



OKLAHOMANS *for*  
CRIMINAL JUSTICE REFORM

# Federal vs. State Sentencing

Michael Olson - Policy Counsel

# The Federal Sentencing Process

§2B3.1. Robbery

- (a) Base Offense Level: 20
- (b) Specific Offense Characteristics
  - (1) If the property of a financial institution or post office was taken, or if the taking of such property was an object of the offense, increase by 2 levels.
  - (2) (A) If a firearm was discharged, increase by 7 levels; (B) if a firearm was otherwise used, increase by 6 levels; (C) if a firearm was brandished or possessed, increase by 5 levels; (D) if a dangerous weapon was otherwise used, increase by 4 levels; (E) if a dangerous weapon was brandished or possessed, increase by 3 levels; or (F) if a threat of death was made, increase by 2 levels.
  - (3) If any victim sustained bodily injury, increase the offense level according to the seriousness of the injury:

DEGREE OF BODILY INJURY	INCREASE IN LEVEL
(A) Bodily Injury	add 2
(B) Serious Bodily Injury	add 4
(C) Permanent or Life-Threatening Bodily Injury	add 6
(D) If the degree of injury is between that specified in subdivisions (A) and (B),	add 3 levels; or
(E) If the degree of injury is between that specified in subdivisions (B) and (C),	add 5 levels.

Provided, however, that the cumulative adjustments from (2) and (3) shall not exceed 11 levels.

- (4) (A) If any person was abducted to facilitate commission of the offense or to facilitate escape, increase by 4 levels; or (B) if any person was physically restrained to facilitate commission of the offense or to facilitate escape, increase by 2 levels.
- (5) If the offense involved carjacking, increase by 2 levels.
- (6) If a firearm, destructive device, or controlled substance was taken, or if the taking of such item was an object of the offense, increase by 1 level.

- Start with the base offense level - 20 for Robbery
- Go through the Specific Offense Characteristics and add points as necessary
- Taking into consideration provided definitions and guidelines in the provided commentary.
- Attorneys argue about each step of the process.

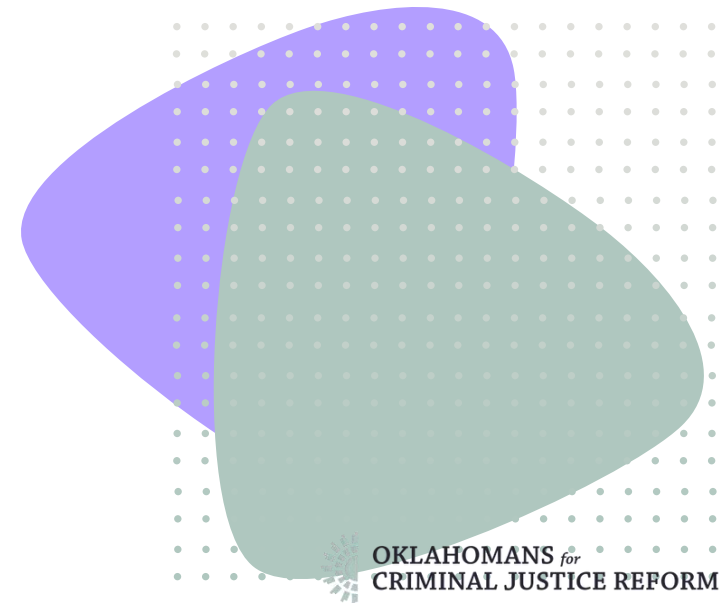
# The Federal Process - Adjustments

## §3B1.1. Aggravating Role

Based on the defendant's role in the offense, increase the offense level as follows:

- (a) If the defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive, increase by **4** levels.
- (b) If the defendant was a manager or supervisor (but not an organizer or leader) and the criminal activity involved five or more participants or was otherwise extensive, increase by **3** levels.
- (c) If the defendant was an organizer, leader, manager, or supervisor in any criminal activity other than described in subsection (a) or (b), increase by **2** levels.

- Add or subtract points based on relevant adjustments
- Categories include:
  - Victim-Related
  - Role in the Offense
  - Obstruction and Related
  - Multiple Counts
  - Acceptance of Responsibility



# The Federal Matrix - Criminal History

**SENTENCING TABLE**  
(in months of imprisonment)

	Offense Level	Criminal History Category (Criminal History Points)					
		I (0 or 1)	II (2 or 3)	III (4, 5, 6)	IV (7, 8, 9)	V (10, 11, 12)	VI (13 or more)
Zone A	1	0-6	0-6	0-6	0-6	0-6	0-6
	2	0-6	0-6	0-6	0-6	0-6	1-7
	3	0-6	0-6	0-6	0-6	2-8	3-9
	4	0-6	0-6	0-6	2-8	4-10	6-12
	5	0-6	0-6	1-7	4-10	6-12	9-15
	6	0-6	1-7	2-8	6-12	9-15	12-18
	7	0-6	2-8	4-10	8-14	12-18	15-21
	8	0-6	4-10	6-12	10-16	15-21	18-24
Zone B	9	4-10	6-12	8-14	12-18	18-24	21-27
	10	6-12	8-14	10-16	15-21	21-27	24-30
	11	8-14	10-16	12-18	18-24	24-30	27-33
Zone C	12	10-16	12-18	15-21	21-27	27-33	30-37
	13	12-18	15-21	18-24	24-30	30-37	33-41
Zone D	14	15-21	18-24	21-27	27-33	33-41	37-46
	15	18-24	21-27	24-30	30-37	37-46	41-51
	16	21-27	24-30	27-33	33-41	41-51	46-57
	17	24-30	27-33	30-37	37-46	46-57	51-63
	18	27-33	30-37	33-41	41-51	51-63	57-71
	19	30-37	33-41	37-46	46-57	57-71	63-78
	20	33-41	37-46	41-51	51-63	63-78	70-87
	21	37-46	41-51	46-57	57-71	70-87	77-96
	22	41-51	46-57	51-63	63-78	77-96	84-105
	23	46-57	51-63	57-71	70-87	84-105	92-115
	24	51-63	57-71	63-78	77-96	92-115	100-125
	25	57-71	63-78	70-87	84-105	100-125	110-137
	26	63-78	70-87	78-97	92-115	110-137	120-150
	27	70-87	78-97	87-108	100-125	120-150	130-162
	28	78-97	87-108	97-121	110-137	130-162	140-175
	29	87-108	97-121	108-135	121-151	140-175	151-188
	30	97-121	108-135	121-151	135-168	151-188	168-210
	31	108-135	121-151	135-168	151-188	168-210	188-235
	32	121-151	135-168	151-188	168-210	188-235	210-262
	33	135-168	151-188	168-210	188-235	210-262	235-293
	34	151-188	168-210	188-235	210-262	235-293	262-327
	35	168-210	188-235	210-262	235-293	262-327	292-365
	36	188-235	210-262	235-293	262-327	292-365	324-405
	37	210-262	235-293	262-327	292-365	324-405	360-life
	38	235-293	262-327	292-365	324-405	360-life	360-life
	39	262-327	292-365	324-405	360-life	360-life	360-life
	40	292-365	324-405	360-life	360-life	360-life	360-life
	41	324-405	360-life	360-life	360-life	360-life	360-life
	42	360-life	360-life	360-life	360-life	360-life	360-life
	43	life	life	life	life	life	life

# The Federal System - Departures

2Q1.3, comment. (n.7)

depending upon the nature and quantity of the substance involved and the risk associated with the offense

2Q1.3, comment. (n.8)

*where a defendant has previously engaged in similar misconduct established by a civil adjudication or has failed to comply with an administrative order*

2Q1.4, comment. (n.3(A))

**in a case in which the offense did not cause a risk of death or serious bodily injury, and neither caused nor was intended to cause bodily injury**

2Q1.4, comment. (n.3(B))

*if the offense caused extreme psychological injury, or caused substantial property damage or monetary loss*

2Q1.4, comment. (n.3(B))

*if the offense was calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct*

2Q2.1, comment. (n.5)

*if the offense involved the destruction of a substantial quantity of fish, wildlife, or plants, and the seriousness of the offense is not adequately measured by the market value*

2R1.1, comment. (n.7)

*in the case of a defendant with previous antitrust convictions*

2T1.8, comment. (n.1)

*if the defendant was attempting to evade, rather than merely delay, payment of taxes*



# The New State System

	SENTENCING RANGE	1-2 C/D Priors	3+ C/D AND/OR 1+ Y/A/B Prior
Y			
A1			
A2			
A3			
B1			
B2			
B3			
B4			
B5			
B6			
C1	0-8; 25%	2-12; 25%	2-30; 50%
C2	0-7; 20%	2-10; 20%	2-12; 40%
D1	0-5; 20%	1-7; 20%	2-10; 30%
D2	0-2; 20%	1-5; 20%	1-10; 30%
D3	0-2; 10%	1-4; 10%	1-10; 20%

## Level Crime Examples

Y = Murder

A1 = Kidnapping

A2 = Robbery

A3 = Shooting w/ Intent to Kill

B1 = Discharging Firearm into Building

B2 = 2nd Degree Arson

B3 = 1st Degree Forgery

B4 = Poss. of Firearm by Felon

B5 = Stalking

B6 = Assault and Battery on a State Employee

C1 = Obtaining CDS through Fraud

C2 = Bogus Check over \$15,000

D1 = Perjury

D2 = Attempted Escape from Penitentiary

D3 = Larceny

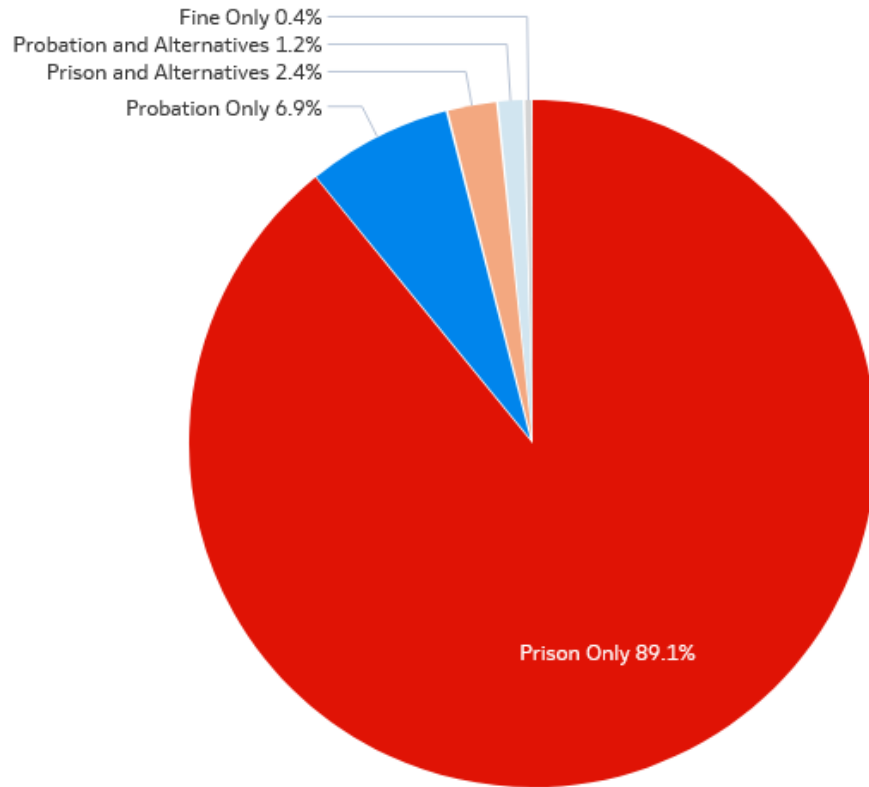




# Key Differences

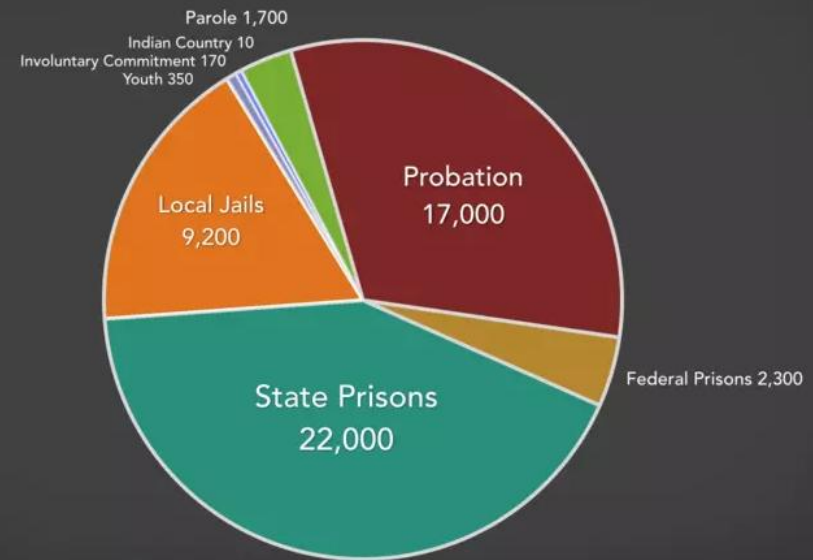
## Sentence Type for Sentenced Individuals

Fiscal Year 2024



## How many people are in Oklahoma's criminal legal system?

53,000 Oklahoma residents are behind bars or under community supervision.



**PRISON**  
POLICY INITIATIVE

Details may not add to total due to rounding.  
Sources and data notes: See [www.prisonpolicy.org/reports/correctionalcontrol2023.html](http://www.prisonpolicy.org/reports/correctionalcontrol2023.html)

# Crimes Compared

Crime	Citation	Median Sentence or Range
Trafficking	§§2D1.1	82 months (6.8 years)
Trafficking	63 OK Stat § 2-415	0 - 20 years

Crime	Citation	Median Sentence or Range
Burglary	§§2B2.1	59 months (4.9 years)
Burglary	21 OK Stat § 1436	0 - 7 years; 7 -20 years

Crime	Citation	Median Sentence or Range
Robbery	§§23B.1	110 months (9.2 years)
Robbery	21 OK Stat § 798	0-10 years; 10 years to LIFE

Crime	Citation	Median Sentence or Range
Forgery	§§2B5.1	15 months (1.2 years)
Forgery	21 OK Stat § 1621	0 - 2 years; 7 -20 years







OKLAHOMANS *for*  
CRIMINAL JUSTICE REFORM



# Thank you!



