

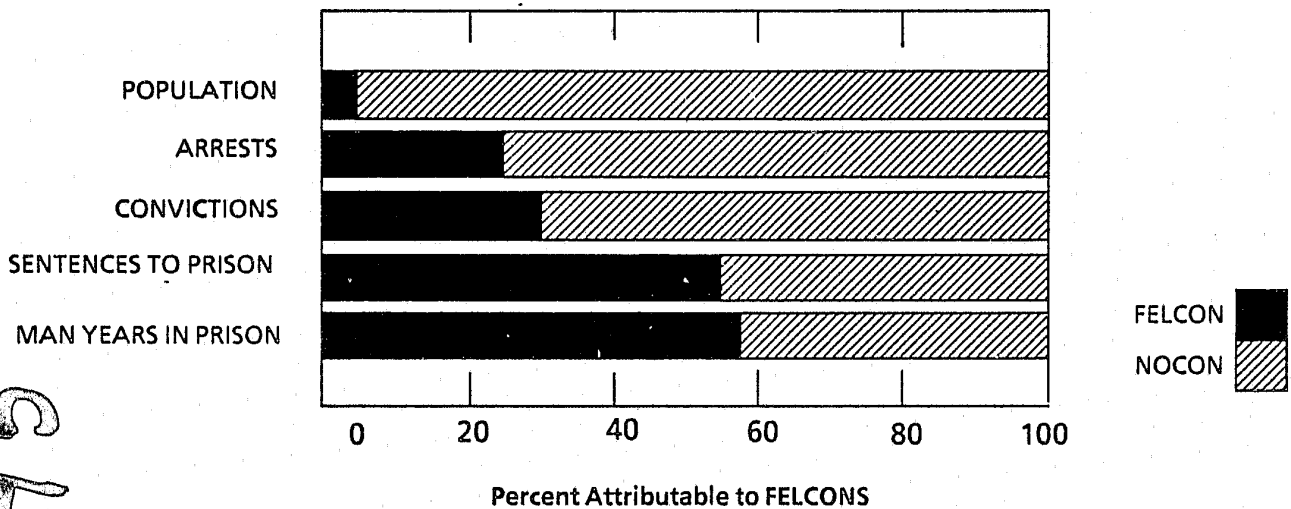
DIVISION OF  
CRIMINAL  
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# RESEARCH NOTE

## ARREST RATES AND POST-ARREST PROCESSING OF PERSONS WITH PRIOR FELONY CONVICTIONS

Percent of Justice System Activity  
Due to Persons With Prior  
Felony Convictions (FELCONS)



5  
4  
9  
9  
1  
1

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OFFICE OF JUSTICE SYSTEMS ANALYSIS  
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## Arrest Rates and Post-Arrest Processing of Persons With Prior Felony Convictions

### Introduction

The differential treatment of persons with prior felony convictions poses an increasingly difficult dilemma for the criminal justice system. While on the one hand it results in both more certain and more severe punishment (as is intended), it also impacts severely on criminal justice system resources. Some of the differences in treatment stem directly from laws governing sentencing of repeat felony offenders. In addition to these mandated differences, there are important differences in treatment that are not required, but which arise out of both differences in offending behaviors and discretionary differences in criminal justice system policies and practices.

Compared to persons without prior felony convictions, persons with prior felony convictions are:

- more likely to be arrested for a felony;
- more likely to be convicted of a felony once arrested;
- more likely to be sentenced to prison following a felony conviction;
- likely to be sentenced to longer minimum periods of incarceration;
- more likely to be held past their minimum periods of incarceration;

The processing of persons with prior felony convictions consumes criminal justice system resources to a degree disproportionate to their number, and this disproportionality is compounded at each successive stage of case process-

ing. This disproportionality is most pronounced at the deepest penetrations into the criminal justice system, namely prison and parole.

This report provides analyses of the extent of differences between the processing of persons with prior felony convictions (FELCONS) and persons without prior felony convictions (NOCONS). These analyses set the stage for prison population projections that account for changes in the pool of persons at risk of FELCON treatment.

### Predicate Felon Laws

The clearest differences in criminal justice processing practices stem directly from predicate felon laws. These laws, which define Second Felon, Second Violent Felon, Persistent Felon, and Persistent Violent Felon, explicitly mandate differential processing for predicate felons. For predicate felons, a sentence to prison is mandatory upon subsequent felony conviction. For predicate felons, a longer minimum period of incarceration must also be served prior to parole eligibility<sup>1</sup>. Because of this more punitive processing, it is not at all surprising to note that persons with prior felony convictions consume a disproportionate amount of prison resources.

The predicate felon statutes are explicit in defining their range of applicability. For second felon status, the laws detail a ten-year period of time at-risk; time spent in custody does not count toward this at-risk period.

The second felon statutes also detail consideration of conviction offenses outside New York State.

Throughout this paper, care must be made to distinguish between FELCONS and predicate felons. In this paper, the term FELCON will be used to refer to the processing of a person with a known prior felony conviction, whether or not the person is subject to predicate felon statutes. A person with a single prior felony conviction adjudicated as Youthful Offender is a FELCON, but is not a predicate felon. A person with a single prior felony conviction outside the time limits for consideration toward Second Felony status or Second Violent Felony status is a FELCON, but is not a predicate felon. It should also be noted, however, that the majority of FELCONS are also predicate felons; that is, the majority of FELCONS do have criminal histories that satisfy the legal criteria for enhanced treatment as Second or Persistent Felons.

### Felony Arrest Counts

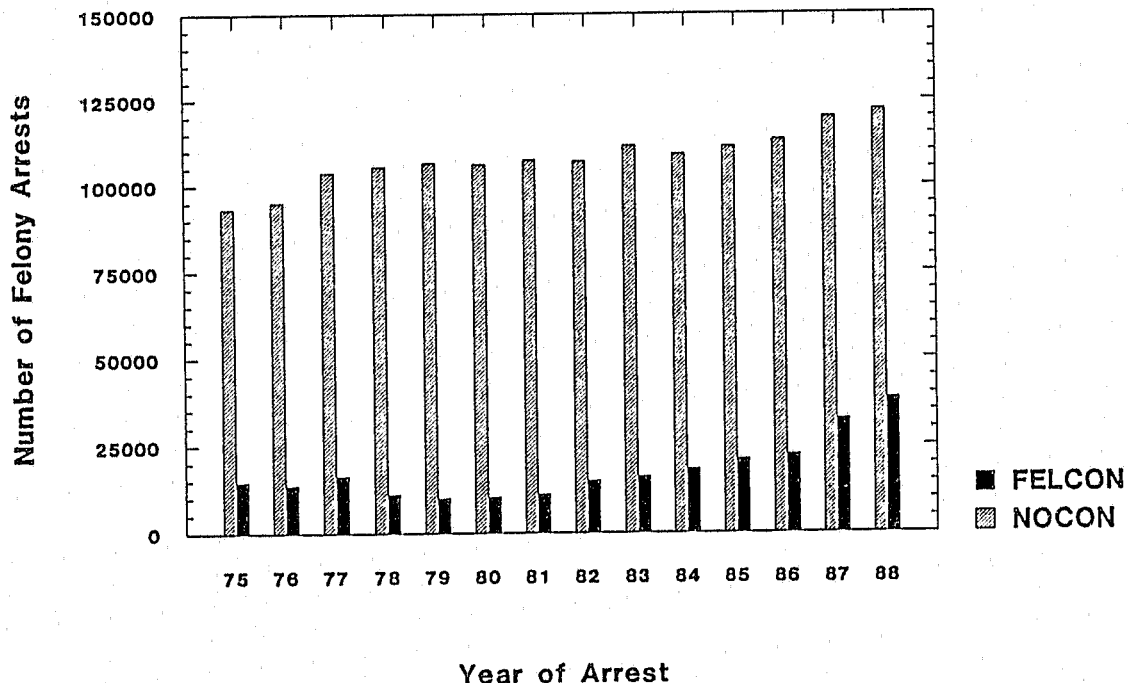
Felony arrests of adult male NOCONS have increased by about 30% since FY 1974/75 (see Table 1). During the same period, felony arrests of adult male FELCONS have increased much more rapidly; they have more than doubled in the same period. The largest year to year increases in the number of NOCON arrests occurred in FY 1975/76 when NOCON arrests increased by 9.0% and in FY 1986/87, when NOCON arrests increased by 5.7%. With these two exceptions, the numbers of NOCON arrests have witnessed very small year to year changes.

FELCON arrests have displayed a much more pronounced pattern of change over time. While the early years in the analysis saw some large increases and large decreases in the numbers of arrests, the last decade has seen only increases.

#### Trends in Felony Arrests:

#### NOCONS vs. FELCONS

(FY74-75 through FY87-88)



The increases have frequently exceeded 10% per year, with the FY 1986/87 change reaching a whopping 45% increase in a single year.

Figure 1 displays the series of FELCON felony arrests and NOCON felony arrests for the Fiscal years 1974/75 through 1987/88. The greater number of NOCON arrests obscures to some extent the much higher compound annual rate of change for the number of FELCON arrests. The NOCON arrests have increased at an average annual rate of 2.1%, while the FELCON arrests have increased at an average annual rate of 7.6%. It is clear that the majority of the change in numbers of felony arrests during the 1980's is attributable to increases in the numbers of arrests of persons with prior felony convictions.

The patterns of changes in the overall number of felony arrests are not exactly replicated in the changes for specific age groups. The specific changes for four components of the total, namely ages 16 to 19, 20 to 29, 30 to 39, and ages 40 and older are described below. Since these age groupings roughly correspond to stages in an adult life cycle, differences in trends over time and in the amounts of arrest activity are expected.

Arrests Ages 16 through 19. Total arrests of males age 16 - 19 have been virtually unchanged throughout the period of analysis, while the number of NOCON arrests among this age group has actually declined. The most recent value is below values reached in the early 1980's. The number of FELCON arrests has increased greatly over the values of the early 1980's. As might be expected, however, the preponderance of arrests among this age group continue to involve

persons without prior felony convictions; during the period of time in which a felony arrest history evolves to the point of receiving a felony conviction, persons often age out of this group. Subsequent arrest activity, if it occurs, is likely to occur at ages 20 and older.

Arrests Ages 20 through 29. Arrests of males age 20 - 29 have increased steadily through the 1980's, with both NOCON and FELCON arrests increasing. Annual arrests of FELCONS have increased at a much faster average rate than those of NOCONS, although the numerical increase in arrests is greater for NOCONS. This age group accounts for the largest proportion of adult male felony arrests.

Percent FELCON Across Age Groups. The percentages of arrests that involve FELCONS are highest for the two groups aged 20 - 29 and 30 - 39, with the percentage lower for the oldest age group (40 and older). The higher values may be explained by persons in the middle two age groups being still in "crime prone" ages, but old enough to have had prior felony convictions within their criminal histories. While many in the youngest age group have not yet received a felony conviction, the oldest age group is beyond the most crime prone period. For the period January 1970 through February 1989, and for adults with fully computerized arrest histories, 64.5% of the felony arrests among the oldest age group are first felony arrests, compared to 43.6% and 48.0% for the age 20 to 29 and 30 to 39 groups, respectively. Among the group ages 16 to 19, 61.1% of the felony arrests were first felony arrests.

FELCONS clearly consume a large portion of system resources at the arrest stage. For the most recent years, nearly one-quarter of all felony arrests have been of persons with prior felony convictions. While this is a substantial part of the total, it under-emphasizes how disproportionately strong an influence FELCONS bring to the total. Felony arrest rates, rather than counts of arrests, give a better measure of the relative influence of FELCONS on total arrests.

### Demographics and the FELCON Pool

To calculate arrest rates requires both the number of arrests made (as previously given), and the number of persons at risk of such arrests. In Table 2, population counts for FELCONS and NOCONS are shown for the four age groupings of adult males<sup>2</sup>. These population counts form the basis for the calculation of FELCON and NOCON arrest rates.

The population counts are interesting in that strictly demographic changes are generally small from year to year; the number of males aged 17 in a given year depends very heavily on the number of 16 year-olds in the previous year. Additional seventeen year-olds are not "newly created", except through migration to New York State. The counts of FELCONS at a given age also depend on the number of persons a year younger in the previous year, but differ in that FELCONS can be newly created. A sixteen year-old can "suddenly" become a FELCON, by acquiring a first felony conviction. Because of this, the number of FELCONS in any age group are subject to year-to-year changes that do not necessarily follow the changes in

demographics; the changes in a FELCON pool can be much more pronounced than the changes in the corresponding NOCON pool and can be in a different direction than the purely demographic changes. Table 2 presents the population counts for male FELCONS and NOCONS at 4 age groups. The FELCON population estimates are discussed separately below.

FELCON POOL: Ages 16 through 19. The size of the male FELCON group ages 16 - 19 has increased during the period 1975 through 1988. The size of the group peaked in 1984 and then declined slightly thereafter. The NOCON group of the same ages has decreased in number every year since 1976. Its most recent value is only about 78% of its series high value. The increases in numbers of male FELCONS age 16 - 19 are startling. As mentioned earlier, it generally takes a length of time to obtain an adult felony conviction. Persons remain in the age group at most four years, and frequently stay in this group for a considerably shorter period of time, as is the case when a person receives a first felony conviction at age 19. The increase in size of the FELCON pool is indicative of increasing numbers of persons receiving first felony convictions at very young ages. These persons have not "aged out" of the most crime prone stage, and have, at a very early age, become subject to much harsher treatment upon subsequent felony conviction.

FELCON POOL: Ages 20 through 29. The number of persons in the NOCON group ages 20 - 29 has increased slightly over the period 1975 through 1988;; the annual changes were generally less than 2% per year. The FELCON group of the same

age has increased much more rapidly, with annual changes generally around a 7% increase per year. The size of the FELCON group ages 20 - 29 is "fueled" jointly by the aging of FELCONS ages 16 - 19 and by new entrants to the FELCON pool at ages 20 through 29.

**FELCON POOL: Ages 30 through 39.** The number of persons in the NOCON group ages 30 - 39 has been increasing during the period, as the "baby boom" generation matures. Annual changes in the size of the group at this age has generally been about 3%. FELCONS in the same age group have increased more rapidly, although the rate of increase has been declining as the size of the pool increases.

**FELCON POOL: Ages 40 and older.** The number of persons in the NOCON group age 40 and older exhibits little change in size over the analysis period. The FELCON group exhibits steady, large changes in size, typically about 2,000 - 3,000 persons per year. The number of persons in this group is smaller in size than either of the next two younger age groups, despite its encompassing a much larger number of ages.

### **Felony Arrests Rates**

The felony arrest rates for male FELCONS and NOCONS, for the four separate age groups and the total for adult males, are shown in Table 3. All rates are per 1,000 persons, and are derived on the basis of the arrest and population counts of Tables 1 and 2. As can be seen from Table 3, when rates are computed in this manner, several interesting features become more apparent.

**FELCON and NOCON Arrest Rate Comparison.** For each age group, and overall, FELCONS have a much higher arrest rate than do NOCONS. The ratio between the arrests rates ranges from about 4:1 or 5:1 for the group ages 16 - 19 to about 25:1 for the group ages 40 and older. The ratios of the arrest rates are fairly constant over time, within each age group. The ratio of these arrest rates may be thought of as one measure of relative likelihood of arrest.

**FELCON and NOCON Arrest Rates Across Age Groups.** Whereas the NOCON arrest rate varies across age groups from a high of about 60 to a low of about 4, the FELCON rate varies from a high of about 260 to a low of about 90. Despite the pattern of smaller arrest rates among older persons, for NOCONS and FELCONS, the arrest rate among FELCONS ages 40 and above exceed the NOCON rate for even the most "crime prone" ages.<sup>3</sup>

**FELCON and NOCON Arrest Rates Across Time.** NOCON arrest rates for each of the four age groups are relatively constant during the period the analysis covers. This arises despite the changes in numbers of arrests during the same period. FELCON arrest rates show more year-to-year variability. With the exception of FELCON arrest rates for ages 16 - 19, the most recent year values are below those of the earliest part of the time period. The FELCON arrest rate for the group ages 16 to 19 has increased by about 50% over its value in the earliest part of the analysis time period.

## Felony Convictions

In post-arrest processing, FELCONS continue to consume a disproportionate amount of system resources. In fact, the relative weight of the FELCON group, as the proportion of total activity, is higher among felony convictions than it is among felony arrests. As can be seen in Table 4, the number of adult felony convictions<sup>4</sup> has increased for all but two years in the analysis period. This is true both for ALL felony convictions and for NOCON felony convictions; FELCON felony convictions continued to increase even in one of the two years of overall decline. Despite the increase in numbers of felony NOCON convictions, the proportion of FELCON felony convictions has increased. Not only has the proportion of FELCON felony convictions increased, but it has increased more rapidly than the proportion of FELCON felony arrests. FELCONS have accounted for between

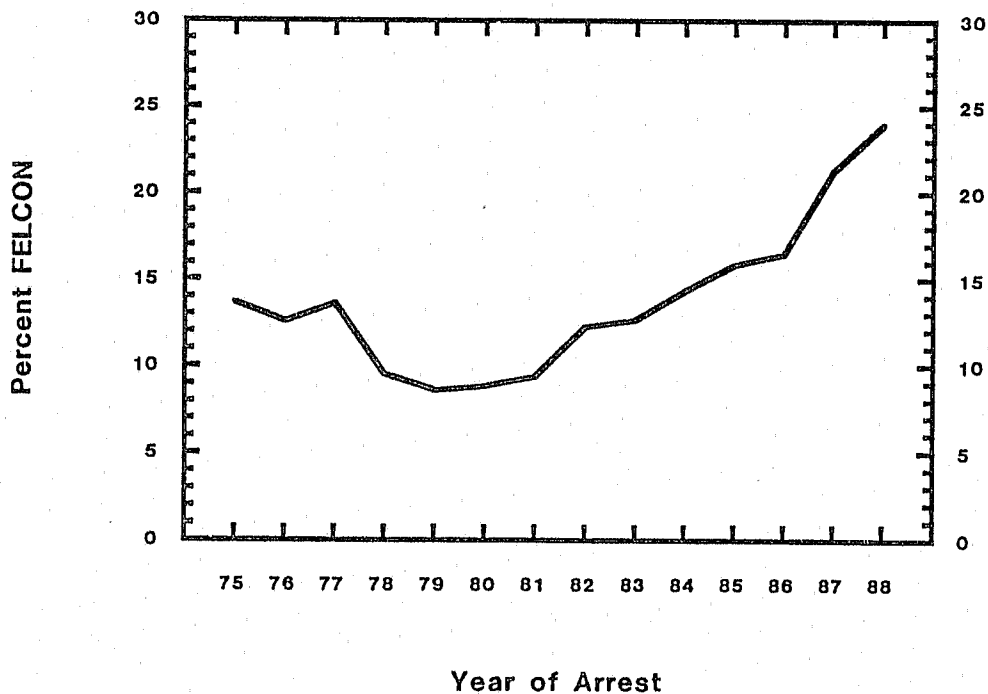
26% and 28% of all felony convictions for each of the last 5 years. During the same period of time<sup>5</sup>, FELCONS have typically accounted for less than 20% of felony arrests (see Figure 2).

## Felony Conviction Probabilities

The disproportionate representation of FELCONS among felony convictions (compared to their representation among felony arrests) is a straightforward result of the difference in felony conviction probabilities between FELCONS and NOCONS. As can be seen in Table 5, in every year, FELCONS have a higher probability of felony conviction given felony arrest than NOCONS. A higher felony conviction probability for FELCONS increases the proportion of FELCONS among felony convictions. It should be noted that there is no *a priori* basis for higher FELCON felony conviction probabilities.

**Trends in the Percent of Felony Arrests  
That Involve Offenders with Prior Felony Convictions**

(FY74-75 through FY87-88)



While the FELCON felony conviction probability remains higher than that of NOCONS, the differences between the two conviction probabilities has diminished over time. Whereas in the earlier years analyzed the FELCON conviction rate was some 50% higher than that of NOCONS, the difference has decreased until in the final year it is only 21% higher than that of NOCONS. This increase in the NOCON felony conviction probability may have a troublesome long term effect. By increasing the number of persons receiving first felony convictions (for a given number of NOCON felony arrests), the FELCON pool in later years becomes more heavily "fueled" - there are more persons subject to later FELCON processing with even higher average conviction probabilities. When even moderate annual growth in the number of NOCON felony arrests is considered, the number of persons subject to future FELCON processing can increase rapidly.

#### Processing After Felony Conviction

FELCONS are arrested at rates much higher than persons without prior felony convictions and they account for a larger percentage of felony convictions than they do felony arrests. The differences in processing of FELCONS and NOCONS become much larger after conviction. For the most recent years, FELCONS account for a majority of the annual sentences to state prison; they account for less than 30% of the felony convictions, and an even smaller percentage of felony arrests. The increase in the FELCON proportion between the felony convictions and sentences to prison stems from the second felon statutes which mandate prison for those FELCONS who fall within the scope of the legislation. It is

useful to compare just how different the incarceration probabilities are between FELCONS and NOCONS<sup>6</sup>.

#### Incarceration Probabilities.

Table 6 demonstrates the differences in probability of prison for FELCONS and NOCONS. The FELCON probability of prison given felony conviction has consistently been about 0.83, throughout each of the years analyzed. Recall that because of the definitions used, not all FELCONS are true predicate felons facing mandatory imprisonment upon felony conviction. On the basis of the sentences actually imposed, perhaps a fifth of the FELCONS are not true predicate felons. The probability of incarceration for NOCONS has typically been about 35%. It appears that in recent years the probability of prison given felony conviction has declined somewhat for NOCONS.

#### Sentence lengths.

Table 7 displays the mean and median values for minimum and maximum sentences for prison sentences through the analysis period. The table is based on sentences with court set minimums. Several points are striking. The median minimum sentences for FELCONS were consistently just under 2 years, with no variation. The median maximum sentence for FELCONS ranged between 47 and 59 months. For NOCONS, the median minimum sentence was generally a bit lower than for FELCONS, with the value ranging between 17 and 23 months. The maximum sentence for NOCONS was sometimes more and only once less than the median minimum sentence for FELCONS. Since the minimum sentences for FELCONS are generally higher than those of NOCONS (for a given maximum), the general



closeness of the two median minimums is surprising. Given that judges must incarcerate (most) FELCONS, and that a different relationship between maximum and minimum exists for FELCONS, it does not appear that judges feel the need to additionally sentence FELCONS to longer maximum sentences.

The average minimum and maximum sentences are influenced much more heavily by extreme values than are median values. The average FELCON minimum has been longer than that of NOCONS for every year since FY 1980/81. This is consistent with FELCONS having a longer minimum, for a given maximum sentence. That the average NOCON maximum sentence is higher than that of FELCONS is perhaps surprising, although it may be explained by differences in crime mix between the two groups<sup>7</sup>. Among FELCONS sentenced to prison, there are likely to be a greater proportion of persons committed for offenses which do not carry mandatory imprisonment. These persons are imprisoned because of the mandatory sentencing provisions of second felon statutes. Among the NOCONS sentenced to prison, there are likely to be a greater proportion of persons committed for offenses which carry mandatory imprisonment regardless of prior felony convictions. This fact is inferred, since no attempt was made to identify persons within either FELCONS or NOCONS for whom imprisonment is mandatory strictly on the basis of instant offense.

#### Parole Board Release Decisions.

The court set minimum and maximum periods of incarceration do not fully determine how long an inmate will be confined. The Parole Board makes that determination. It is the decision to release (or to hold over for a reappearance at a later

date) that determines the precise length of sentence actually served. As such, Parole Board decisions can either broaden or narrow differences in actual time served between FELCONS and NOCONS. Table 8 presents a summary of parole board decisions for initial and first reappearance hearings held from 1985 through 1988. For every crime type, NOCONS had a higher probability of release at initial consideration by the parole board than FELCONS. This difference tends to increase the additional time served by FELCONS in comparison to NOCONS. A higher percentage of NOCONS serve exactly the minimum sentence, while a higher percentage of the FELCONS serve longer than the minimum (with frequently 10 or more months between appearances before the parole board).

#### Summary

The preceding discussion has described the concentration of the use of criminal justice system resources on the relatively small number of persons with prior felony convictions. FELCONS are arrested at a disproportionate frequency for their occurrence in the population (i.e., they have high arrest rates). FELCONS are more likely to be convicted of a felony, given a felony arrest, than are persons without prior felony convictions (i.e., they have a high probability of felony conviction). Upon conviction for a felony offense, FELCONS are more frequently sentenced to prison than are persons without prior felony convictions (i.e., they have a high rate of imprisonment). Once sentenced to prison, FELCONS serve somewhat longer minimum periods of incarceration prior to eligibility

for parole (i.e., they have longer average minimum sentences). FELCONS are also more frequently held past their minimum period of incarceration (i.e., they have lower release rates at their initial hearings before the parole board). These factors combine so that the DOCS under custody population is swelled with persons having prior felony convictions.

Figure 3 attempts to capture the compounding of the consumption of criminal justice resources as cases progress through the system. FELCONS are seen to be very small in number relative to NOCONS. FELCONS represent a considerably larger proportion of felony arrests because of their higher arrest rates. FELCONS represent an even larger proportion of felony convictions because of their higher felony conviction probability. Among sentences to prison, FELCONS represent an even higher proportion because of mandatory imprisonment of predicate felons. If we total the minimum sentences of persons sentenced to prison, FELCONS

continue to account for a still greater percentage of the total.

While it is clear that FELCONS already consume a large fraction of criminal justice system resources, it is not clear how long or how rapidly the FELCON pool will continue to grow, nor is it clear what impact this growth will have on the criminal justice system. As noted above, FELCONS have much higher felony arrest rates than NOCONS, and FELCON arrest rates have been relatively stable at these higher rates over time. It has also been noted that NOCON arrests and NOCON felony conviction probabilities have both been increasing. Thus the two factors which combine to create new FELCONS are adding FELCONS to the pool at risk for rearrest at an increasing rate. In a companion report, future counts of FELCONS are derived, and prison population projections are developed which incorporate the effects of anticipated growth in the FELCON pool.

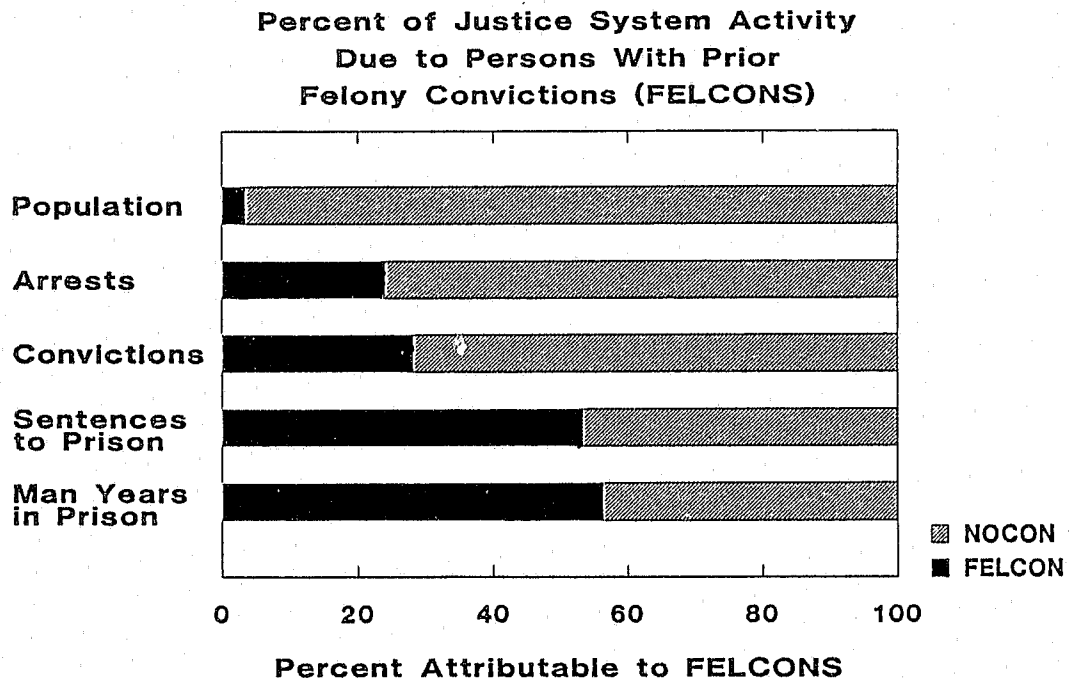


Table 1  
Arrests Of Adult Males

Fiscal Year Ending	Arrests Ages 16-19				Arrests Ages 20-29			
	Total	FELCON	NOCON	%FELCON	Total	FELCON	NOCON	%FELCON
1975	34852	4728	30124	13.6	46111	7840	38271	17.0
1976	35762	4103	31659	11.5	46301	7245	39056	15.6
1977	39535	4710	34825	11.9	51151	8588	42563	16.8
1978	37176	2403	34773	6.5	48865	5996	42869	12.3
1979	38825	1903	36922	4.9	47183	5393	41790	11.4
1980	39150	2087	37063	5.3	47937	5434	42503	11.3
1981	38723	2009	36714	5.2	50281	5810	44471	11.6
1982	36893	2358	34535	6.4	52739	7699	45040	14.6
1983	35542	2489	33053	7.0	56109	8334	47775	14.9
1984	32834	2511	30323	7.6	56692	9481	47211	16.7
1985	31350	2891	28459	9.2	60012	10667	49345	17.8
1986	31186	3125	28061	10.0	62063	11557	50506	18.6
1987	33268	5014	28254	15.1	70644	16733	53911	23.7
1988	35694	6505	29189	18.2	73930	19367	54563	26.2

Fiscal Year Ending	Arrests Ages 30-39				Arrests Ages 40&+			
	Total	FELCON	NOCON	%FELCON	Total	FELCON	NOCON	%FELCON
1975	16627	1673	14954	10.1	10440	521	9919	5.0
1976	16364	1690	14674	10.3	10371	598	9773	5.8
1977	18473	2266	16207	12.3	10956	793	10163	7.2
1978	19057	1929	17128	10.1	11439	741	10698	6.5
1979	19134	1999	17135	10.4	11494	714	10780	6.2
1980	18956	2085	16871	11.0	10413	696	9717	6.7
1981	19388	2416	16972	12.5	10185	913	9272	9.0
1982	21624	3562	18062	16.5	10742	1332	9410	12.4
1983	24158	3929	20229	16.3	11842	1429	10413	12.1
1984	25310	4680	20630	18.5	12451	1614	10837	13.0
1985	27477	5497	21980	20.0	13404	1927	11477	14.4
1986	28813	5721	23092	19.9	13586	1969	11617	14.5
1987	33176	8128	25048	24.5	15123	2547	12576	16.8
1988	35544	9510	26034	26.8	15239	3063	12176	20.1

Table 1  
Arrests Of Adult Males

- continued -

Age At Arrest 16 & Up

Fiscal Year Ending	Arrests					Growth Rate		
	Total	FELCON	NOCON	%FELCON	Ratio	Total	FELCON	NOCON
1975	108030	14762	93268	13.7	6.3			
1976	108798	13636	95162	12.5	7.0	0.7	-7.6	2.0
1977	120115	16357	103758	13.6	6.3	10.4	20.0	9.0
1978	116537	11069	105468	9.5	9.5	-3.0	-32.3	1.6
1979	116636	10009	106627	8.6	10.7	0.1	-9.6	1.1
1980	116456	10302	106154	8.8	10.3	-0.2	2.9	-0.4
1981	118577	11148	107429	9.4	9.6	1.8	8.2	1.2
1982	121998	14951	107047	12.3	7.2	2.9	34.1	-0.4
1983	127651	16181	111470	12.7	6.9	4.6	8.2	4.1
1984	127287	18286	109001	14.4	6.0	-0.3	13.0	-2.2
1985	132243	20982	111261	15.9	5.3	3.9	14.7	2.1
1986	135648	22372	113276	16.5	5.1	2.6	6.6	1.8
1987	152211	32422	119789	21.3	3.7	12.2	44.9	5.7
1988	160407	38445	121962	24.0	3.2	5.4	18.6	1.8

Table 2  
Population Estimates - Adult Males  
(Persons With/Without Prior Felony Convictions)

Fiscal Year Ending	16 - 19		20 - 29		30 - 39		40 & Up		16 & Up	
	FELCON	NOCON	FELCON	NOCON	FELCON	NOCON	FELCON	NOCON	FELCON	NOCON
1975	9545	670888	34800	1373170	12897	1033880	8420	3162450	65662	6240388
1976	10258	674960	41770	1405380	16144	1043060	10614	3152060	78786	6275460
1977	10696	667600	48701	1396710	19726	1089210	13006	3128680	92129	6282200
1978	10444	658736	54402	1397780	24055	1120010	15501	3105610	104402	6282136
1979	10790	650032	59617	1400970	28981	1152110	18253	3093220	117641	6296332
1980	11427	639400	64578	1428030	34854	1190060	21448	3069270	132307	6326760
1981	12254	619400	69413	1448920	40989	1213190	24943	3043430	147599	6324940
1982	13819	601064	74428	1468200	44288	1238730	26560	3035240	159095	6343234
1983	14540	576680	79757	1512780	46174	1259570	27590	2970120	168061	6319150
1984	14702	564096	85627	1535280	48248	1297200	28415	2982360	176992	6378936
1985	14324	559056	91452	1543050	51747	1335410	29885	2989020	187408	6426536
1986	14002	548808	97236	1541790	56574	1376460	31995	2989160	199807	6456218
1987	13976	530080	103317	1526460	61518	1382870	34426	3013510	213237	6452920
1988	13739	509624	108316	1505690	66521	1397340	37201	3026780	225777	6439434

Table 3  
 Felony Arrest Rates Per 1000 Population

Fiscal Year Ending	Arr. Rate Ages 16-19			Arr. Rate Ages 20-29			Arr. Rate Ages 30-39		
	Total	NOCON	FELCON	Total	NOCON	FELCON	Total	NOCON	FELCON
1975	51.9	49.2	191.5	33.6	28.1	215.3	16.1	13.6	200.1
1976	53.0	50.2	185.0	32.9	27.3	189.5	15.7	12.8	184.0
1977	59.2	56.0	202.2	36.6	29.8	196.6	17.0	13.6	184.7
1978	56.4	53.8	165.8	35.0	28.1	175.4	17.0	13.5	164.0
1979	59.7	57.2	153.2	33.7	27.4	146.5	16.6	13.0	144.9
1980	61.2	58.1	174.9	33.6	26.8	148.8	15.9	12.2	128.2
1981	62.5	58.7	192.4	34.7	27.4	151.9	16.0	11.7	125.8
1982	61.4	56.5	212.4	35.9	28.2	152.6	17.5	12.7	131.8
1983	61.6	55.8	230.6	37.1	28.8	158.0	19.2	13.9	144.7
1984	58.2	51.7	249.2	36.9	27.8	164.0	19.5	14.1	146.7
1985	56.1	49.8	245.5	38.9	28.8	170.6	20.6	14.6	153.7
1986	56.8	50.6	245.0	40.3	29.1	176.3	20.9	14.8	149.2
1987	62.8	55.7	266.2	46.3	33.1	195.4	24.0	16.6	166.4
1988	70.0	61.7	307.7	49.1	34.1	207.9	25.4	17.1	174.3

Fiscal Year Ending	Arrest Rate Ages 40 & +			Arrest Rate Ages 16 & +		
	Total	NOCON	FELCON	Total	NOCON	FELCON
1975	3.3	3.0	106.2	17.3	15.3	194.9
1976	3.3	2.9	107.2	17.3	15.1	176.7
1977	3.5	3.1	100.6	19.1	16.5	181.2
1978	3.7	3.2	90.7	18.6	15.9	159.3
1979	3.7	3.2	84.3	18.5	16.0	137.1
1980	3.4	2.9	68.8	18.4	15.6	132.7
1981	3.3	2.8	63.6	18.7	15.6	133.1
1982	3.5	2.9	70.9	19.2	15.8	138.3
1983	4.0	3.3	77.5	20.2	16.3	147.4
1984	4.2	3.4	79.1	20.0	15.7	152.7
1985	4.5	3.6	86.9	20.6	16.0	158.3
1986	4.5	3.6	86.5	21.0	16.1	159.1
1987	5.0	3.9	96.6	23.6	17.8	175.7
1988	5.0	3.8	102.8	24.9	18.4	186.8

Table 4  
Adult Felony Convictions

Fiscal Year Ending	Felony Convictions			% Of Conv		
	Total	NOCON	FELCON	NOCON	FELCON	Ratio.
1975	13587	11466	2121	84.4	15.6	5.4
1976	14685	12314	2371	83.9	16.1	5.2
1977	14440	11761	2679	81.4	18.6	4.4
1978	12682	10268	2414	81.0	19.0	4.3
1979	15748	12894	2854	81.9	18.1	4.5
1980	17414	14279	3135	82.0	18.0	4.6
1981	19528	15697	3831	80.4	19.6	4.1
1982	25393	20088	5305	79.1	20.9	3.8
1983	27166	21153	6013	77.9	22.1	3.5
1984	30284	22237	8047	73.4	26.6	2.8
1985	30820	22606	8214	73.3	26.7	2.8
1986	33288	24237	9051	72.8	27.2	2.7
1987	35996	26121	9875	72.6	27.4	2.6
1988	41903	30136	11767	71.9	28.1	2.6

Table 5

Probability Of Felony Conviction Given Felony Arrest  
 Felony Arrests With Known Final Dispositions, By Year Of Disposition

Fiscal Year Ending	Arrests Disposed			Felony Convictions			Felony Conv. Prob.			Ratio
	Total	NOCON	FELCON	Total	NOCON	FELCON	Total	NOCON	FELCON	
1975	93047	83020	10027	13587	11466	2121	14.6	13.8	21.2	1.53
1976	101923	89793	12130	14685	12314	2371	14.4	13.7	19.5	1.43
1977	110876	96385	14491	14440	11761	2679	13.0	12.2	18.5	1.52
1978	102214	88678	13536	12682	10268	2414	12.4	11.6	17.8	1.54
1979	111936	97152	14784	15748	12894	2854	14.1	13.3	19.3	1.45
1980	114608	99148	15460	17414	14279	3135	15.2	14.4	20.3	1.41
1981	113895	97110	16785	19528	15697	3831	17.1	16.2	22.8	1.41
1982	121822	101799	20023	25393	20088	5305	20.8	19.7	26.5	1.34
1983	121879	100936	20943	27166	21153	6013	22.3	21.0	28.7	1.37
1984	126903	101818	25085	30284	22237	8047	23.9	21.8	32.1	1.47
1985	129174	102641	26533	30820	22606	8214	23.9	22.0	31.0	1.41
1986	135115	105950	29165	33288	24237	9051	24.6	22.9	31.0	1.36
1987	142313	110194	32119	35996	26121	9875	25.3	23.7	30.7	1.30
1988	150257	113650	36607	41903	30136	11767	27.9	26.5	32.1	1.21



Table 6  
Adult Probability of Prison Sentence Given Felony Conviction

Fiscal Year Ending	Convictions			Prison Sentences			Probability Prison			Ratio
	Total	NOCON	FELCON	Total	NOCON	FELCON	Total	NOCON	FELCON	
1975	13587	11466	2121	5317	3683	1634	39.1	32.1	77.0	2.40
1976	14685	12314	2371	6171	4226	1945	42.0	34.3	82.0	2.39
1977	14440	11761	2679	6746	4500	2246	46.7	38.3	83.8	2.19
1978	12682	10268	2414	5140	3169	1971	40.5	30.9	81.6	2.65
1979	15748	12894	2854	6391	4034	2357	40.6	31.3	82.6	2.64
1980	17414	14279	3135	7811	5159	2642	44.9	36.2	84.3	2.33
1981	19528	15697	3831	8595	5360	3235	44.0	34.1	84.4	2.47
1982	25393	20088	5305	11362	6932	4430	44.7	34.5	83.5	2.42
1983	27166	21153	6013	12035	7016	5019	44.3	33.2	83.5	2.52
1984	30284	22237	8047	13765	7088	6677	45.5	31.9	83.0	2.60
1985	30820	22606	8214	13730	6838	6892	44.5	30.2	83.9	2.77
1986	33288	24237	9051	14515	6984	7531	43.6	28.8	83.2	2.89
1987	35996	26121	9875	16036	7836	8200	44.5	30.0	83.0	2.77
1988	41903	30136	11767	18375	8588	9787	43.9	28.5	83.2	2.92

Table 7

Minimum and Maximum Periods of Incarceration  
(Court Set Minimums- Time in Months)

Fiscal Year	Med. Min.		Mean Min.		Med. Max.		Mean Max.	
	NOCON	FELCON	NOCON	FELCON	NOCON	FELCON	NOCON	FELCON
1975/76	17	23	51	36	59	47	268	100
1976/77	19	23	51	42	59	47	265	116
1977/78	19	23	57	43	71	47	259	117
1978/79	19	23	70	46	59	59	250	124
1979/80	17	23	43	43	53	53	147	110
1980/81	19	23	39	42	53	47	121	96
1981/82	23	23	34	41	53	53	108	96
1982/83	23	23	38	43	59	59	114	99
1983/84	23	23	36	41	59	59	117	96
1984/85	23	23	37	42	59	59	120	95
1985/86	19	23	36	40	53	59	120	92
1986/87	17	23	35	40	53	53	121	93
1987/88	17	23	33	37	53	53	124	86

Note: For purposes of these calculations, a sentence of Life imprisonment was set to a minimum of 300 Months (25 years) and a maximum of 600 Months (50 Years). Values reported are median and mean values for minimum and maximum after making this adjustment.

Table 8

Probability of Release at Initial and at First Reappearance  
Parole Board Hearing  
(Hearings Held 1985 - 1988)

Crime Category	Initial Hearing		Reapp. Hearing	
	NOCON	FELCON	NOCON	FELCON
Murder, VFO Manslaughter				
A/B Arson, Kidnapping	.463	.339	.642	.540
Rape & VFO Sex Offenses	.275	.187	.564	.420
Non-VFO Robbery	.528	.398	.804	.754
VFO Robbery	.621	.529	.784	.785
Weapons	.584	.511	.834	.802
Aggr. Assault	.436	.335	.748	.723
Non-VFO Burglary	.589	.565	.844	.787
VFO Burglary	.649	.597	.793	.811
Larceny & Theft Off.	.617	.517	.876	.815
A/B Drug Offenses	.791	.689	.881	.858
C/D/E Drug Offenses	.719	.652	.850	.849
Miscellaneous Offenses	.492	.479	.777	.796

## ENDNOTES

1. This stems from differences in the relationship, for a given length of maximum sentence, between the minimum and maximum prison term to be served. Generally, first felons serve one-third the maximum before eligibility for parole release. Second Felons must serve one-half the maximum sentence before eligibility. Certain exceptions complicate this statement. For instance, first felons convicted of armed felony offenses may be sentenced to a minimum at least one-third and as much as one-half the maximum. For A-1 felony offenses there are no practical distinctions between the sentences for first, second, and third felony offenders.
2. The FELCON pool within each age group is derived from information of the DCJS Offender-Based Transaction Statistics Trends file. Persons enter the pool at the age at first felony conviction, and leave the pool 10 years after their last conviction. Felony convictions adjudicated as Y.O.'s are included as a basis for entering the FELCON pool. This inclusion is necessary for internal consistency - arrests of persons with only felony convictions adjudicated as Y.O.'s can not be distinguished from arrests of persons with "true" felony convictions with the available data.
3. The arrest rates reported are based on numbers of arrest events and the numbers of persons capable of such events, i.e., the number of persons in the appropriate pool. From these aggregate counts no accounting is made of the distribution of the number of arrests per person. It is quite possible that the older FELCON age group is comprised of persons with a high proportion of a single felony arrest in a given year, while the younger NOCON age group consists of a much larger proportion with no arrests in a given year, and a small percentage of persons with more arrest activity in a given year.
4. From the conviction stage through later processing, counts and processing values refer to values for all adult felony arrests, rather than males only.
5. Felony arrests are reported in year of arrest. Felony convictions are reported in year of disposition.
6. While not presented in this paper, there did not appear to be major differences in the composition of the felony class of conviction between FELCONS and NOCONS. Such a difference, if it existed would greatly confuse an interpretation of differences in incarceration probability between instant offense factors and prior criminal history factors. As such, the aggregate difference in incarceration probability may be thought of as a direct result of the second felon incarceration mandate.
7. The basis for calculating mean and median minimum sentences is arrest events with sentences to prison. As such, the sentences of individuals committed to DOCS may differ from these values due to consecutive or concurrent sentencing for commitment offenses that arose from different arrest events.