0.9	83	0.8
Robbery	299	3.0	313	3.1
Rape	53	0.5	51	0.5
Other sex offenses <sup>b</sup>	100	1.0	69	0.7
Kidnaping	52	0.5	65	0.6
Threats against the President	6	0.1	6	0.1
<b>Property offenses</b>	1,972	19.6%	1,915	19.1%
<b>Fraudulent</b>	1,519	15.1%	1,467	14.7%
Embezzlement	107	1.1	119	1.2
Fraud <sup>b</sup>	1,269	12.6	1,206	12.0
Forgery	24	0.2	32	0.3
Counterfeiting	119	1.2	110	1.1
<b>Other</b>	453	4.5%	448	4.5%
Burglary	6	0.1	10	0.1
Larceny <sup>b</sup>	176	1.7	141	1.4
Motor vehicle theft	76	0.8	97	1.0
Arson and explosives	86	0.9	83	0.8
Transportation of stolen property	99	1.0	106	1.1
Other property offenses <sup>b</sup>	10	0.1	11	0.1
<b>Drug offenses</b>	4,750	47.2%	4,859	48.5%
<b>Public-order offenses</b>	2,602	25.9%	2,503	25.0%
<b>Regulatory</b>	224	2.2%	222	2.2%
Agriculture	16	0.2	16	0.2
Antitrust	4	—	3	—
Food and drug	1	—	3	—
Transportation	24	0.2	17	0.2
Civil rights	28	0.3	25	0.2
Communications	4	—	5	—
Custom laws	6	0.1	16	0.2
Postal laws	6	0.1	10	0.1
Other regulatory offenses	135	1.3	127	1.3
<b>Other</b>	2,378	23.6%	2,281	22.8%
Weapons	1,135	11.3	1,160	11.6
Immigration offenses	417	4.1	376	3.8
Tax law violations <sup>b</sup>	150	1.5	143	1.4
Bribery	42	0.4	41	0.4
Perjury, contempt, and intimidation	105	1.0	101	1.0
National defense	13	0.1	14	0.1
Escape	85	0.8	84	0.8
Racketeering and extortion	368	3.7	308	3.1
Gambling	11	0.1	6	0.1
Liquor offenses	2	—	0	0
Obscene material <sup>b</sup>	2	—	2	—
Traffic	27	0.3	24	0.2
Migratory birds	1	—	2	—
All other offenses <sup>b</sup>	20	0.2	20	0.2
<b>Unknown or indeterminable offense</b>	458		456	

Note: For further information, see *Chapter notes*, p. 70.

—Less than .05%.

<sup>a</sup>Percentage distribution based on appeals for which an offense category could be determined.

<sup>b</sup>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 5.3. Criminal appeals terminated, by type of criminal case and offense, October 1, 1996 - September 30, 1997**

Offense of conviction	Number of criminal appeals terminated						
	Total	Preguideline	Guidelines-based appeals				Other
			Total	Sentence only	Conviction only	Sentence and conviction	
<b>All offenses</b>	10,466	1,442	9,024	2,570	1,232	4,822	400
<b>Violent offenses</b>	733	76	657	187	91	355	24
Murder*	143	23	120	22	16	73	9
Negligent manslaughter	3	0	3	1	0	2	0
Assault	83	12	71	11	10	48	2
Robbery	313	27	286	101	41	138	6
Rape	51	6	45	9	7	28	1
Other sex offenses*	69	2	67	24	8	32	3
Kidnaping	65	4	61	18	8	32	3
Threats against the President	6	2	4	1	1	2	0
<b>Property offenses</b>	1,915	256	1,659	468	246	854	91
<b>Fraudulent</b>	1,467	195	1,272	363	173	667	69
Embezzlement	119	23	96	27	20	46	3
Fraud*	1,206	149	1,057	301	134	567	55
Forgery	32	7	25	8	5	11	1
Counterfeiting	110	16	94	27	14	43	10
<b>Other</b>	448	61	387	105	73	187	22
Burglary	10	1	9	1	1	7	0
Larceny*	141	19	122	40	24	54	4
Motor vehicle theft	97	13	84	27	10	42	5
Arson and explosives	83	14	69	17	14	33	5
Transportation of stolen property	106	13	93	20	22	44	7
Other property offenses*	11	1	10	0	2	7	1
<b>Drug offenses</b>	4,859	600	4,259	1,237	531	2,326	165
<b>Public-order offenses</b>	2,503	313	2,190	572	327	1,194	97
<b>Regulatory</b>	222	45	177	44	20	104	9
Agriculture	16	4	12	2	2	8	0
Antitrust	3	1	2	1	0	1	0
Food and drug	3	1	2	0	1	1	0
Transportation	17	5	12	3	0	8	1
Civil rights	25	3	22	3	0	16	3
Communications	5	0	5	1	0	4	0
Custom laws	16	0	16	6	3	6	1
Postal laws	10	3	7	1	3	3	0
Other regulatory offenses	127	28	99	27	11	57	4
<b>Other</b>	2,281	268	2,013	528	307	1,090	88
Weapons	1,160	99	1,061	258	173	588	42
Immigration offenses	376	37	339	127	29	179	4
Tax law violations*	143	32	111	33	23	48	7
Bribery		4	37	6	2	26	3
Perjury, contempt, and intimidation	101	18	83	18	13	50	2
National defense	14	3	11	0	0	11	0
Escape	84	4	80	35	10	33	2
Racketeering and extortion	308	56	252	49	42	135	26
Gambling	6	4	2	0	0	2	0
Liquor offenses	0	0	0	0	0	0	0
Obscene material*	2	0	2	1	0	1	0
Traffic	24	5	19	0	7	11	1
Migratory birds	2	0	2	1	0	1	0
All other offenses*	20	6	14	0	8	5	1
<b>Unknown or indeterminable offense</b>	456	197	259	106	37	93	23

Note: For further information, see *Chapter notes*, p. 70.

\*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 5.4. Disposition of criminal appeals terminated on the merits, by offense, October 1, 1996 - September 30, 1997**

Offense of conviction	Total criminal appeals	Criminal appeals terminated on the merits							Procedural terminations
		Total	Percent	Affirmed	Remanded or reversed	Partially affirmed	Dismissed	Other	
<b>All offenses</b>	10,466	8,178	78.1%	6,581	690	482	383	42	2,288
<b>Violent offenses</b>	733	587	80.1%	463	46	43	32	3	146
Murder*	143	114	79.7	94	6	7	7	0	29
Negligent manslaughter	3	2	—	2	0	0	0	0	1
Assault	83	69	83.1	57	5	4	3	0	14
Robbery	313	250	79.9	201	16	14	17	2	63
Rape	51	47	92.2	29	12	3	3	0	4
Other sex offenses*	69	48	69.6	35	6	5	1	1	21
Kidnaping	65	53	81.5	41	1	10	1	0	12
Threats against the President	6	4	—	4	0	0	0	0	2
<b>Property offenses</b>	1,915	1,455	76.0%	1,124	130	128	66	7	460
<b>Fraudulent</b>	1,467	1,100	75.0%	837	96	109	53	5	367
Embezzlement	119	90	75.6	65	6	14	4	1	29
Fraud*	1,206	903	74.9	684	83	87	45	4	303
Forgery	32	22	68.8	19	3	0	0	0	10
Counterfeiting	110	—	77.3	69	4	8	4	0	25
<b>Other</b>	448	355	79.2%	287	34	19	13	2	93
Burglary	10	9	—	7	0	1	0	1	1
Larceny*	141	109	77.3	90	8	5	6	0	32
Motor vehicle theft	97	83	85.6	71	6	1	4	1	14
Arson and explosives	83	66	79.5	48	13	4	1	0	17
Transportation of stolen property	106	78	73.6	63	6	7	2	0	28
Other property offenses*	11	10	90.9	8	1	1	0	0	1
<b>Drug offenses</b>	4,859	3,841	79.0%	3,187	262	199	177	16	1,018
<b>Public-order offenses</b>	2,503	1,995	79.7%	1,578	212	105	87	13	508
<b>Regulatory</b>	222	158	71.2%	112	25	18	3	0	64
Agriculture	16	10	62.5	7	3	0	0	0	6
Antitrust	3	1	—	0	1	0	0	0	2
Food and drug	3	3	—	2	1	0	0	0	0
Transportation	17	7	41.2	6	1	0	0	0	10
Civil rights	25	19	76.0	11	2	6	0	0	6
Communications	5	5	—	5	0	0	0	0	0
Custom laws	16	15	93.8	10	5	0	0	0	1
Postal laws	10	8	—	3	0	5	0	0	2
Other regulatory offenses	127	90	70.9	68	12	7	3	0	37
<b>Other</b>	2,281	1,837	80.5%	1,466	187	87	84	13	444
Weapons	1,160	994	85.7	813	92	49	34	6	166
Immigration offenses	376	292	77.7	216	38	9	27	2	84
Tax law violations*	143	101	70.6	76	15	5	5	0	42
Bribery	41	25	61.0	19	0	5	1	0	16
Perjury, contempt, and intimidation	101	77	76.2	59	8	6	2	2	24
National defense	14	12	85.7	11	1	0	0	0	2
Escape	84	76	90.5	59	6	3	6	2	8
Racketeering and extortion	308	221	71.8	183	19	10	8	1	87
Gambling	6	2	—	2	0	0	0	0	4
Liquor offenses	0	0	...	0	0	0	0	0	0
Obscene material*	2	2	—	2	0	0	0	0	0
Traffic	24	16	66.7	11	5	0	0	0	8
Migratory birds	2	2	—	2	0	0	0	0	0
All other offenses*	20	17	85.0	13	3	0	1	0	3
<b>Unknown or indeterminable offense</b>	456	300	65.8%	229	40	7	21	3	156

Note: For further information, see *Chapter notes*, p. 70.

—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.

**Table 5.5. Criminal appeals cases terminated on the merits, by nature of offense, October 1, 1996 - September 30, 1997**

Most serious offense	Total	Percent of criminal appeals cases terminated on the merits				
		Affirmed	Remanded or reversed	Partially affirmed	Dismissed	Other
<b>All offenses</b>	8,178	80.5%	8.4%	5.9%	4.7%	0.5%
<b>Violent offenses</b>	587	78.9%	7.8%	7.3%	5.5%	0.5%
Murder*	114	82.5	5.3	6.1	6.1	0
Negligent manslaughter	2	—	—	—	—	—
Assault	69	82.6	7.2	5.8	4.3	0
Robbery	250	80.4	6.4	5.6	6.8	0.8
Rape	47	61.7	25.5	6.4	6.4	0
Other sex offenses*	48	72.9	12.5	10.4	2.1	2.1
Kidnaping	53	77.4	1.9	18.9	1.9	0
Threats against the President	4	—	—	—	—	—
<b>Property offenses</b>	1,455	77.3%	8.9%	8.8%	4.5%	0.5%
<b>Fraudulent</b>	1,100	76.1%	8.7%	9.9%	4.8%	0.5%
Embezzlement	90	72.2	6.7	15.6	4.4	1.1
Fraud*	903	75.7	9.2	9.6	5.0	0.4
Forgery	22	86.4	13.6	0	0	0
Counterfeiting	85	81.2	4.7	9.4	4.7	0
<b>Other</b>	355	80.8%	9.6%	5.4%	3.7%	0.6%
Burglary	9	—	—	—	—	—
Larceny*	109	82.6	7.3	4.6	5.5	0
Motor vehicle theft	83	85.5	7.2	1.2	4.8	1.2
Arson and explosives	66	72.7	19.7	6.1	1.5	0
Transportation of stolen property	78	80.8	7.7	9.0	2.6	0
Other property offenses*	10	—	—	—	—	—
<b>Drug offenses</b>	3,841	83.0%	6.8%	5.2%	4.6%	0.4%
<b>Public-order offenses</b>	1,995	79.1%	10.6%	5.3%	4.4%	0.7%
<b>Regulatory</b>	158	70.9%	15.8%	11.4%	1.9%	0%
Agriculture	10	—	—	—	—	—
Antitrust	1	—	—	—	—	—
Food and drug	3	—	—	—	—	—
Transportation	7	—	—	—	—	—
Civil rights	19	57.9	10.5	31.6	0	0
Communications	5	—	—	—	—	—
Custom laws	15	66.7	33.3	0	0	0
Postal laws	8	—	—	—	—	—
Other regulatory offenses	90	75.6	13.3	7.8	3.3	0
<b>Other</b>	1,837	79.8%	10.2%	4.7%	4.6%	0.7%
Weapons	994	81.8	9.3	4.9	3.4	0.6
Immigration offenses	292	74.0	13.0	3.1	9.2	0.7
Tax law violations*	101	75.2	14.9	5.0	5.0	0
Bribery	25	76.0	0	20.0	4.0	0
Perjury, contempt, and intimidation	77	76.6	10.4	7.8	2.6	2.6
National defense	12	91.7	8.3	0	0	0
Escape	76	77.6	7.9	3.9	7.9	2.6
Racketeering and extortion	221	82.8	8.6	4.5	3.6	0.5
Gambling	2	—	—	—	—	—
Liquor offenses	0	...	...	...	...	...
Obscene material*	2	—	—	—	—	—
Traffic	16	68.8	31.3	0	0	0
Migratory birds	2	—	—	—	—	—
All other offenses*	17	76.5	17.6	0	5.9	0
<b>Unknown or indeterminable offense</b>	300	76.3%	13.3%	2.3%	7.0%	1.0%

Note: For further information, see *Chapter notes*, p. 70.

—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

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Tables in chapter 5 were created from the AOUSC appeals database. Records of appeals filed or terminated during October 1, 1996, through September 30, 1997, were selected. Data include records of 10,521 criminal appeals filed during fiscal year 1997 and 10,466 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.