



METROPOLITAN CRIME COMMISSION, INC.

Orleans Parish Criminal Justice System Accountability Report

FALL 2010

The New Orleans criminal justice system has undergone significant changes in leadership over the past two years. Orleans Parish District Attorney Leon Cannizzaro assumed leadership of the Orleans Parish District Attorney's (DA's) Office in November of 2008. More recently, New Orleans Police Department (NOPD) Superintendent Ronal Serpas was sworn in to lead the department in May of 2010. This report examines criminal justice system performance from July of 2008 through June of 2010 in order to focus upon the administration of DA Cannizzaro and system performance immediately prior to the administration of Superintendent Serpas.

Since the beginning of 2007, the Metropolitan Crime Commission (MCC) has monitored arrests, cases accepted for prosecution, and closed felony cases to examine performance of the NOPD and the DA's Office. The New Orleans criminal justice system has been inundated with arrests for very minor offenses but has shown improvements in felony prosecutions:

Positive Criminal Justice System Performance Indicators

- Beginning in January of 2009, convictions for violent felony crimes steadily increased from 112 in the second half of 2008 to 292 in the first half of 2010.
- An 85% majority of felony arrests resulted in prosecution from January 2009 through June 2010; up from 69% in the second half of 2008.

Other Criminal Justice System Performance Indicators

- In the first half of 2010, more than 6,300 arrests were for minor out of parish warrants in which suspects were released in one day or less.
- Felony arrests accounted for a relatively small percentage of total arrests and ranged from 12% to 14% of arrests from July 2008 through June 2010.

Arrests in Orleans Parish

After arrests increased from July 2008 through December 2009, there was a sharp decline in arrests during the first six months of 2010 ([see Exhibit 1](#)). The 25,438 arrests in the first half of 2010 is a 5,364 or 17% decrease from the 30,802 arrests in the last half of 2009. There were fewer arrests for every type of offense.

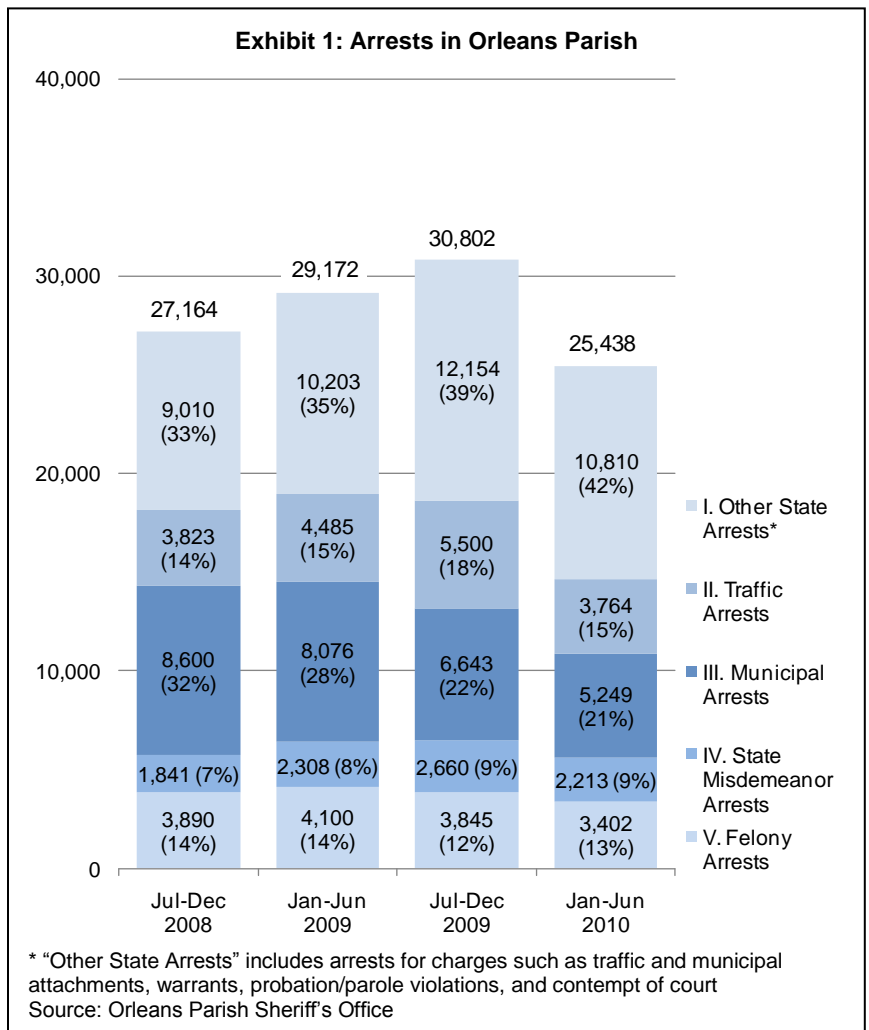
"Other State Arrests" continued to account for the largest portion of arrests in the first half of 2010 ([see I. Other State Arrests](#)). The rate of other state arrests consistently increased since the second half of 2008 and arrests for these charges accounted for 42% of all arrests in the first half of 2010. Out of parish warrants are the most common other state arrest charge. 9,181 or 85% of the 10,810 other state arrests in the first half of 2010 were for out of parish warrants for offenses ranging from unpaid traffic citations to felony crimes. More than 6,300 or 69% of these individuals arrested for out of parish warrants were released from custody in one day or less, which is indicative that the underlying charges for the warrant were minor. Additional charges for other state arrests include probation and parole violations and contempt of court.

Arrests for traffic offenses decreased by 1,736 or 32% from 5,500 in the second half of 2009 to 3,764 in the first half of 2010 ([see II. Traffic Arrests](#)). The most common traffic charges were 2,698 arrests for license violations and 595 arrests for driving while intoxicated.

Arrests for municipal offenses have steadily declined since 2008 ([see III. Municipal Arrests](#)). Municipal arrests reduced by 1,394 or 21% from 6,643 in the second half of 2009 to 5,249 in the first half of 2010.

In the first half of 2010, state misdemeanor arrests reduced by 447 or 17% compared to the second half of 2009 ([see IV. State Misdemeanor Arrests](#)). The most common type of misdemeanor offense was violent crimes such as domestic violence, simple battery, or aggravated assault which accounted for 926 or 42% of misdemeanor arrests in the first half of 2010.

State felony arrests consistently accounted for 12% to 14% of arrests from July 2008 through June 2010 ([see V. Felony Arrests](#)). Arrests for state felony crimes had the lowest rate of decrease and reduced by 443 or 12% in the first half of 2010.



State Felony Arrests

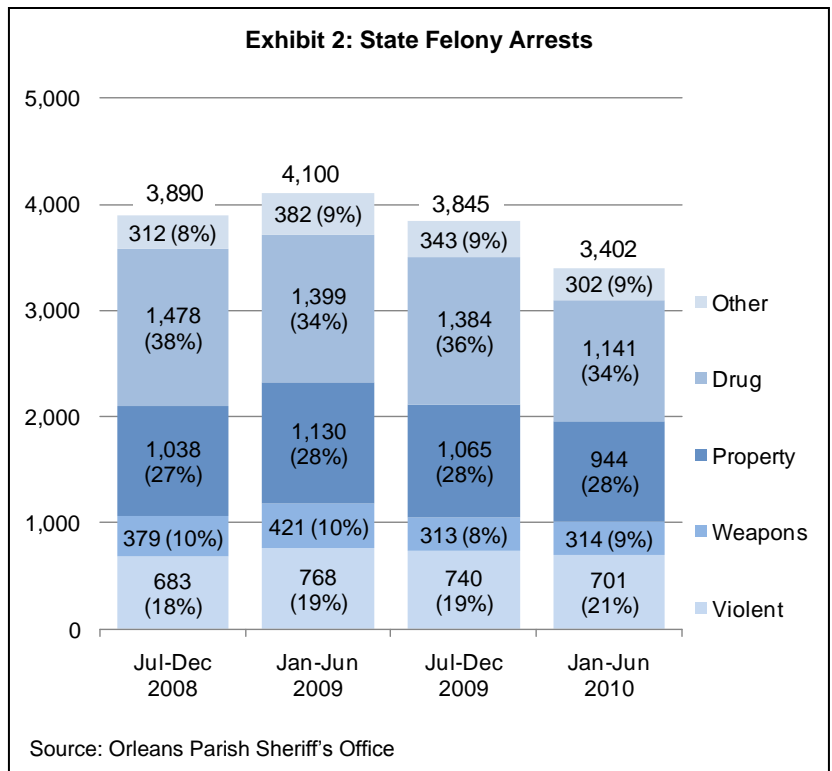
The MCC focuses upon felony arrests because they are the most serious charges entering the New Orleans criminal justice system. Felonies comprise the most severe offenses such as murder, felons with guns, residence burglary, and drug distribution. Only felony convictions can result in a sentence of incarceration in the Department of Corrections, with violent felony convictions having one of the highest incarceration rates. Felony convictions also provide a basis for increased sentencing should an offender have any future felony convictions.

Exhibit 2 examines the number of felony arrests broken down by most serious arrest charges against defendants.

Total felony arrests gradually declined in the second half of 2009 and the first half of 2010.

After declining 6% from 4,100 in the first half of 2009 to 3,845 in the second half of 2009, felony arrests decreased an additional 12% to 3,402 in the first half of 2010. There were fewer arrests for all categories of offense except for weapons.

The types of felony arrest charges were consistent from July 2008 through June 2010. For example, violent felony charges consistently made up 18% to 21% of all felony arrests. Similarly, weapons offenses comprised 8% to 10% of felony arrests.



State Felony Cases Accepted for Prosecution

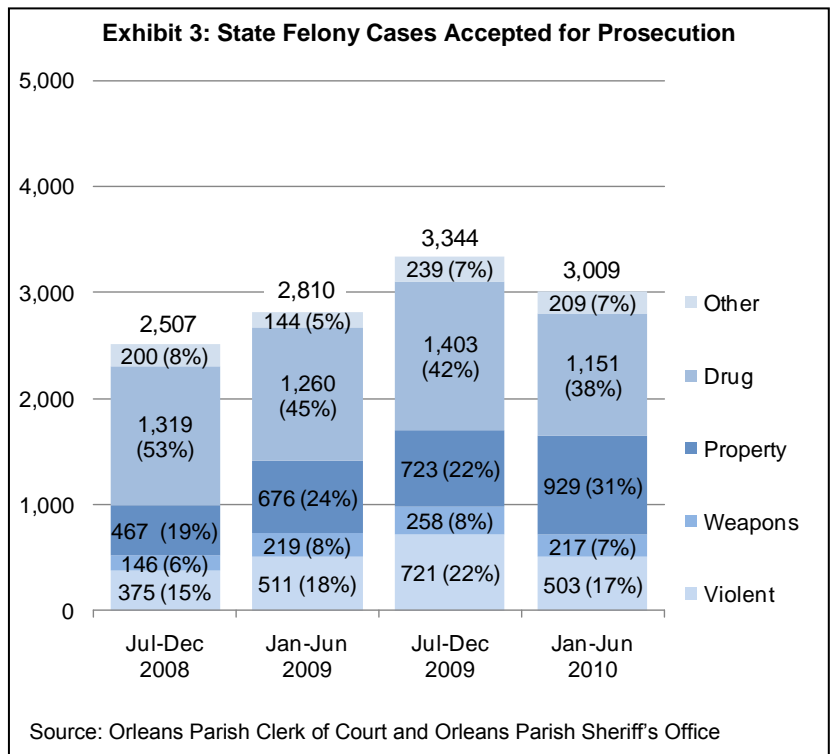
For each new felony state arrest, police submit reports that are reviewed by the DA's Office. The DA's Office reviews the reports and may conduct additional investigatory activities to determine whether or not to accept a case and prosecute a defendant. Accepted cases are the influx of new cases into the court system. The DA's Office accepts a case when there appears to be enough evidence to prove a defendant's guilt and obtain a conviction. Cases with insufficient evidence are refused and that ends criminal proceedings against the accused suspect. In some instances, the DA's Office may place a defendant in a diversion program or refer a case to another entity for prosecution such as the federal court system.

Exhibit 3 presents the number of felony cases accepted for prosecution by the most serious charge against a defendant.

Felony cases accepted for prosecution steadily increased in 2009. Accepted cases rose 12% from 2,507 in the second half of 2008 to 2,810 in the first half of 2009. In the second half of 2009, felony accepted cases increased 19% to 3,344.

In the first half of 2010, accepted felony cases decreased by 335 or 10% to 3,009 compared to the second half of 2009. The decrease in accepted felony cases in the first half of 2010 appears to result from fewer felony arrests rather than changes in the handling of felony charges. Charges were accepted for prosecution against 69% of suspects arrested in the second half of 2008. Since then, **from January of 2009 through July of 2010, charges were accepted for prosecution against 85% of suspects arrested for a felony offense.**

NOTE: A direct comparison of felony arrests in Exhibit 2 to accepted felony cases in Exhibit 3 is not possible because a case is typically accepted days to weeks after an arrest. Some accepted cases are from arrests made in previous time periods.



Closed Felony Cases

The prosecution of an accepted case closes through a guilty plea, a trial verdict (of guilty or not guilty), or dismissal. A dismissal occurs when the DA's Office drops the charges against a defendant. In some instances, dismissed cases are later reinstated as new cases.

Closed cases were at their highest level in the first half of 2009 but were virtually unchanged from the second half of 2009 through the first half of 2010 (see Exhibit 5). Closed felony cases increased by 731 or 41% from 1,802 in the second half of 2008 to 2,533 in the first half of 2009. In the second half of 2009, closed cases decreased by 327 or 13% to 2,206 closed cases. The 2,163 closed cases through the first half of 2010 is a nominal 43 case or 2% reduction in closed cases from the second half of 2009.

There was a small increase in the dismissal rate in the first half of 2010 compared to the second half of 2009. Dismissals had declined from 22% of closed cases in the second half of 2008 to 17% of closed cases in the first half of 2009 and then to 11% of closed cases in the second half of 2009. In the first half of 2010, dismissals slightly increased and accounted for 13% of closed cases.

The increase in closed cases after the second half of 2008 does not appear to result from higher rates of charge reductions. The rate of guilty of lesser charges was consistently 17% to 18% in the second half of 2008, the first half of 2009, as well as the first half of 2010. In the second half of 2009, there was a moderate increase to 21% of cases closed by defendants pleading or being found guilty of lesser charges.

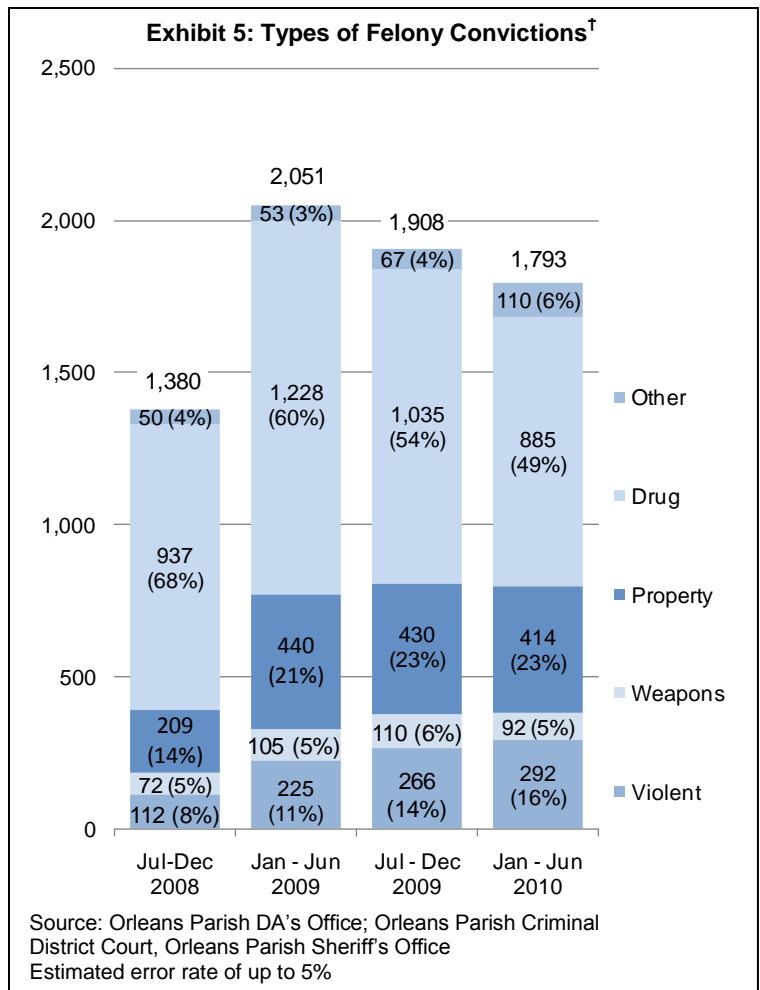
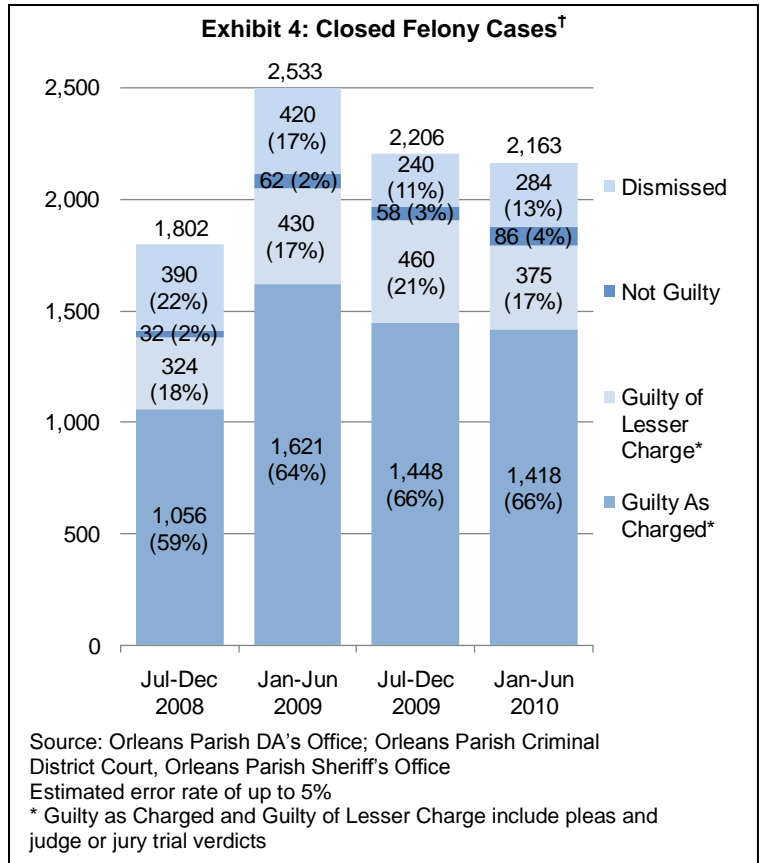
Trials have substantially increased since the second half of 2008. In the second half of 2008, 63 felony cases closed by judge or jury trial which more than doubled to 137 trials in the first half of 2009. In the second half of 2009, there were 117 trials which rose to 184 trials in the first half of 2010. Higher number of trials contributes to the slight increase in not guilty verdicts from 3% of closed cases in the second half of 2009 to 4% in the first half of 2010.

Types of Felony Convictions

Felony convictions declined from the second half of 2009 through the first half of 2010 (see Exhibit 6). In the first half of 2009, felony convictions peaked at 2,051 cases. The number of convictions decreased 7% to 1,908 in the second half of 2009 and another 6% to 1,793 in the first half of 2010. The first half of 2010 had a decrease in convictions for drug, property, and weapons cases compared to the second half of 2009.

Convictions for violent felony crimes have steadily increased since the second half of 2008. Violent felony convictions doubled from 112 in the second half of 2008 to 225 in the first half of 2009. Since then, violent felony convictions increased 18% to 266 in the second of 2009. Violent felony convictions increased another 10% to 292 in the first half of 2010.

Almost half (47%) of felony convictions resulted in sentences of incarceration in the first half of 2010. The violent felony conviction incarceration rate was 74% and the weapons felony conviction incarceration rate was 78%. Nationwide statistics indicate that 69% of felony convictions result in incarceration including incarceration rates of 77% for violent felony convictions and 73% for weapons felony convictions.¹



CONCLUSIONS

The MCC commends the NOPD and DA's Office for criminal justice system performance improvements measured since the beginning of 2009. Individuals arrested for felony crimes, particularly violent felony crimes, were more likely to be convicted and sentenced to prison.

The number of violent felony convictions doubled from the second half of 2008 to the first half of 2009 and steadily increased thereafter. Violent felonies also accounted for a larger portion of convictions. In the second half of 2008, 8% of felony convictions were for violent felony offenses, which steadily increased to 16% of all felony convictions for violent crimes in the first half of 2010. Increases in violent felony convictions confirm the increased priority placed on these offenders by police and prosecutors.

The acceptance rate for felony arrests rose from 69% in the second half of 2008 to 85% from January of 2009 through June of 2010. The increased acceptance rate means that felony arrests were more likely to become felony prosecutions. A case not accepted for prosecution is the result of having enough probable cause to arrest a defendant but not enough evidence to meet the legal standard of proof beyond a reasonable doubt. Higher acceptance rates are indicative of better investigations by police and improved coordination between police and prosecutors to transition felony arrests into viable prosecutions.

Decreases in dismissed cases lessen the cost of inefficiency on the criminal justice system. Dismissed cases were initially accepted for prosecution by the DA's Office, allotted to a section of court, and vetted through the criminal justice process until the DA's Office determined that there was inadequate proof to achieve a conviction. These cases consume the same police, prosecutor, defense, and court resources as other viable felony cases and can significantly drain criminal justice resources. In the second half of 2008, 22% of felony cases closed through dismissal. The dismissal rate fell to 17% in the first half of 2009. Dismissals appear to have stabilized from July 2009 through June 2010 and reduced to 11% in the second half of 2009 and 13% in the first half of 2010. Fewer dismissals is further evidence of an improved work product by police and prosecutors. Fewer dismissals also demonstrate more efficient utilization of resources by minimizing nonviable criminal cases progressing through the criminal justice system.

The increased numbers of trials provides an additional indicator of improved criminal justice performance and efficiency. Greater numbers of trials may demonstrate an emphasis by the DA's Office, criminal defense bar, and judiciary on resolving the most serious criminal cases. Numerous violent and weapons felony cases can only be resolved by trials, because the jail terms for those offenses are significant. Defendants in these cases are less likely to accept plea arrangements that will result in lengthy prison terms. In

the second half of 2008, 63 cases closed by judge or jury trials which almost tripled to 183 trials in the first half of 2010.

There was a gradual decline in felony convictions from July of 2009 through June of 2010. Overall felony convictions sharply increased from 1,380 in the second half of 2008 to 2,051 in the first half of 2009. Thereafter, felony convictions decreased 7% to 1,908 in the second half of 2009 and then another 6% to 1,793 in the first half of 2010.

* * *

The first half of 2010 had 17% fewer arrests, but, there was not a change in the severity of arrest offenses (as depicted in Exhibit 1). From July of 2008 through June of 2010, felony offenses accounted for 12% to 14% of arrests in Orleans Parish.

NOPD's arrest strategy over the past several years resulted in a high volume of arrests for minor out of parish warrants. In 2009, out of parish warrants for which defendants spent one day or less in jail accounted for 23% of all arrests. Similarly, 25% of the arrests in the first half of 2010 were for defendants with out of parish warrants who spent one day or less in jail. The limited time spent in jail by these individuals accused of offenses outside of Orleans Parish is a strong indication that they did not pose significant risk to public safety.

Legislation passed in the spring 2010 regular session of the Louisiana State Legislature grants police discretion not to arrest many individuals with misdemeanor out of parish warrants. House Bill 107, which was signed into law by Governor Jindal, provides law enforcement discretion to release individuals with outstanding warrants for minor misdemeanor violations. Some exceptions to the law include warrants for driving while intoxicated, weapons offenses, nonpayment of child support, and multiple misdemeanor warrants. Applying this legislation would enable the NOPD to substantially reduce arrests for minor warrants and better apply manpower resources to increase police visibility, further improve criminal investigations, and more effectively respond to criminal activity occurring within Orleans Parish.

The MCC respectfully encourages the NOPD to continue to reduce the high number of arrests for minor offenses, particularly for minor out of parish warrants. The MCC does not advocate that police ignore or reduce the enforcement of criminal violations. However, arresting individuals who do not threaten community safety squanders criminal justice system resources and negatively impacts the ability of police to address crime in New Orleans. For violations within Orleans Parish, the NOPD has the discretion to issue a summons or citation in lieu of arresting many minor offenders. Changes in NOPD arrest policies can reduce the economic strain that these arrests place upon criminal justice resources and enhance police response to crime in New Orleans.

Acknowledgements

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¹ "Felony Sentences in State Courts 2006 – Statistical Tables", Table 1.2, Page 4, Bureau of Justice Statistics, December 2009; <http://bjs.ojp.usdoj.gov/content/pub/pdf/fssc06st.pdf>

[†] Conviction numbers have increased from prior reports by under 3% due to additional cases identified through the data collection process