

CHAPTER II.

CRIMINAL SENTENCING PRACTICE, JANUARY 1996 TO JUNE 2002

This chapter presents a statistical description of felony¹ sentencing in the D.C. Superior Court from January 1996 to June 2002. The chapter updates the Commission's September 1999 Report, *Felony Sentencing Practices in the District of Columbia*. While not specifically requested by the Council, we are providing basic information on sentencing practice and trends over the most recent period for which data are available. As such, this chapter provides context for the analysis of indeterminate sentencing practice and the implementation of determinate sentencing, in Chapters III and IV, respectively.

The first section, "Collecting Data on Sentences," describes the data sources used in compiling information on sentencing practice during the period 1996 to 2002. The next section, "Felony Sentences January 1996 through June 2002," provides an overview of criminal sentencing in the Superior Court of the District of Columbia. The overview includes the number of offenders convicted and sentenced, the disposition of these cases, and the major offense categories.² This section also discusses conviction and sentencing trends over the period. The final section, "Offender Background Characteristics," presents information on the offenders, including demographic information and prior criminal records.

¹ The Commission was specifically charged to study felony sentences. Therefore, as a general rule, misdemeanors were not collected and analyzed.

² In total, there are over 150 separate criminal charges. These charge categories have been summarized into 6 major offense categories. A list of the specific charges in each category appears in Appendix B.

Collecting Data on Sentences

As mandated by Sentencing Reform Amendment Act of 2000, the Superior Court provided detailed automated sentencing information to the Commission through the Court Information System (CIS), for all felony sentences imposed. The Court provided information on the conviction charges, the sentence imposed, criminal history, selected background characteristics of offenders, and other factors.

To make full use of the Superior Court automated data, the Commission developed computer programs³ to read Superior Court felony sentences from the Court's automated files for the period 1996 through June 2002. These same programs will be used in subsequent years to analyze determinate sentences. The Superior Court automated files were supplemented by information on offenders from the Pretrial Services Agency (PSA), which includes prior criminal record information not otherwise available in the Superior Court database. The following discussion elaborates on specific issues the Commission addressed in the creation of the dataset.

Automated Data on Felony Sentences

Automated court data provide information about the current conviction charges, the sentence imposed, the local prior record of the offender, and the demographic characteristics of the offender. Court data do not provide information regarding the social history of the offender; ethnicity of the offender; victim information; detailed weapon information; amounts of property or drugs involved; the release, detention, or criminal justice supervision status offender at the time of the offense or during the pendency of the case; and various other mitigating and aggravating factors. The CIS data provide the key information on the nature and length of each sentence, but, in general, they do not provide an explanation of the sentence imposed. The

³ The principal changes to the computer programs since the Commission's September 1999 report are the retention of more detail on each charge, and the consolidation of same day cases. These changes are discussed later in this chapter.

Superior Court provided CIS automated information on 13,524 sentencing events (a sentencing event consists of the sentencing of one offender appearing before a single judge on the same day) from the period January 1, 1996 through June 30, 2002.

The Commission has analyzed two sentencing dimensions: type of sentence (e.g., probation, split sentence, and incarceration) and sentence length. The first involves the judge deciding whether to incarcerate the offender or to sentence him/her to other types of sentences such as probation or restitution, which we will sometimes refer to as the in-out decision. If the decision is to incarcerate the offender, the judge must then determine the length of the sentence imposed. These sentences include not only sentences to prison but also split sentences, where the offender serves an initial, usually brief, period of incarceration followed by probation. Offenders who are “sentenced to time served,” (i.e., sentenced to time already served in jail pretrial) are treated as receiving incarceration.

For crimes committed before August 5, 2000 (“old law”), sentences are shown in the data with both a minimum sentence and a maximum sentence. For crimes committed on or after August 5, 2000 (“new law”), the maximum sentence field in the CIS data is left blank and the determinate sentence imposed (of which the offender must serve at least 85%) appears in the minimum sentence field.⁴

Consolidation of Cases

In September 1999, the Commission reported on sentencing practices during the period 1993 through 1998. Thereafter, the Commission reconfigured the computer programs used to read the Superior Court’s automated data, as previously noted. A major reason for this reconfiguration, in addition to adding data from subsequent years and retaining greater detail,

⁴ Since the date of the offense, not the date of sentence, determines whether the “old law” or “new law” applies, new law prison sentences were identified by the date of the offense through court on-line records. New law offenses are those that were committed on or after August 5, 2000.

was to consolidate records involving a single offender sentenced on the same day by the same judge. This consolidation presents a more accurate picture of what the judge saw on the day of sentencing. Commission staff examined the issue of multiple cases that involved the same person being sentenced within a relatively short time period. Since these defendants would typically be admitted to prison only one time for all the sentences received on a given day, and judges would tailor each sentence with knowledge of the overall sentencing outcome, for statistical purposes it was more accurate to combine these cases into one case.⁵ When a judge ordered two or more consecutive terms of incarceration, the sentences were added together. When a judge ordered two or more terms of incarceration to be served concurrent with one another, the case that received the longest sentence was used.

The choice to consolidate cases, however, means that the number of cases reported for years 1996-1998 in the 1999 Report will be reduced slightly for this Report. For example, an offender who appeared in court on a single day under two docket numbers appears as two cases in the 1999 Report, but only one case in this Report. This consolidation produces only a minor change to previously reported information. For example, for years 1996-1998, there were 8,096 unconsolidated cases, and 7,351 cases after consolidation, indicating that 745 cases that previously stood alone were added to another case after consolidation. Median sentence lengths appear to be unaffected by the consolidation.

Prior Criminal History Data

As mentioned previously, an offender's prior criminal record is derived from two sources: 1) Superior Court CIS records, and 2) Pretrial Services Agency (PSA). The CIS data consist of all felony criminal convictions in the District of Columbia from 1980 to 2001 (67,784

⁵ After examining other criteria for consolidation (e.g., same day, within one week, one month, two months, etc.), sentencing information for defendants who were sentenced on the same day for two or more different cases were consolidated.

records).⁶ The PSA data add out-of-state convictions for offenders in the Superior Court database (5,937 records).⁷ These two data sets were merged to form a more complete account of local and non-local prior criminal history for each offender.⁸ The Commission considered it important to capture both the number of prior convictions and the severity of those crimes. The severity of the charges was coded using the nine groups established by the Commission's Offense Ranking Subcommittee, and offenders were "scored" using a scoring system adopted by the Commission's Criminal History Subcommittee.⁹ Points were assigned to each of the groups. Severity groups 1-4 received 3 points, severity groups 5 and 6 received 2 points, severity groups 7-9 received 1 point, and misdemeanors received a half point. An offender's prior criminal history score was calculated for offenses committed between 1996 and 2002, and the greater point totals reflect both the number and severity of prior offenses. An offender's criminal history

⁶ A small number of misdemeanors are included involving, for example, charges that can be filed as either a misdemeanor or felony where it could not be determined with certainty whether the conviction was a misdemeanor or a felony.

⁷ The Pre-trial Services data most likely undercounts the out-of-state convictions.

⁸ To calculate prior record, decisions were required for both PSA and CIS data in order to merge the data. The PSA data identified the conviction charge in a text field that was not consistently coded, and sometimes somewhat vague. The staff manually coded the file and converted the conviction charge into one of twenty-four generic offense categories (i.e. homicide, robbery, assault) and separated felony charges from misdemeanors. The twenty-four categories presented a problem when we attempted to convert them into the nine groups established by the Offense Ranking Subcommittee of the Commission. For example, assault consists of assault with intent to kill, a group four offense receiving three points, and assault with a deadly weapon, a group six offense receiving one point. In order to rectify this problem, the staff ran a cross-tabulation on the Superior Court Data, which was already broken into these twenty-four categories. The cross-tabulation was conducted on the twenty-four offense categories and the nine groups. The cross-tabulation revealed which of the nine groups contained the majority of the twenty-four categories for the Superior Court Data. Since the ultimate goal of this exercise was to establish criminal history points for out of state offenses, the nine groups could be broken into the four-points categories (groups 1-4= 3 points, groups 5-6= 2 points, groups 7-9= 1 point, and misdemeanors= .5 points). For example, when the assault category was examined, 10 % of the cases were in Group Four, 21 % were in Group Five, 47 % were in Group Six, and 22 % were in Group Seven. Based on the four categories, 68 % of the cases would receive 2 points (21 % in group 5 plus the 47 % in group 6). Therefore, all out of state assaults (based on the 24 categories) received 2 points. The out of state misdemeanors did not present this problem since they were coded in the out of state data and all misdemeanors receive a half point.

⁹ The 9 severity groups are preliminary; therefore the original charges have been kept in case there are any modifications to the groups.

score includes only convictions within the 10 years preceding the current offense.¹⁰ Arrests that did not result in a conviction were not counted.

Sentences to a Term of Incarceration

Most sentences fall into one of two categories: sentences to prison or suspended sentences with a period of probation. In about one out of ten cases, the offender receives both a term of incarceration and a term of probation – a split sentence with probation to follow a period of incarceration, usually a short one.

The definition of incarceration used in this Report differs from nationally reported definitions of imprisonment. Most states differentiate between jail and prison sentences. In national reports, prison sentences are usually defined as a sentence of more than one year. Jail sentences typically mean sentences of one year or less. However, following the Revitalization Act of 1997, the responsibility for housing all felony offenders rests solely with the Federal Bureau of Prisons, whether the offender is sentenced to one day or ten years.¹¹ While the District maintains a jail primarily for defendants held awaiting trial or convicted of misdemeanors, the distinction between jail and prison for felony offenders is not particularly meaningful. Further, there is currently no discretionary parole release for felons or misdemeanants, regardless of sentence length.¹² For these reasons, the Commission has not attempted to separate those with sentences of more than a year from those with sentences of one year or less.¹³

The Commission's definition of imprisonment also includes periods of pre-sentence incarceration. Logically, when one thinks of a sentence to a term of imprisonment, one assumes

¹⁰ The primary reason to use a consistent 10-year period was to measure all offenders by the same "yardstick." That is, all offenders regardless of the date at which their record was measured, were reviewed for the same span of time. Additional review found that going back more than ten years rarely affected the overall prior record score.

¹¹ For more detail consult the Commission's previous report to the Council, April 5, 2000.

¹² Another common reason for distinguishing prison sentences greater than one year is the availability of parole release on these sentences.

¹³ An examination of sentences greater than one year revealed no unique trends or otherwise remarkable findings, further reducing the need to report them separately.

the judge decided to imprison the offender. A defendant sentenced to a 30-day term of incarceration is taken to mean that defendant appeared before a judge after a conviction and was required to serve a 30-day sentence before returning to the community. However, the data presented here include not only post-sentence incarceration but also any period of pre-sentence incarceration, if the judge incorporated the service of the pre-sentence time in the sentence order. Thus, we do not distinguish a hypothetical 30-day sentence that was “served” pre-sentence from another hypothetical 30-day sentence served post-sentence. In the first case (pre-sentence incarceration), the judge releases the offender immediately to the community, as the offender has already completed service of that sentence. In the second case, the judge incarcerates the offender for 30 days before release to the community. However, where the judge suspends the entire sentence and places the defendant on probation, the case is reported here as a sentence to probation even if the defendant was detained in jail for a period of time between arrest and sentence.

Felony Sentences, January 1996 through June 2002

As Tables 2-1 and 2-2 show, 13,524 felony offenders¹⁴ were convicted and sentenced in Superior Court during the period January 1996 through June 2002. Of those, 8,430 offenders (62.4%) received some term of imprisonment. Of this incarcerated group, 470 persons received a maximum sentence of life in prison.¹⁵ During the same time period, 4,966 felony offenders (36.7%) received probation without incarceration. The remaining 111 offenders (0.8%) received other types of sentences, such as fines, restitution, or community service only.

Table 2-1. Number and Type of Sentences Imposed on Felony Defendants Sentenced For All Cases Sentenced between January 1996 to June 2002, by Major Offense Category

Major Offense	Total sentenced		Incarceration				
	Number	Percent	Total Incarceration	Incarceration only	Split	Probation	Other
Violent Level 1	996	7.4	963	861	102	23	10
Violent Level 2	1504	11.2	1257	976	281	241	6
Violent Level 3	494	3.7	334	255	79	158	2
Property	1709	12.6	1116	859	257	579	14
Drug	4478	33.1	2036	1432	604	2420	22
Weapon	999	7.4	522	337	185	439	38
Public Order	2915	21.6	1988	1814	174	919	8
Other	412	3.0	214	140	74	187	11
Total	13507	100.0	8430	6674	1756	4966	111

Table 2-2. Percent of Type of Sentences Imposed on Felony Defendants Sentenced For All Cases Sentenced between January 1996 to June 2002, by Major Offense Category

Major Offense	Total sentenced	Incarceration				
		Total Incarceration	Incarceration only	Split	Probation	Other
Violent Level 1	996	96.8	86.5	10.3	2.2	1.0
Violent Level 2	1504	83.6	65.0	18.6	16.0	0.4
Violent Level 3	494	67.6	51.6	16.0	32.0	0.4
Property	1709	65.3	50.3	15.0	33.9	0.8
Drug	4478	45.5	32.0	13.5	54.0	0.5
Weapon	999	52.3	33.7	18.5	43.9	3.8
Public Order	2915	68.2	62.2	6.0	31.5	0.3
Other	412	51.9	34.0	18.0	45.4	2.7
Total	13507	62.4	49.4	13.0	36.7	0.8

¹⁴ These and subsequent tables summarize sentencing information by the six major offense categories, and violent crimes are further subdivided into three seriousness levels. See Appendix B. Seventeen of the violent offenders could not be subdivided due to missing information, and are not reported in the Table 2-1 and 2-2 as well as several subsequent tables in Chapters III and IV.

¹⁵ Regarding the life sentences, 464 cases were old law sentences and 6 life sentences were new law cases.

These tables also show the type of sentence by the six major offense categories. Violent crimes are further subdivided into three seriousness levels.¹⁶ Drug offenses made up one-third (33.1%) of the felony sentences during this time period (Table 2-1). The sentencing disposition varies by the type of offense – incarceration sentences are frequently given for violent offenses (85% received some form of incarceration vs. 14% probation),¹⁷ while probation is used for a substantial proportion of non-violent offenses (45.5% of felony drug offenders, mostly repeat offenders, received incarceration while 54.0% were sentenced to probation). Split sentences, which include a period of incarceration to be followed by probation, appear in a relatively few cases in each of the offense categories.

¹⁶ Violent crimes include crimes such as Assault with Intent to Kill While Armed and Armed Robbery (Level 1); Assault with a Deadly Weapon and Possession of Firearm during Crime of Violence (Level 2); and Attempt Robbery (Level 3). Property crimes include Unauthorized Use of a Motor Vehicle, Second Degree Burglary, and Receiving Stolen Goods. Most felony drug crimes involve Distribution of Cocaine. Most weapon crimes involve Carrying a Pistol Without a License. Most public order crimes involve absconding from a halfway house or other forms of custody. Other crimes include a category for “crimes not listed.” Offense definitions are provided in Chapter V. Appendix B has a complete listing of all crimes within each major offense category.

¹⁷ In the highest level of violent crimes, 96.8% received incarceration and only 2.2% received probation.

Trends

Tables 2-3 and 2-4 and Figure 2-1 describe the type of sentence offenders received by year of the sentencing. One important trend is the increased use of probation and the decreased use of incarceration from 1996 to June 2002.¹⁸ Specifically, the use of probation increased from 26.1% of all sentence dispositions in 1996 to 43.3% in the first half of 2002. This coincided with a decrease in the use of incarceration (prison only cases and split sentences) as a sentencing option – from 72.2% of dispositions in 1996 to 56.1% by June 2002. Split sentences were used with increasing frequency in recent years.

Table 2-3. Trends in Sentences Imposed on All Felony Defendants Sentenced During January 1996 to June 2002, by Type of Sentence Imposed (Number)

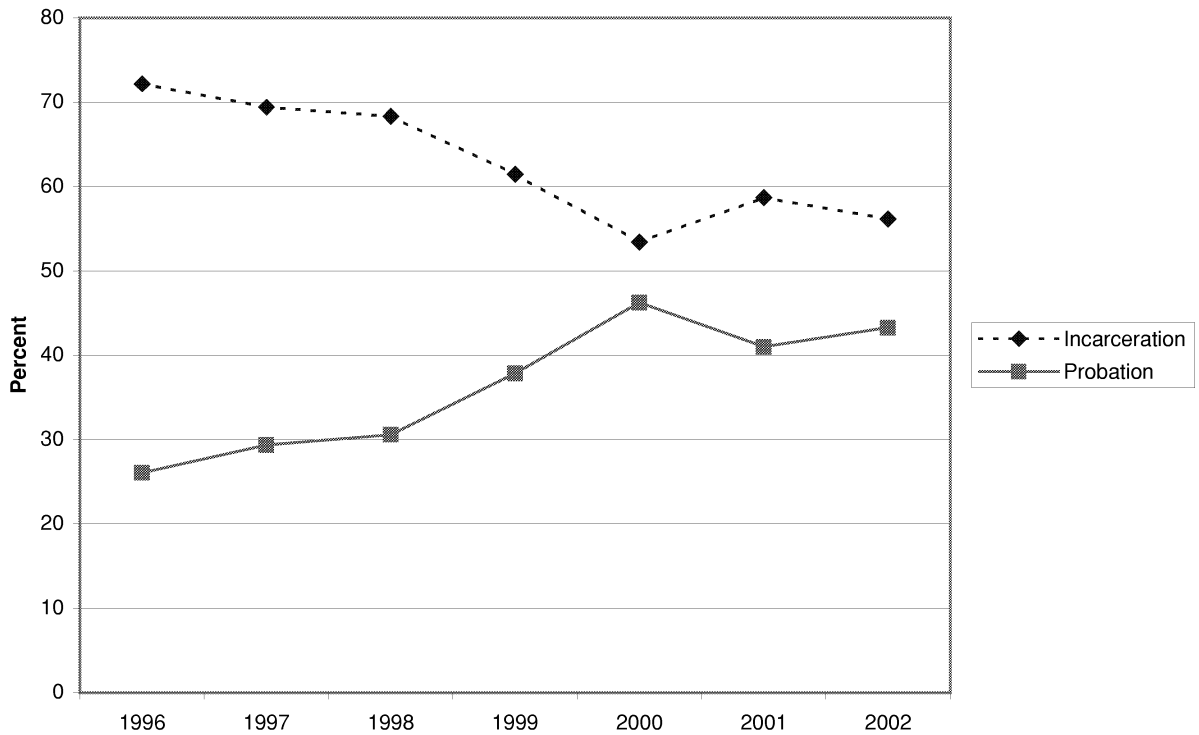
Year	Total sentenced		Incarceration				Other
	Number	Percent by Year	Total Incarceration	Incarceration only	Split	Probation	
1996	1635	12.1	1180	1040	140	426	29
1997	1778	13.1	1234	1024	210	522	22
1998	1972	14.6	1347	1117	230	603	22
1999	2129	15.7	1308	1061	247	806	15
2000	2273	16.9	1214	868	346	1051	8
2001	2408	17.8	1413	1053	360	987	8
2002	1329	9.8	746	519	227	575	8
Total	13524	100.0	8442	6682	1760	4970	112

Table 2-4. Trends in Sentences Imposed on All Felony Defendants Sentenced During January 1996 to June 2002, by Type of Sentence Imposed (Percent)

Year	Total sentenced	Incarceration				Other
		Total Incarceration	Incarceration only	Split	Probation	
1996	1635	72.2	63.6	8.6	26.1	1.8
1997	1778	69.4	57.6	11.8	29.4	1.2
1998	1972	68.3	56.6	11.7	30.6	1.1
1999	2129	61.4	49.8	11.6	37.9	0.7
2000	2273	53.4	38.2	15.2	46.2	0.4
2001	2408	58.7	43.7	15.0	41.0	0.3
2002	1329	56.1	39.1	17.1	43.3	0.6
Total	13524	62.4	49.4	13.0	36.7	0.8

¹⁸ Since data for 2002 sentences cover only the first six months of the year, the numbers and trends may change when data for the entire calendar year are available.

Figure 2-1. Trends in Sentences Imposed on All Felony Offenders Sentenced During January 1996 to June 2002, by Type of Sentence Imposed (N=13,524)



Probation and prison trends can be better understood by examining corresponding trends in the distribution of major offense categories. Table 2-5 illustrates that the percentage of all offenses that were drug offenses increased in the period between January 1996 and June 2002. In 1996, drug offenses made up 29.9% of all sentenced felonies. Beginning in 2000, through the first half of 2002, drug offenses never represented less than 38% of all sentences. Conversely, the most serious violent crimes (Violent Level I in Table 2-5), including murders, forcible sexual assaults, and violent crimes involving firearms, declined substantially during the period. In 1996, Level I violent crimes made up 9.8% of all felony convictions, and by the first half of 2002 made up only 4.7%. The reduction in the most serious crimes parallels a reduction in serious violent

offenses committed in recent years in the District of Columbia, according to Metropolitan Police Department reports.

Table 2-5. Trends in Sentences Imposed on Felony Defendants, During January 1996 to June 2002, by Major Offense Category

Year	Major Offense	Total	Percent	Year	Major Offense	Total	Percent
1996	Violent Level 1	159	9.8	2000	Violent Level 1	126	5.5
	Violent Level 2	225	13.8		Violent Level 2	215	9.5
	Violent Level 3	56	3.4		Violent Level 3	75	3.3
	Property	237	14.5		Property	238	10.5
	Drug	489	29.9		Drug	871	38.3
	Weapon	139	8.5		Weapon	124	5.5
	Public Order	277	16.9		Public Order	558	24.6
	Other	46	2.8		Other	65	2.9
	Total	1628	100.0		Total	2272	100.0
1997	Violent Level 1	178	10.0	2001	Violent Level 1	126	5.2
	Violent Level 2	219	12.3		Violent Level 2	234	9.7
	Violent Level 3	71	4.0		Violent Level 3	81	3.4
	Property	253	14.2		Property	257	10.7
	Drug	511	28.7		Drug	967	40.2
	Weapon	174	9.8		Weapon	145	6.0
	Public Order	332	18.7		Public Order	525	21.8
	Other	36	2.0		Other	73	3.0
	Total	1774	100.0		Total	2408	100.0
1998	Violent Level 1	195	9.9	2002	Violent Level 1	63	4.7
	Violent Level 2	234	11.9		Violent Level 2	120	9.0
	Violent Level 3	88	4.5		Violent Level 3	45	3.4
	Property	309	15.7		Property	144	10.9
	Drug	515	26.1		Drug	522	39.3
	Weapon	175	8.9		Weapon	89	6.7
	Public Order	404	20.5		Public Order	259	19.5
	Other	50	2.5		Other	85	6.4
	Total	1970	100.0		Total	1327	100.0
1999	Violent Level 1	149	7.0				
	Violent Level 2	257	12.1				
	Violent Level 3	78	3.7				
	Property	271	12.7				
	Drug	603	28.3				
	Weapon	153	7.2				
	Public Order	560	26.3				
	Other	57	2.7				
	Total	2128	100.0				

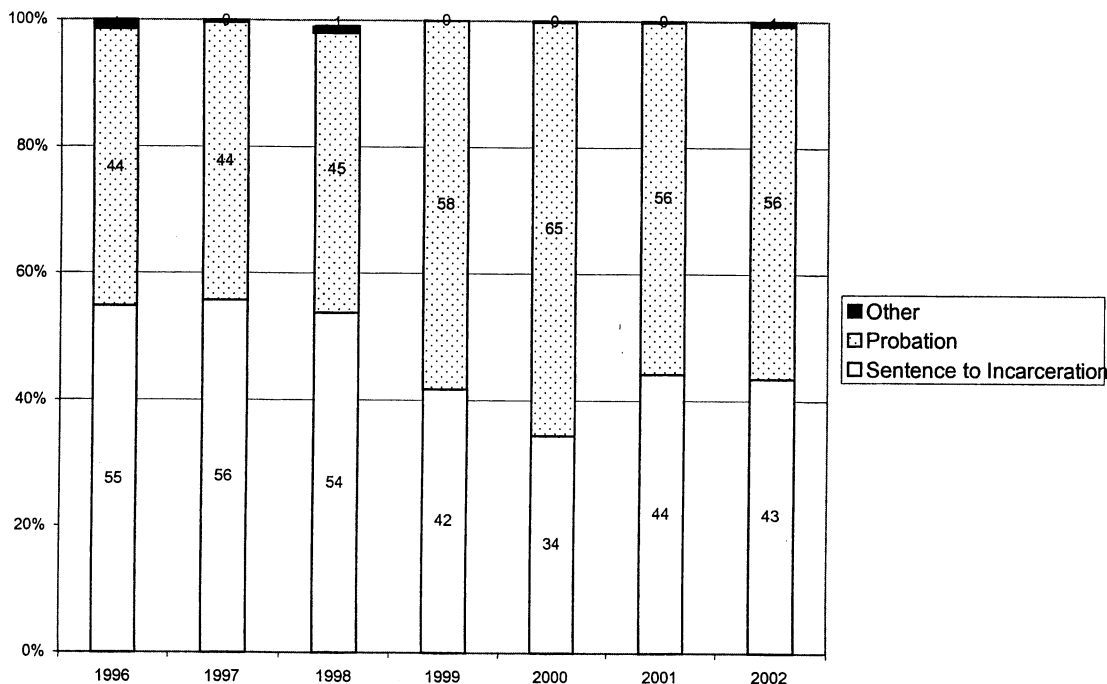
As the proportion of drug sentences grows and sentences for violent crime shrink as a percentage of the court's caseload, the proportion of offenders being sentenced to prison also

declines. Drug offenders are more likely to receive a sentence to probation (Table 2-2). Conversely, offenders convicted of serious violent crimes are the most likely group to receive prison sentence. Therefore, it stands to reason that probation dispositions would grow overall, and prison sentences decline during the period under study.

Additionally, looking more closely at drug offenses, not only are the number of drug sentences increasing year to year, but the percentage of those cases that receive probation sentences is also increasing. For example, Figure 2-2 shows that for drug offenses, there was an increased use of probation and a decrease in sentences to some period of incarceration – probation sentences climbed from 44% of all drug cases in 1996 to 56% by 2001 and the first half of 2002, reaching a high of 65% in 2000. As discussed in more detail in Chapter V, the typical drug distribution crime sentenced in Superior Court involves a small street-level sale often made to support a drug habit, and does not involve high level traffickers.

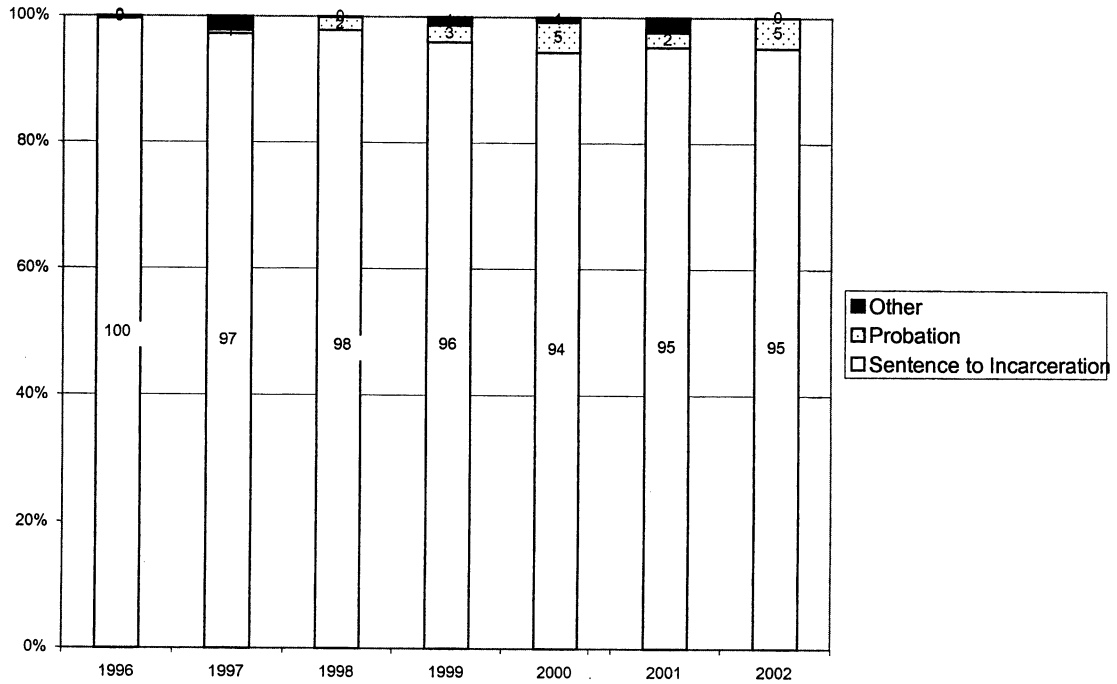
For non-violent offenses (property, weapons, and public order), the use of probation has

Figure 2-2. Disposition Types for All Drug Offenses, by Year (January 1996 to June 2002)



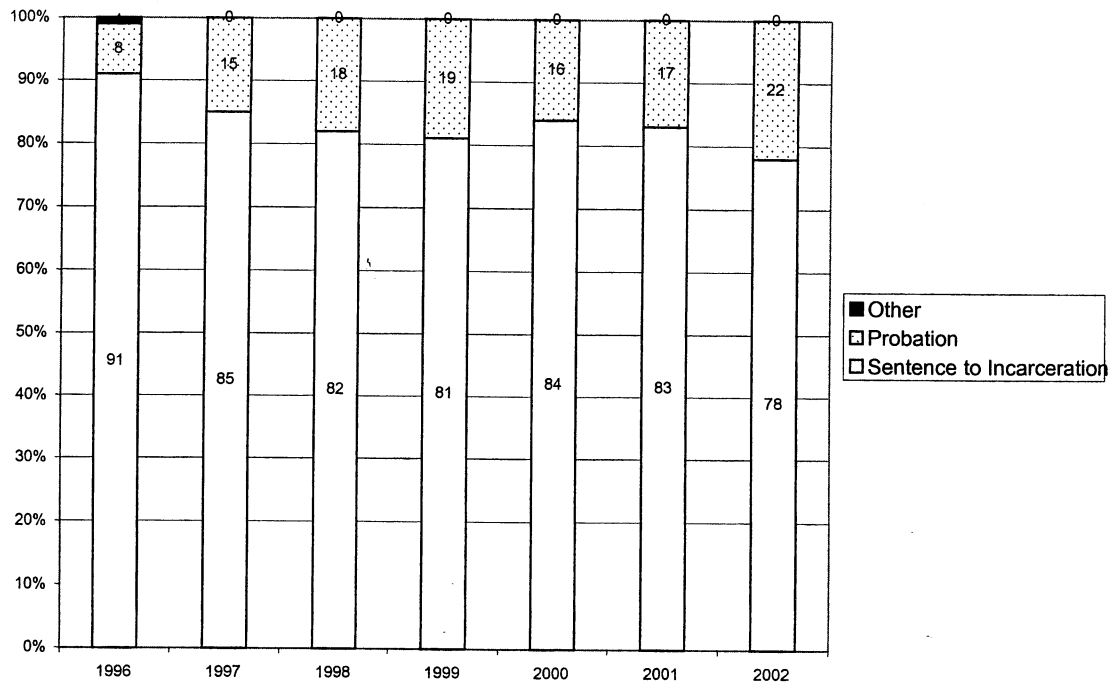
increased while sentences to some term of incarceration have consistently decreased (Figures 2-6 through Figures 2-8). Violent crimes do not demonstrate a marked trend. Level 1 violent crimes (Figure 2-3) range from 95% to 100% incarceration, and the number receiving probation sentences never exceeded seven offenders in a single year (More detail is provided in the Appendix B).

Figure 2-3. Disposition types for Level One Violent Offenses, by Year (January 1996 to June 2002)



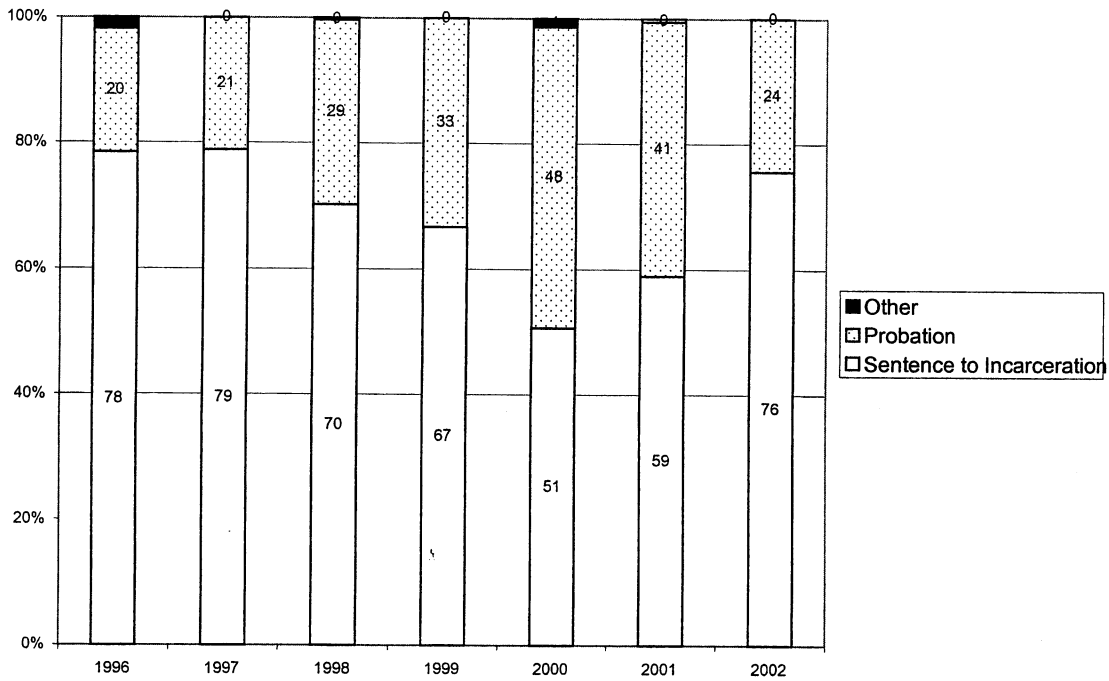
Level 2 violent crimes, which include aggravated assaults and unarmed robberies, also show high incarceration levels that are sustained throughout the period (Figure 2-4). Even in Level 3 violent crimes such as attempted robberies, although incarceration declined somewhat from 1996 to 2000, it has increased in 2001 and 2002 and is the most common disposition in

Figure 2-4. Disposition Types for Level Two Violent Offenses, by Year (January 1996 to June 2002)



these cases throughout the period (Figure 2-5). It is safe to say that most offenders received incarceration for serious violent crime at any point during the period of analysis.

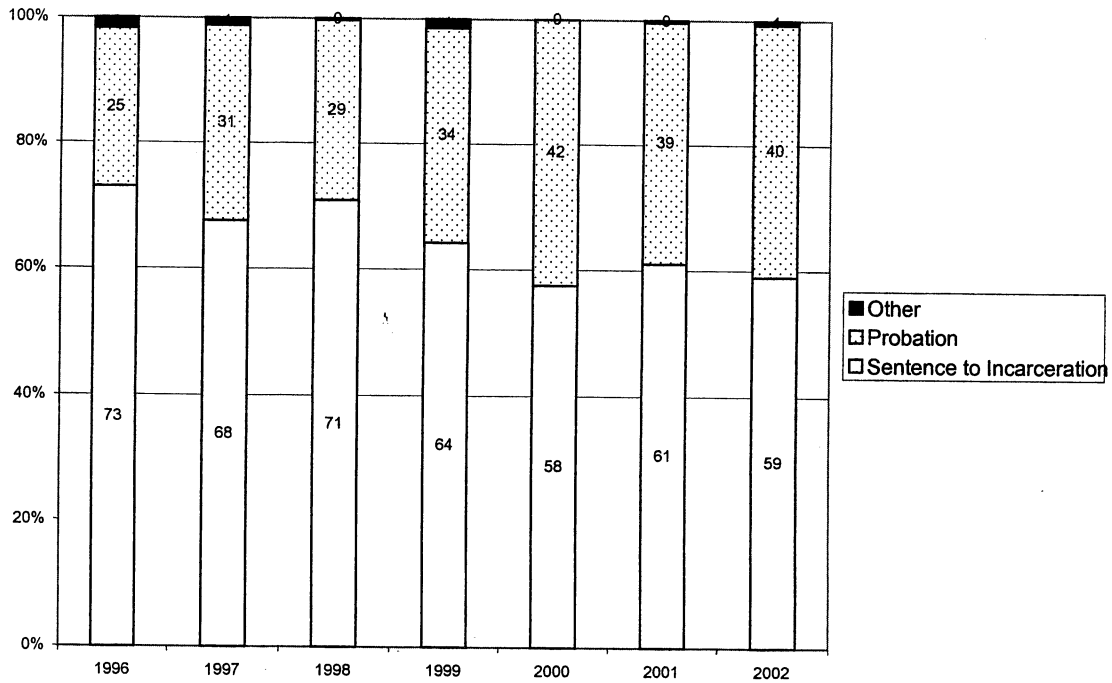
Figure 2-5. Disposition Types for Seriousness Level Three Violent Offenses, by Year



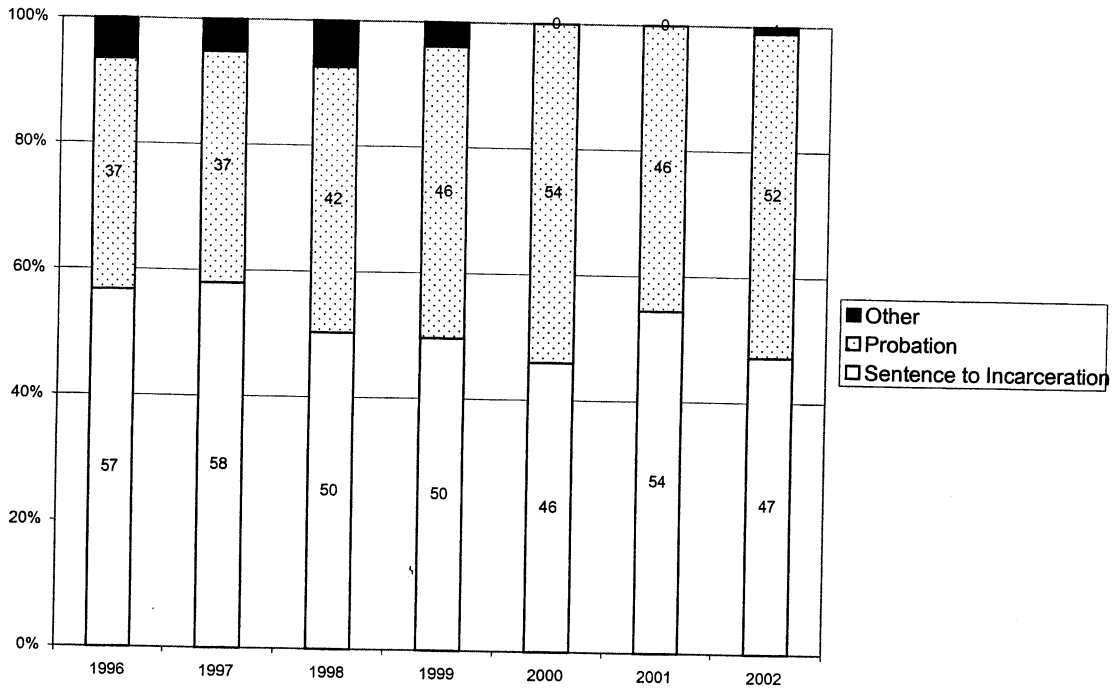
In contrast to violent crime, other crime categories show a gradual increase in probation and decline in incarceration, including property crime (Figure 2-6), weapon offenses (almost exclusively carrying a pistol without a license (Figure 2-7)), and public order offenses (mostly offenders charged with failing to appear for court and absconding from halfway houses (Figure 2-8)). This trend is not well understood at the time of this writing, but it cannot be fully accounted for by other known features of the offender or the offense. However, the trends in the prior record of offenders indicate a slight decrease in the proportion of offenders with prior felony records. Since offenders without prior felonies are more likely to receive probation and less likely to receive a period of incarceration, this offers another possible explanation for the

decline in incarceration. In addition, the apparent shift from incarceration to probation took place before 2000, and in all crime categories, the proportion of probation dispositions to incarceration dispositions has remained fairly constant since then.

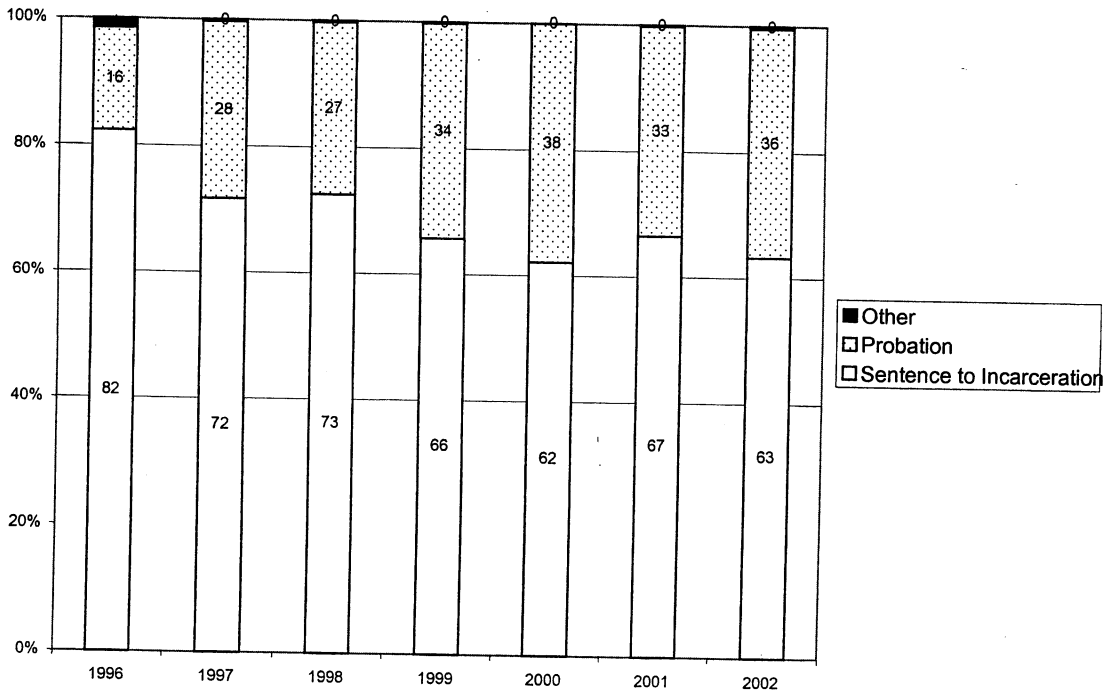
Figure 2-6. Disposition Types of All Property Offenses, by Year (January 1996 to June 2002)



**Figure 2-7. Disposition Types for All Weapons Offenses, by Year
(January 1996 to June 2002)**



**Figure 2-8. Disposition Types for All Public Order Offenses, by Year
(January 1996 to June 2002)**



Offender Background Characteristics

This section presents information on the characteristics and criminal history for 13,524 offenders sentenced on felony offenses from January 1996 to June 2002. The first part describes the offender population based on age, race, and gender. The second part presents information on offenders' criminal history, including the number and types of prior convictions and commitments to incarceration. Trends in demographic information by year are shown in the Appendix B.

The average age for the 13,524 offenders at sentencing was approximately 33 years old. Most offenders (90%) were men. Sentenced offenders were predominantly black (94.1%), while offenders classified as white made up a little less than 6% of the total.¹⁹

Age

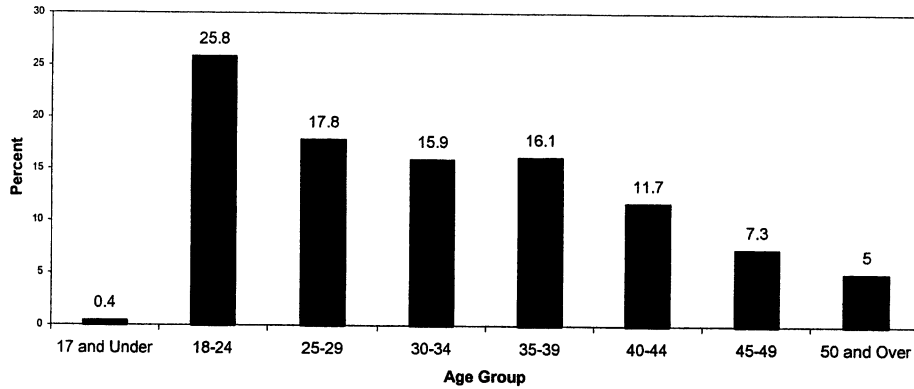
Age was recorded in the data as the offender's age at the time of arrest. The average age for sentenced felons was about 33 years old (Table 2-6). The median age 31, indicates that half of the offenders sentenced were 31 or younger. A quarter of the offenders sentenced were 24 years old and younger. In Figure 2-9, it can be seen that the age distribution peaks in the 18-24 category (25.8% of the offender population is in this age group) and then gradually drops off.

Table 2-6. Age of Felony Offenders Sentenced, January 1996 to June 2002

	Offenders sentenced	Mean	25th %tile	Median	75th %tile
Total	13,524	32.5	24	31	39

¹⁹ Information on the age, race, and gender of the offender was obtained from the Superior Court files. The Superior Court files contain no information regarding an offender's ethnicity. The unit of analysis is a case, one offender appearing before one judge on a given day to be sentenced on one or more charges. Sometimes, what starts out as two cases is consolidated into one before the sentencing hearing. Cases sentenced together were consolidated as a single automated record. However, it is possible for an offender to appear twice in the data if he/she had more than one unconsolidated case sentenced between January 1996 and June 2002.

Figure 2-9. Age Distribution of Felony Offenders Sentenced , January 1996 to June 2002, By Age Category



The age distribution, however, was not uniform across all demographic subgroups in the population. Table 2-7 shows that male offenders tended to be slightly younger than females. The average age of male offenders was 32, while the average age of female offenders was 35.

Table 2-7. Age of Felony Offenders Sentenced, January 1996 to June 2002, By Gender

Gender	Offenders sentenced	Mean	25th %tile	Median	75th %tile
Female	1,410	35.2	29	35	41
Male	12,103	32.2	24	31	39
Total	13,513	32.5	24	31	39

Note: Total does not equal 13524 because gender information is unavailable for some cases.

Table 2-8 reveals that black offenders are slightly older than white offenders. The average age of black offenders was 32.5 years old, compared to 31.1 for whites and 29.6 for the ‘other’ category. One-half of the black offenders sentenced were age 31 or under, while half of the white offenders sentenced were age 29 or under.

Table 2-8. Age of Felony Offenders Sentenced, January 1996 to June 2002, By Race

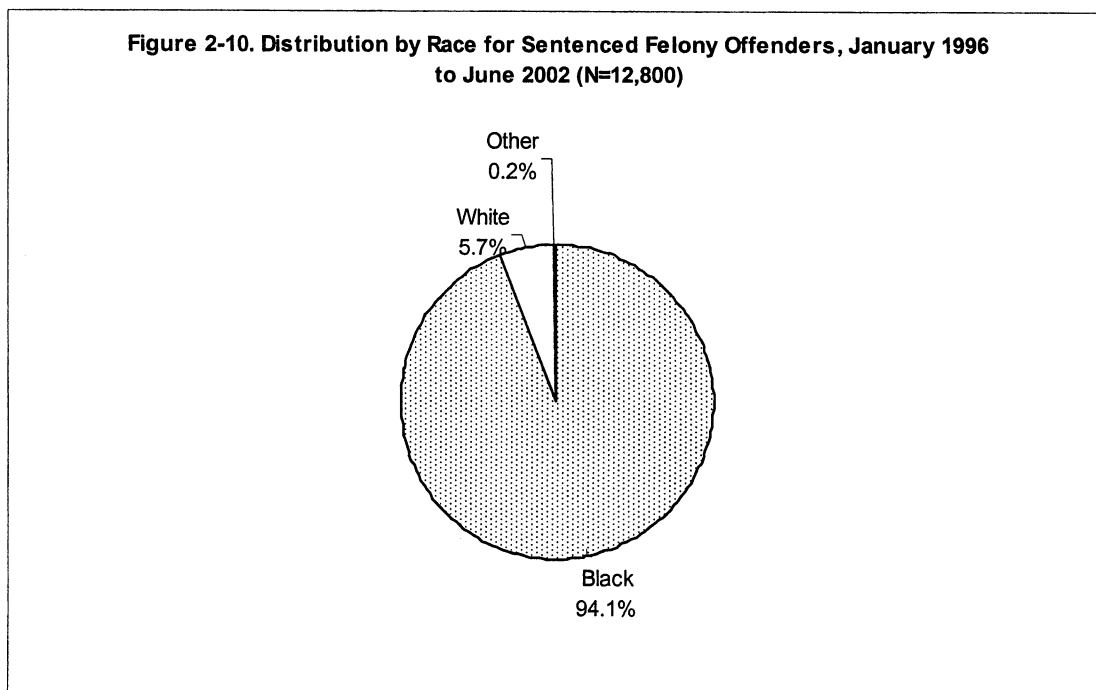
Race	Offenders sentenced	Mean	25th %tile	Median	75th %tile
Black	12,035	32.5	24	31	39
White	735	31.1	24	29	36
Other	30	29.6	20	27	38
Unknown	724	35	27	34	41
Total	13,524	32.5	24	31	39

Gender

The vast majority (90%) of the offenders were males during the period of study.

Race

The population of offenders sentenced during the study period was predominantly (94.1%) black.²⁰ White offenders made up about 5.7% of the total population and offenders of other racial groups comprised less than 1 percent of the felony offenders (Figure 2-10). As previously noted, the ethnic background of offenders is not available.



²⁰ For 724 cases, the race of the offender was unavailable. Therefore, these figures represent the racial composition of cases in which the race of the offender is known.

Criminal History Of Felony Offenders

For the purpose of this report, a “prior felony conviction” is any felony conviction for which the offender was sentenced within 10 years prior to the date of the current offense.²¹ If an offender is convicted of more than one crime in a prior case, only the most serious crime is counted. A “prior prison commitment” is any felony sentence within a 10-year period, in which the offender was sentenced to some term of incarceration, including split sentences and pre-trial time served.

As mentioned in the “Prior Criminal History” section earlier in this Chapter, the criminal history information was obtained from Superior Court and PSA data. From 1996 to June 2002, 53.1% of the 13,524 offenders had no prior felony convictions, 37.2% had one or two prior felony convictions, and 9.7% had three or more prior felony convictions (Table 2-9).²²

Table 2-9. Number of Prior Felony Convictions for Felony Offenders Sentenced, January 1996 to June 2002, by Major Offense Category

Major offense category and seriousness level	Offenders sentenced	Total number of prior felonies					
		No priors		1-2 prior		3 or more priors	
		Number	Percent	Number	Percent	Number	Percent
Violent							
Level 1	996	703	70.6%	248	24.9%	45	4.5%
Level 2	1,504	909	60.4%	473	31.4%	122	8.1%
Level 3	494	285	57.7%	160	32.4%	49	9.9%
Property	1,709	797	46.6%	680	39.8%	232	13.6%
Drug	4,478	2,412	53.9%	1,689	37.7%	377	8.4%
Weapon	999	773	77.4%	206	20.6%	20	2.0%
Public Order	2,915	1,013	34.8%	1,460	50.1%	442	15.2%
Other	412	278	67.5%	113	27.4%	21	5.1%
Total	13,507	7,170	53.1%	5,029	37.2%	1,308	9.7%

²¹ The prior conviction and incarceration data are not always available for out of state convictions. As a result, some offenders may have convictions or incarcerations that are not recorded, undercounting their prior record. The choice to limit prior record to the past ten years from the date of the current offense was made so that all offenders would be treated as consistently as possible, counted across the same time interval.

²² Seventeen violent offenders could not be classified and do not appear in levels 1, 2, or 3 of Table 2-9.

Table 2-10. Number of Prior Prison Commitments for Felony Offenders Sentenced, January 1996 to June 2002, by Major Offense Category

Major offense category and seriousness level	Offenders sentenced	Total number of prior commitments					
		No priors		1-2 prior		3 or more priors	
		Number	Percent	Number	Percent	Number	Percent
Violent							
Level 1	996	757	76.0%	222	22.3%	17	1.7%
Level 2	1,504	1,090	72.5%	368	24.5%	46	3.1%
Level 3	494	347	70.2%	131	26.5%	16	3.2%
Property	1,709	1,075	62.9%	517	30.3%	117	6.8%
Drug	4,478	3,035	67.8%	1,277	28.5%	166	3.7%
Weapon	99	866	86.7%	126	12.6%	7	0.7%
Public Order	2,915	1,415	48.5%	1,265	43.4%	235	8.1%
Other	412	329	79.9%	72	17.5%	11	2.7%
Total	12,624	8,930	66.0%	3,979	29.4%	615	4.5%

Sixty-six percent of these offenders had no prior prison commitments, 29.4% had one or two prior prison commitments, and 4.5% had three or more prior prison commitments (Table 2-10).

For simplicity, we have divided all felony charges into six major offense categories: 1) Violent, 2) Property, 3) Drug, 4) Weapon, 5) Public order, and 6) Other. We have further divided the violent crime category into three seriousness levels. When prior felony convictions and prior prison commitments were examined based on major offense categories some differences emerge (Table 2-9). Public order and property offenders were more likely to have a prior felony conviction. Violent crime offenders, offenders convicted of carrying a pistol without a license (the major ‘Weapons’ charge), and offenders in the ‘Other’ major offense category were less likely to have a prior felony conviction. Drug offenders, who account for 4,478 of the 13,524 sentenced felony offenders during the time period, were consistent with the overall average offender based on prior felony convictions; 53.9% of drug offenders have no prior felony convictions.

With regard to prior prison commitments, Violent, ‘Weapon,’ and ‘Other’ offenders were also less likely to have a prior prison commitment. Public order offenders were more likely to

have a prior prison commitment and were more likely to have 3 or more prior commitments (Table 2-10), keeping in mind that we use “prison commitment” to mean any prior period of incarceration under sentence, no matter how brief.

Summary

In summary, the percentages of sentences to probation increased between January 1996 and June 2002, although not for serious violent crimes and not since 2000. Sentences to a period of incarceration (excluding split sentences) have remained steady for serious violent crime but decreased from 1996 to 2000 for other crimes. An increasing number of drug offenses were sentenced in the Superior Court during the period, and the proportion of violent offenses sentenced decreased. The overall reduction in incarceration is explained by the increase in the percentage of drug cases and the corresponding decrease in violent crime cases, as non-violent crimes are more likely to receive sentences to probation. When examining trends in sentences by offense type, sentences to probation appeared to be more frequent in recent years across all non-violent offenses. Beyond what has been said, the Commission cannot fully explain the apparent trend away from incarceration and toward probation for much of the period, but a slight reduction in offenders with prior felony convictions is likely part of the explanation.