



ROSE INSTITUTE
OF STATE AND LOCAL GOVERNMENT

CLAREMONT MCKENNA COLLEGE

TRUE TIME SERVED IN LOCAL JAILS AND STATE PRISONS FOR FELONS CONVICTED IN 1996, 2000, & 2004

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INTRODUCTION

The Rose Institute of State and Local Government presents its second report that tracks the length of time behind bars (in local jails and state prisons) actually served by those convicted of a number of serious crimes. Our previous report – *Time Served in State Prisons for Serious Offenses, 1981-2009* (October 2018) – measured the length of time that offenders served in state prison before their first release. This report extends that work by adjusting for both (a) jail credits applied to prison sentences for felons who were held in local jail pending or during trial and (b) convicted felons sentenced to probation (or other non-incarceration sentence) and to local jail (usually for less than a year) rather than to state prison. This report covers six serious felonies – murder, rape, robbery, aggravated assault, burglary, and drug trafficking – for those sentenced in 1996, 2000, and 2004. These adjustments make for a truer measure of time served than simply examining those released from state prison.

Offenders can accumulate jail credits while awaiting trial, during trial, or while awaiting transfer to a state prison. Jail credits can shave months off of a prison sentence. Because we were unable to find national data on jail credits, we used averages from California and New York, the two largest states that regularly publish such data.

This report combines jail credits data with prison time served data from the U.S. Bureau of Justice Statistics's National Corrections Reporting Program (NCRP). The NCRP has collected offender-level administrative data on admission, release, and post-confinement programs since 1983. Adding jail credit data provides a more accurate measure of time served behind bars for the offenses covered here. Yet, simply adding jail credit data to time served in prison also overstates average time served by ignoring convicted felons who are not sentenced to incarceration at all (probation) or are sentenced to some months in a local jail. As explained in the section on Methodology, this report also adjusts for these convicted felons not sentenced to state prison.

By compiling the data into a series of tables and charts, we offer a clear, substantive look into the past twenty years of American criminal justice.

The report begins by providing a comprehensive overview of time served for those convicted of murder, rape, robbery, aggravated assault, burglary, and drug trafficking sentenced by state courts in 1996, 2000, and 2004. It then provides an in-depth analysis of each year, which includes values for each of the variables considered. Finally, we have included yearly averages for jail credits in California and New York, which we used to estimate national data.

Our analysis reveals that between 1996 and 2004, the net true time served increased for all crimes except burglary, for which time served was unchanged. Inmates convicted in 2000 of each crime, with the exception of aggravated assault, experienced longer incarceration than their counterparts in 1996 or 2004. For example, inmates convicted of murder in 2000 were incarcerated for nearly two more years than those sentenced in 1996.

We hope that this project may serve as a valuable resource to researchers and anyone interested in how the criminal justice system has changed over the past two decades. The team would like to thank Professor Joseph Bessette of Claremont McKenna College's Department of Government for his guidance. His extensive knowledge of the criminal justice system and feedback proved an invaluable resource throughout the entire process.

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METHODOLOGY

The data from this report came from three key sources. First, we used the Bureau of Justice Statistics publication series “Felony Sentences in State Courts” to obtain the number of convictions and the distribution of sentences (state prison, local jail, or probation) for each offense. The BJS published that report every two years from 1986-2006.

With the conviction data in hand, we then needed to determine time served in state prisons and time served in local jails (a sentence of probation does not result in any time served). We used data on time served in state prisons from the Bureau of Justice Statistics’ “National Corrections Reporting Program: Time Served in State Prison, by Offense, Release Type, Sex, and Race.” Those datasets are available for 1993-2009; the series was discontinued from 2010 to 2016.

To get a true estimate of time served by defendants sentenced to state prisons, we also needed to add jail credits, that is, the time spent in local jails pending trial, during trial, or while awaiting transfer to prison. Unfortunately, we were not able to find national data on jail credits. Instead, we used reports by the California Department of Corrections and the New York Departments of Corrections. Both states report jail credits for 2002-2012 for the six crimes we examined. We averaged the data for the two states for each of the six crimes to estimate national figures for jail credits.

We were also unable to find national data on time served in local jail for those felons sentenced to local jail instead of state prison. Instead, we used the average maximum sentence length imposed by the court to represent actual time served in jail. Because many of those sentenced to local jails are released before their sentences expire, using data on sentence length somewhat overstates the time served reported here.

Thus, we compute true time served using the following formula:

$$\begin{aligned} \text{True Time Served by Crime} = & \\ & ((\text{Prison Time Served} + \text{Jail Credits}) * \\ & \text{Proportion of Felons Sentenced to State Prison}) \\ & + \\ & (\text{Maximum Jail Sentence} * \text{Proportion of Felons Sentenced} \\ & \text{to Local Jail}) \end{aligned}$$

When it came to actually computing the time served statistics, we decided to project forward in time, with 1996 as our starting year. Prison time served statistics are published after individuals are released, so we needed to match our sentencing and jail credits data from the year they were sentenced with the appropriate time served statistics. For example, on average someone sentenced to prison for murder in 1996 would have been released in 2009 since the mean time served for those released from prison for murder in 2009 was just over 13 years. We used the 1996 mean time served estimates for first releases from state prisons to approximate the release year and then checked the surrounding years until we found the closest match. We could then use the jail credits and proportion of sentences to prison, jail, or probation from 1996 to calculate true time served. We repeated this process for each of the six serious felonies for those sentenced in 1996, 2000, and 2004.

CRIME DEFINITIONS

In administering the National Corrections Reporting Program (NCRP), the Bureau of Justice Statistics (BJS) gathers offender-level administrative data from state corrections departments. Because crime definitions vary by state, BJS standardizes the raw data to match the FBI's crime definitions from the Uniform Crime Reporting program, shown here.

CRIME	DEFINITION
Murder	(1) Intentionally causing the death of another person without extreme provocation or legal justification or (2) causing the death of another while committing or attempting to commit another crime.
Rape	<p>Prior to January 1st, 2013 (used in this report): Rape is forcible intercourse (vaginal, anal, or oral) with a female or male. Rapes by force and attempts or assaults to rape, regardless of the age of the victim, are included. Statutory offenses (no forced used/victim under age of consent) are excluded.</p> <p>After January 1st, 2013: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. Rapes by force and attempts or assaults to rape, regardless of the age of the victim, are included. Statutory offenses (no forced used/victim under age of consent) are excluded.</p>
Robbery	The unlawful taking of property that is in the possession of another by force or the threat of force. Robbery includes forcible purse snatching, but excludes nonforcible purse snatching, which is classified as larceny or theft. Robbery includes attempts.
Aggravated Assault	(1) Intentionally and without legal justification causing serious bodily injury with or without a deadly weapon or (2) using a deadly or dangerous weapon to threaten, attempt, or cause bodily injury, regardless of the degree of injury.
Burglary	Burglary is the unlawful entry of a fixed structure used for regular residence, industry, or business, with or without the use of force, to commit a felony or theft. Burglary includes attempts.
Drug Trafficking	Drug trafficking includes manufacturing, distributing, selling, smuggling, and possession with intent to sell drugs. Drug trafficking includes attempts.

FIGURE 1. TRUE TIME SERVED IN LOCAL JAILS AND STATE PRISONS

Crime	Felons Sentenced in 1996	Felons Sentenced in 2000	Felons Sentenced in 2004
Murder	13.4 years	15.2 years	14.5 years
Rape	5.0	6.4	6.2
Robbery	3.6	4.1	4.0
Aggravated Assault	1.2	1.2	1.3
Burglary	1.6	1.7	1.6
Drug Trafficking	1.1	1.2	1.2

Note: The data adjust for (a) jail credits applied to prison sentences for felons who were held in jail pending or during trial and (b) convicted felons sentenced to probation (or other non-incarcerated sentences) and to local jail rather than to state prisons.

FIGURE 2. TRUE TIME SERVED BY CRIME EACH YEAR

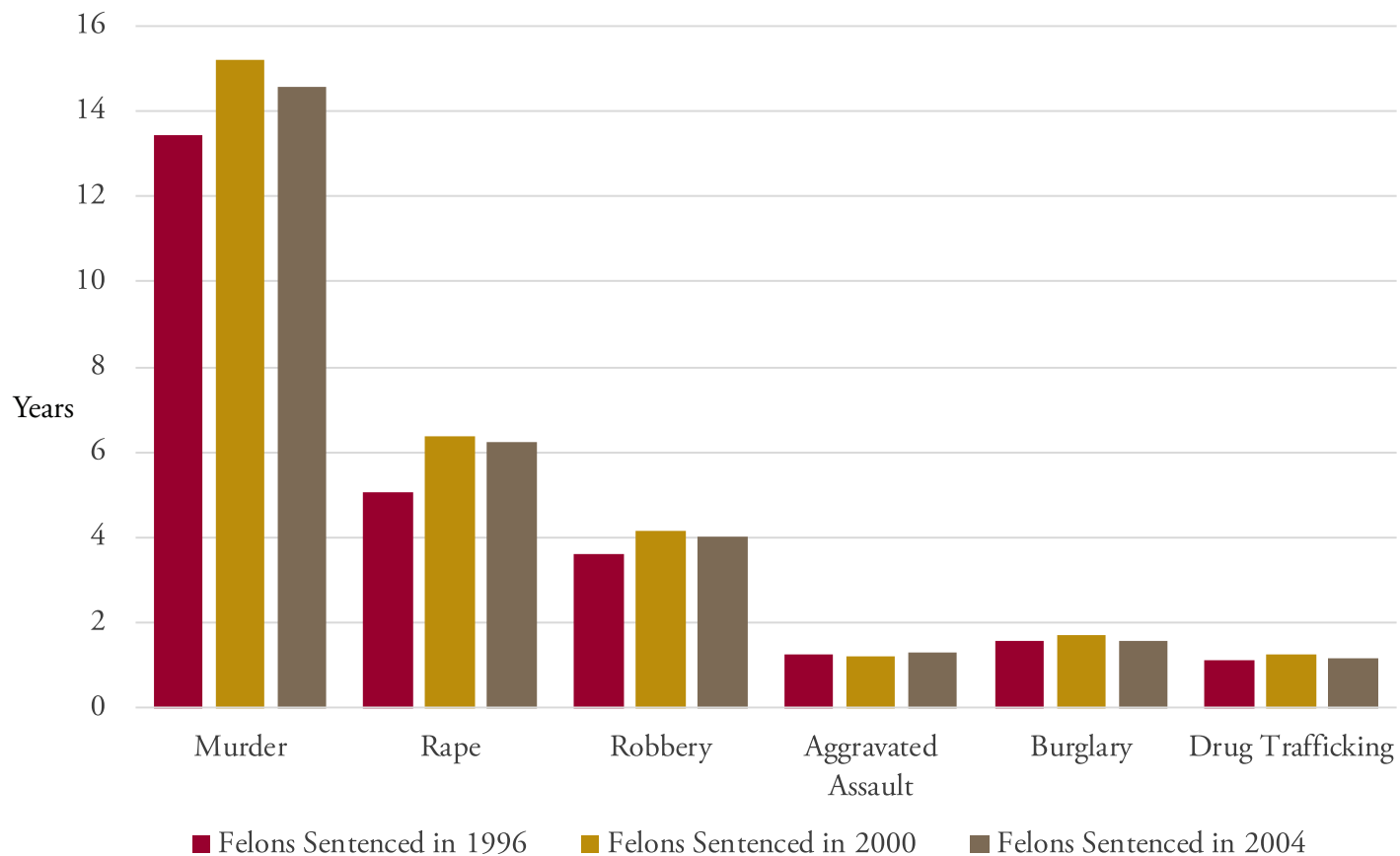


FIGURE 3. CALCULATION OF TRUE TIME SERVED,
FOR FELONS SENTENCED IN 1996

Crime	Mean Jail Credits (Months)	Percent Sentenced to State Prison	Mean Prison Time Served (Months)	Percent Sentenced to Local Jail	Mean Jail Sentence Length (Months)	Percent Sentenced to Probation	Mean Probation Incarceration (Months)	Mean Total Time Served (Months)	Mean Total Time Served (Years)
Murder	15.8	92.0%	159	3.0%	8	5.0%	0	161.1	13.4
Rape	11.9	63.0%	82	16.0%	8	21.0%	0	60.5	5.0
Robbery	7.7	73.0%	50	14.0%	10	13.0%	0	43.5	3.6
Aggravated Assault	9.6	42.0%	31	30.0%	6	28.0%	0	14.8	1.2
Burglary	6.5	45.0%	31	26.0%	7	29.0%	0	18.7	1.6
Drug Trafficking	5.7	39.0%	24	33.0%	6	27.0%	0	13.6	1.1

Note: See the methodology for the formula that provided the time served data reported in the final two columns.

FIGURE 4. CALCULATION OF TRUE TIME SERVED,
FOR FELONS SENTENCED IN 2000

Crime	Mean Jail Credits (Months)	Percent Sentenced to State Prison	Mean Prison Time Served (Months)	Percent Sentenced to Local Jail	Mean Jail Sentence Length (Months)	Percent Sentenced to Probation	Mean Probation Incarceration (Months)	Mean Total Time Served (Months)	Mean Total Time Served (Years)
Murder	15.8	93.0%	180	2.0%	18	5.0%	0	182.5	15.2
Rape	11.9	70.0%	95	20.0%	8	10.0%	0	76.5	6.4
Robbery	7.7	74.0%	57	15.0%	11	11.0%	0	49.6	4.1
Aggravated Assault	9.6	40.0%	32	31.0%	6	29.0%	0	14.7	1.2
Burglary	6.5	52.0%	30	24.0%	7	24.0%	0	20.7	1.7
Drug Trafficking	5.7	41.0%	26	28.0%	7	31.0%	0	15.0	1.2

Note: See the methodology for the formula that provided the time served data reported in the final two columns.

FIGURE 5. CALCULATION OF TRUE TIME SERVED,
FOR FELONS SENTENCED IN 2004

Crime	Mean Jail Credits (Months)	Percent Sentenced to State Prison	Mean Prison Time Served (Months)	Percent Sentenced to Local Jail	Mean Jail Sentence Length (Months)	Percent Sentenced to Probation	Mean Probation Incarceration (Months)	Mean Total Time Served (Months)	Mean Total Time Served (Years)
Murder	15.8	89.0%	180	3.0%	10	7.0%	0	174.6	14.5
Rape	11.9	69.0%	94	20.0%	8	9.0%	0	74.7	6.2
Robbery	7.7	72.0%	57	15.0%	10	12.0%	0	48.1	4.0
Aggravated Assault	9.6	43.0%	32	30.0%	7	26.0%	0	15.9	1.3
Burglary	6.5	49.0%	28	26.0%	7	24.0%	0	18.7	1.6
Drug Trafficking	5.7	39.0%	25	30.0%	7	28.0%	0	14.1	1.2

Note: See the methodology for the formula that provided the time served data reported in the final two columns.

APPENDIX. JAIL CREDITS APPLIED TO PRISON SENTENCES
BASED ON DATA FROM CALIFORNIA AND NEW YORK, 2002-2012

Crime	2002		2003		2004		2005		2006		2007	
	CA	NY	CA	NY	CA	NY	CA	NY	CA	NY	CA	NY
Murder	12.51	15.84	11.86	16.53	12.60	16.78	11.21	17.02	13.98	18.09	15.04	19.28
Rape	7.20	8.80	7.80	9.20	8.10	8.50	8.30	9.80	8.00	10.10	8.60	9.90
Robbery	6.10	7.85	6.20	7.87	6.30	8.01	6.30	8.38	6.60	8.19	6.80	8.07
Assault	5.70	8.30	5.80	17.80	6.00	17.20	5.90	18.70	5.90	18.60	6.30	9.08
Burglary	4.40	7.98	4.50	8.06	4.50	8.14	4.50	8.36	4.50	7.44	4.50	8.00
Drug Trafficking	4.70	6.00	4.80	6.20	4.90	6.30	4.90	6.20	4.80	6.00	4.80	6.30

Crime	2008		2009		2010		2011		2012		Average
	CA	NY	CA	NY	CA	NY	CA	NY	CA	NY	-
Murder	13.40	9.94	14.44	19.57	13.52	19.97	15.00	22.66	16.35	22.49	15.82
Rape	8.10	9.80	9.10	10.60	9.00	12.40	9.70	13.10	9.40	11.10	9.39
Robbery	6.60	8.63	7.10	8.97	7.10	9.41	7.50	9.96	7.60	10.43	7.73
Assault	6.30	10.00	6.50	9.94	6.60	9.93	6.80	10.93	8.30	10.89	9.61
Burglary	4.40	8.32	4.10	8.85	4.50	9.23	4.60	8.97	5.90	9.02	6.49
Drug Trafficking	4.80	6.40	5.00	6.80	5.00	6.80	5.00	6.90	7.00	6.70	5.74

Note: These averages for California and New York for 2002-2012 were used as estimates for the national data in this report.

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