

August 1997

FEDERAL OFFENDERS

Trends in Community Supervision





General Government Division

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August 13, 1997

The Honorable Charles E. Grassley
Chairman
The Honorable Richard J. Durbin
Ranking Minority Member
Subcommittee on Administrative Oversight and the
Courts
Committee on the Judiciary
United States Senate

The Honorable Howard Coble
Chairman
The Honorable Barney Frank
Ranking Minority Member
Subcommittee on Courts and Intellectual Property
Committee on the Judiciary
House of Representatives

This report discusses trends in the number of federal offenders serving terms of community supervision during fiscal years 1990 through 1996.¹ At the end of fiscal year 1996, there were almost as many convicted offenders serving terms of community supervision as there were inmates in federal prisons. The Administrative Office of the U.S. Courts (AOUSC) has asserted that offenders serving terms of postprison supervision pose more problems for probation officers and present a greater risk to the community than those serving terms of probation. According to AOUSC, inmates released from prison face transitional problems and have more social, psychological, or medical problems than offenders placed on probation.

This report is intended to assist your committees in their oversight of community supervision programs. Our overall objective in this self-initiated review was to identify changes in the federal community supervision population that could affect probation officers' workload. This report discusses trends in (1) the growth of the total supervision population and any changes in the composition of that population by type of supervision; (2) the number of offenders who had special conditions imposed on their terms of supervision, such as home confinement or drug treatment; and (3) the number of persons who were removed from supervision for violating the terms of their supervision.

¹Community supervision includes offenders sentenced to a term of probation and offenders who are serving a term of supervision in the community, either parole or supervised release, after release from prison. For further explanation of the types of community supervision, see glossary.

To accomplish our objective, we obtained and analyzed relevant data from AOUSC and the Bureau of Prisons (BOP) on the numbers of offenders in the supervision programs, those who had special conditions imposed on them, and the number of offenders removed from the programs. Our scope and methodology are discussed in more detail in appendix I.

We performed our work in Washington, D.C., from September 1996 to June 1997 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from the Director, AOUSC. These comments are discussed at the end of this letter.

Background

The Sentencing Reform Act of 1984² (1) created the U.S. Sentencing Commission to develop a set of federal sentencing guidelines,³ (2) replaced parole with supervised release for postprison supervision, and (3) made probation a separate sentence. Prior to these changes, federal offenders could be sentenced to a term of probation as part of a suspended prison sentence, meaning that they were released from custody but had to routinely report to officers of the court (probation officers), or be sentenced to prison terms. Offenders who exhibited good behavior while in prison could be released on parole after serving as little as one-third of their prison terms. The United States Parole Commission (USPC) determined whether and when an offender was granted parole.

The Sentencing Reform Act of 1984 made probation a separate sentence and restricted an offender's eligibility for probation. The sentencing guidelines, in implementing the provisions of the act, are more detailed and provide judges less sentencing discretion than the system they replaced.

The implementation of the sentencing guidelines, laws providing mandatory minimum sentences⁴ for certain offenses (mostly drug and violent offenses), and laws broadening federal criminal jurisdiction have

²Public Law 98-473 (chapter II of title II).

³The guidelines apply to all crimes committed on or after November 1, 1987. Persons may still be sentenced under the preguidelines system if their crimes were committed prior to November 1, 1987. The guidelines were not implemented nationally until the U.S. Supreme Court upheld their constitutionality in January 1989 in *Mistretta v. U.S.*, 488 U.S. 361.

⁴Mandatory minimum sentence refers to a statutory provision requiring the imposition of at least a specified minimum sentence when the statutorily specified criteria have been met.

together resulted in a steadily growing federal prison population.⁵ From fiscal years 1990 through 1996, the number of inmates in federal prisons grew from 58,021 to 94,695. Under the sentencing guidelines, offenders sentenced to a prison term of 1 year or more usually also receive a term of postprison supervision (about 1 to 5 years) called supervised release. Offenders must serve at least 85 percent of their prison terms before they are eligible for supervised release.⁶

The primary goals of community supervision are to control risk to the community, enforce conditions of supervision, and provide for correctional treatment. Appendix II includes flowcharts of the supervision process that depict how offenders under each type of supervision enter and proceed through the community supervision program.

Probation officers are responsible for supervising offenders on community supervision. They are to evaluate each offender's needs and prepare a supervision plan, enforce any conditions of release, monitor offender behavior, and report violations to the courts. According to AOUSC officials, the higher the perceived risk to the community, the more intensive the supervision, including more frequent contacts with the offender. Further, AOUSC has also indicated that risk is associated with several factors. These factors include the extent to which offenders had serious criminal histories, had special conditions imposed on their supervision, or had violated the terms of their supervision. As noted earlier, AOUSC also believes that postprison offenders generally require more intensive supervision because these risk factors are more prevalent among this population.

Some offenders under community supervision may have special conditions placed on them. For example, offenders may be placed on home confinement with or without electronic monitoring⁷; be required to participate in drug, alcohol, or mental health treatment or counseling programs; be required to provide community service; or receive any combination of these conditions. These special conditions may be imposed by the judge at sentencing, or the probation officer may determine that such special conditions are required when preparing the

⁵For further discussion of inmate prison trends, see Federal and State Prisons: Inmate Populations, Costs, and Projection Models (GAO/GGD-97-15, Nov. 25, 1996).

⁶Offenders sentenced under the guidelines are eligible for a maximum reduction in their prison terms of 54 days per year for satisfactory behavior.

⁷Electronic monitoring is the use of any electronic equipment to provide information about the location of the offender.

supervision plan⁸ or when monitoring the offender's behavior while on community supervision.⁹ If the probation officer determines that such conditions are necessary, the probation officer may petition the court to impose special conditions during the course of the offender's supervision.

According to AOUSC, offenders are removed from supervision because they violate the terms of their supervision or their term (1) expires, (2) terminates early, or (3) terminates for various noncriminal-related reasons, such as death or medical conditions.¹⁰ AOUSC classifies violations of supervision as technical, minor, or major. A technical violation is a violation of the conditions of supervision other than the conviction for a new offense. A minor violation is a conviction for a minor offense, such as disorderly conduct or drunken driving, for which the sentence is imprisonment for 90 days or less, probation for 1 year or less, or a fine. A major violation is the involvement in or conviction for a new major offense, including absconding from custody, having been arrested on another charge, or convicted and sentenced to more than 90 days of imprisonment or more than 1 year of probation. Offenders who violate their release conditions may be imprisoned, particularly if they have been convicted of a new offense, or may be sanctioned in other ways, such as having more restrictive conditions placed on their release.

Violations generally create additional work for probation officers. First, when an offender violates one or more of his or her release conditions, the probation officer may petition the court to impose more restrictive release conditions, such as more frequent drug testing, which the probation officer must monitor. The probation officer may, at his or her option, choose to file a violation report with the court and petition the court to have the violator removed from community supervision and incarcerated. If the officer chooses to petition the court for removal (through the local U.S. Attorney's office), the officer must prepare a violation report and usually must appear at a court hearing to consider the probation officer's request.

⁸Other conditions, such as the frequency of offender meetings with the probation officer, imposed by the probation officer may be in addition to those imposed at sentencing.

⁹For offenders serving a term of parole, however, USPC determines when special conditions are required.

¹⁰According to AOUSC, other reasons may include deportation, release to the military (probation officers also supervise those released on parole from military prisons), or release from supervision during an appeal.

Results in Brief

The total population of federal offenders under community supervision rose 10 percent during fiscal years 1990 through 1996.¹¹ The most notable change in the mix of this population occurred in the percentage of offenders serving a term of community supervision following a prison term. Specifically, the probation population decreased about 35 percent, while those on postprison supervision—i.e., parole and supervised release—rose 94 percent. The increase in the postprison supervision population is entirely due to the large increase in the number of offenders on supervised release.

During fiscal years 1991 through 1995, the number of offenders sentenced with serious criminal histories grew at a significantly greater rate than did those with less serious criminal histories. Further, available data suggest that inmates released from BOP prisons in fiscal years 1997 through 2001 may include a greater number of high-risk offenders than did the population released through fiscal year 1996.

The total number of offenders with special conditions remained relatively stable between fiscal years 1992 and 1996. In addition, the total number of offenders removed from supervision for violating their terms of supervision increased by about 21 percent between fiscal years 1990 and 1996.

To the extent that the trends continue in (1) the mix of offenders under federal supervision, (2) the number of offenders sentenced with more serious criminal histories, and (3) the number of offenders removed from supervision due to violations, the workload of probation officers would likely increase. If the trend in the number of offenders with special conditions remains stable, it would not likely affect the workload of probation officers.¹²

¹¹We used 1990 as our base year because this was the first full fiscal year the guidelines were implemented nationally. Although the guidelines applied to crimes committed after October 31, 1987, they were not implemented nationally until January 1989, when the U.S. Supreme Court upheld their constitutionality. Prior to the Supreme Court decision, more than 200 district court judges had invalidated the guidelines in whole or in part. This delay in national implementation, combined with the requirement that those sentenced to prison must serve 85 percent of their prison terms before being released, limited the number of persons on supervised release in fiscal year 1990. Generally, only those sentenced to short prison terms (about 2 years or less) could have been released from prison to begin their supervised release terms by fiscal year 1990, which began on October 1, 1989.

¹²This assumes that probation officers would continue to devote about the same amount of time to offenders with special conditions as they have in the past.

Fewer Federal Offenders Have Been Sentenced Directly to Community Supervision

Although the total federal population on community supervision grew only 10 percent from fiscal years 1990 through 1996 (compared to a 63 percent growth in the federal prison population),¹³ two noteworthy changes occurred in that population, both caused by the implementation of the Sentencing Reform Act of 1984. First, the percentage of offenders sentenced directly to community supervision (probation) decreased, and the percentage of offenders sentenced to prison terms with required supervised release increased. Second, the percentage of offenders released from prison to parole also decreased, reflecting the decrease in the number of offenders who were sentenced under the preguidelines system. BOP estimates project that these trends will continue and that a larger proportion of offenders who could pose a higher risk of recidivism are scheduled to be released to community supervision over the next 5 years.

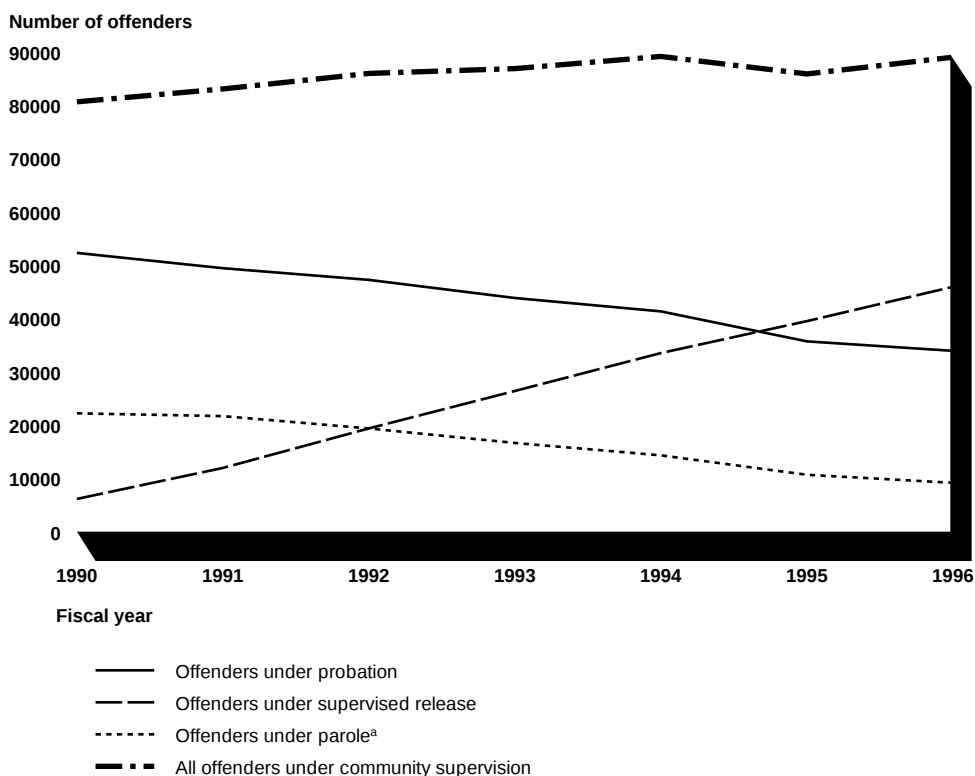
As shown in figure 1, during fiscal years 1990 through 1996, the total federal population under community supervision grew by about 10 percent, from 80,592 to 88,966.¹⁴ During this period, the probation population decreased by about 35 percent; the parole population declined about 59 percent; and the supervised release population increased about 648 percent. Overall, the parole and supervised release—i.e., postprison—population rose 94 percent in the period.¹⁵

¹³See table III.1 for actual numbers.

¹⁴According to AOUSC, the number of probation officers increased about 46 percent during fiscal years 1990 through 1996.

¹⁵See table III.2 for actual numbers.

Figure 1: Trends in the Federal Community Supervision Population, Fiscal Years 1990-1996

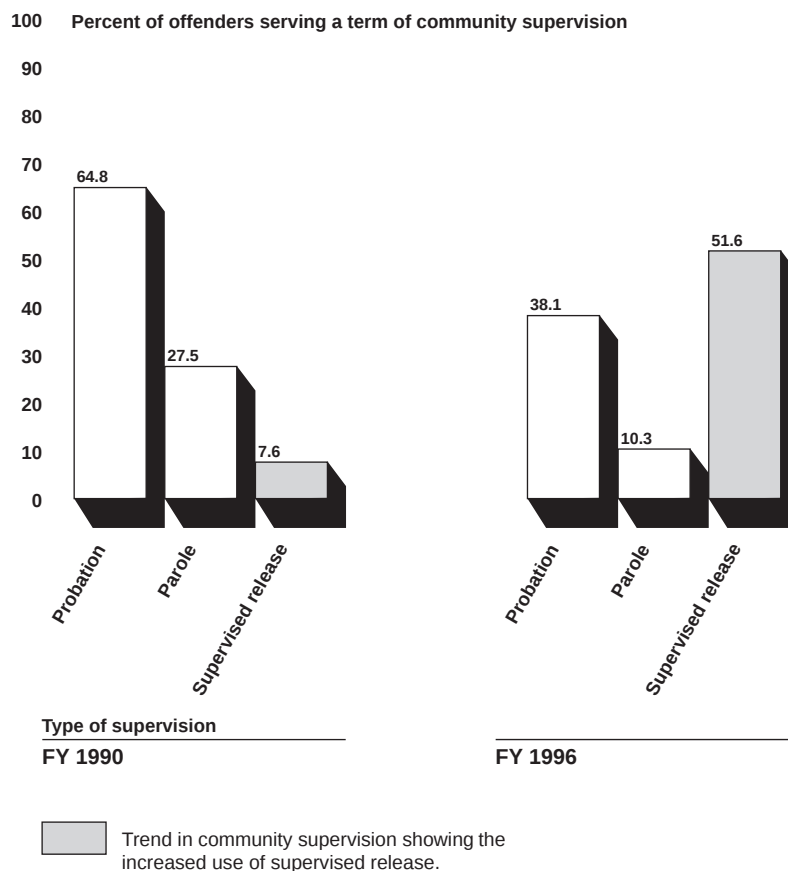


^aIncluded in the category of parole are mandatory release, military parole, and special parole.

Source: GAO analysis of AOUSC data.

Additionally, as figure 2 shows, the distribution of this population for the three major types of supervision—probation, parole, and supervised release—changed considerably.

Figure 2: Distribution of the Community Supervision Population Among the Three Types of Supervision, Fiscal Years 1990 and 1996

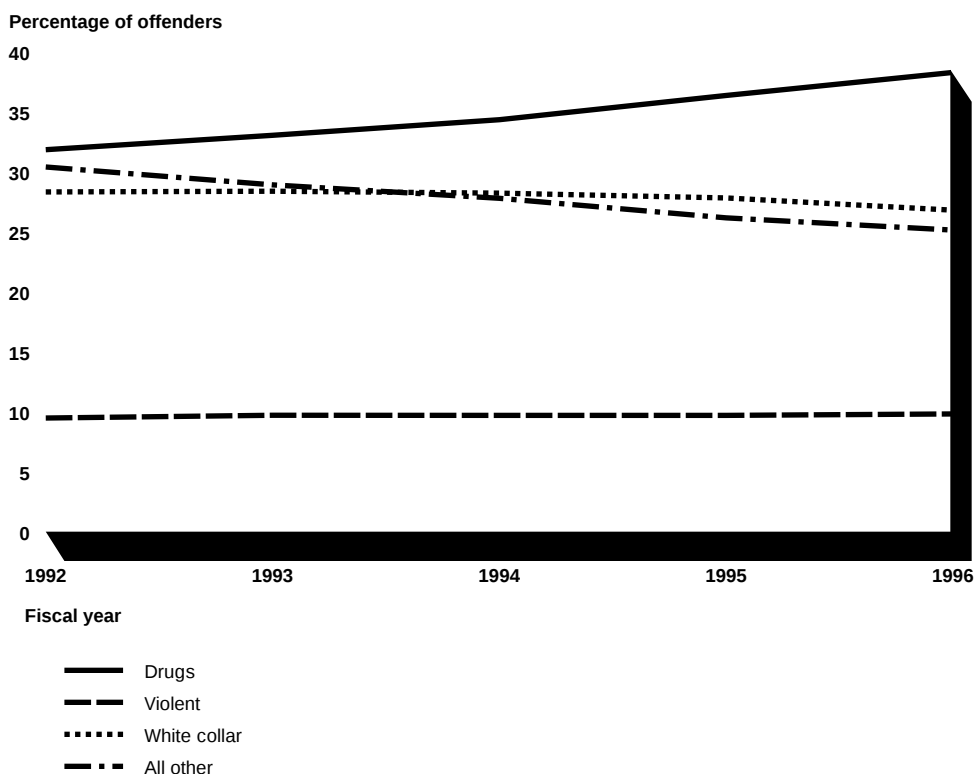


Source: GAO analysis of AOUSC data.

Despite the growth in the community supervision population, figure 3 shows that the distribution of offenders on supervision for the major crime types—violent, white collar, drugs, and all other—did not change significantly.¹⁶

¹⁶Using AOUSC criminal offense classifications, we categorized offense types into violent, white collar, drugs, and all other. Violent offenses include homicide, robbery, assault, and weapons and firearms. White collar offenses include embezzlement and fraud. All other offenses include burglary, larceny, auto theft, forgery and counterfeiting, immigration, liquor/tax, postal, traffic, and other related offenses.

Figure 3: Distribution of the Community Supervision Population by Type of Offense Committed, Fiscal Years 1992-1996



Source: GAO analysis of AOUSC data.

Between fiscal years 1992 and 1996,¹⁷ the largest group of convicted offenders on supervision were drug offenders. These offenders increased moderately from about 32 percent of the total supervision population in fiscal year 1992 to over 38 percent in fiscal year 1996.¹⁸ Offenders convicted of white collar crimes remained relatively unchanged at between 27 and 28 percent of the supervision population. Together, offenders in these two crime categories accounted for more than 60 percent of all offenders on supervision for each year during this period.¹⁹

¹⁷Fiscal year 1992 was the earliest year for which complete data were available.

¹⁸BOP reported that, between fiscal years 1992 and 1996, drug offenders comprised about 60 percent of all federal offenders in BOP prisons.

¹⁹See table III.3 for actual numbers.

BOP Projections of Trends in Community Supervision

BOP provided us with estimates of the number of offenders serving prison terms as of September 30, 1996, who are scheduled to be released from prison to community supervision between fiscal years 1997 and 2001. These estimates include those offenders sentenced prior to the sentencing guidelines who are scheduled to enter the parole program and those offenders who were sentenced under the sentencing guidelines and are to enter the supervised release program. BOP provided its estimates of release by the major offense category for which the offender was originally convicted and sentenced—drugs, violent, homicide, white collar, and all others.

As shown in table 1, BOP estimates that the number of offenders released on parole will continue to decline, while the number of offenders released to the supervised release program will continue to increase. In fiscal years 1997 through 2001, BOP expects that about 55,700 of the offenders who were inmates as of September 30, 1996, will be released to a term of supervised release and about 5,200 released on parole. Over 70 percent of these approximately 61,000 offenders were convicted of violent or drug-related crimes.

Table 1: Estimated Number of BOP Inmates Serving Prison Terms as of September 30, 1996, by Offense Committed, to Be Released in Fiscal Years 1997-2001

Offense	Preguidelines offenders ^a						Sentencing guidelines offenders ^b					
	1997	1998	1999	2000	2001	Total	1997	1998	1999	2000	2001	Total
Violent	865	408	272	185	135	1,865	2,971	2,207	1,702	1,411	917	9,208
Homicide	48	30	26	18	27	149	56	37	32	27	25	177
White collar	306	126	69	31	17	549	3,474	1,167	480	222	122	5,465
Drugs	846	362	259	143	125	1,735	10,242	7,139	5,756	4,891	3,811	31,839
Other	386	195	106	100	69	856	5,004	1,894	971	673	445	8,987
Total	2,451	1,121	732	477	373	5,154	21,747	12,444	8,941	7,224	5,320	55,676

Note: The actual number of offenders who may be released to postprison supervision during fiscal years 1997-2001 would include those shown in the table above plus the total number of offenders who will be sentenced to and will complete their prison terms during these years. BOP could provide release estimates only for those offenders in BOP custody as of September 30, 1996.

^aOffenders to be released to parole.

^bOffenders to be released to supervised release.

Source: BOP.

Offenders With More Serious Criminal Histories May Have Higher Risk of Recidivism

As previously noted, AOUSC has indicated that workload can be affected by the extent to which offenders had serious criminal histories. A 1993 BOP report on a sample of inmates released from BOP prisons suggests that an offender's criminal history score is related to the risk of recidivism.²⁰ The higher the criminal history category the greater the risk of recidivism. Criminal history is also one of the variables in the risk-assessment scale probation officers use to determine the level of supervision an offender on community supervision may require.²¹ The inmates released from BOP prisons in fiscal years 1997 through 2001 may include a greater number of higher risk offenders than the population released through fiscal year 1996.

Since the sentencing guidelines apply to all offenses committed on or after November 1, 1987, only a very small percentage of offenders have been sentenced under the preguidelines system in the 1990s. Offenders sentenced under the preguidelines system may apply for release on parole after serving one-third of their sentence.²² Thus, offenders remaining in prison in fiscal year 1996 or later under the preguidelines system are likely to be those who have received long sentences, which are usually associated with more serious crimes; have been denied parole because of behavioral problems in prison that may heighten the risk they pose to the community once released; or both. According to AOUSC officials, such offenders may pose a higher risk of recidivism than offenders with shorter sentences who were released after serving one-third of their sentences.

Offenders sentenced under the guidelines and released after fiscal year 1996 are likely to include more offenders with extensive criminal histories who have received longer sentences and who thus may pose a higher risk of recidivism than those released before fiscal year 1996. Under the guidelines, offenders are assigned a criminal history category based on the extent of their prior criminal behavior. The categories range from I, for those with virtually no prior criminal history, to VI, for those with the most serious criminal history. Offenders with more serious criminal histories

²⁰Miles D. Harer, *Recidivism Among Federal Inmates in 1987: A Preliminary Report*, Bureau of Prisons, 1993, in U.S. Department of Justice, *An Analysis of Non-Violent Drug Offenders With Minimal Criminal Histories*, February 1994.

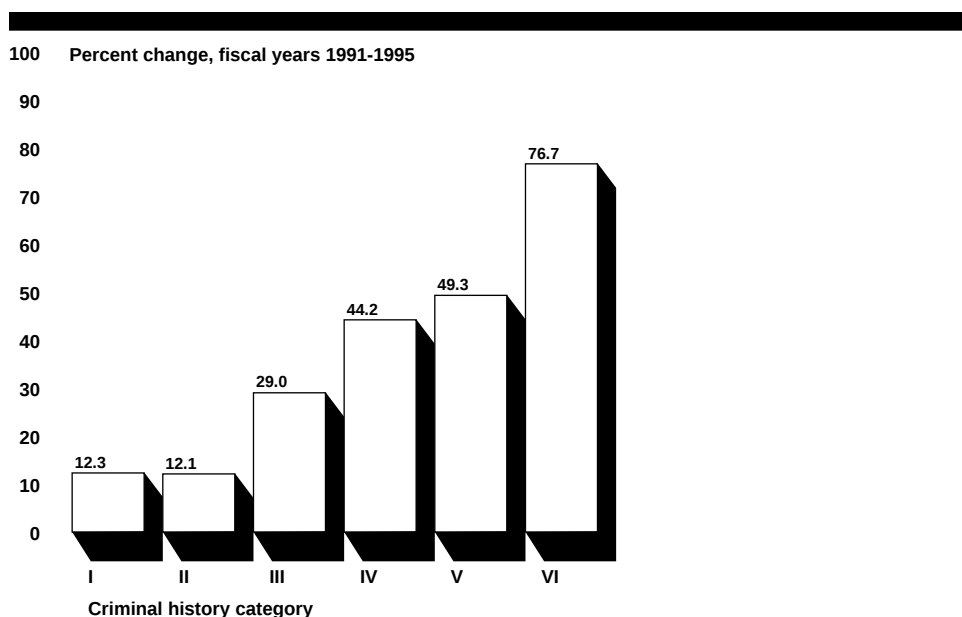
²¹In their comments on a draft of this report, AOUSC officials noted that they were implementing a new risk-assessment scale developed by the Federal Judicial Center. The purpose of the new scale, which retains criminal history as one of its variables, is to improve officers' ability to determine the appropriate level of offender supervision.

²²For example, an offender who began serving a 10-year prison term in January 1993 would be eligible to apply for parole in April 1996.

generally receive longer sentences for the same offense than those with less extensive criminal histories.²³

Figure 4 shows that, in fiscal years 1991 through 1995,²⁴ the number of offenders sentenced in the three most serious criminal history categories—IV, V, and VI—grew at greater rates than did the number of offenders with less serious criminal histories.²⁵

Figure 4: Percent Change in the Number of Offenders Sentenced, by Criminal History Category, Fiscal Years 1991-1995



Source: GAO analysis of U.S. Sentencing Commission data.

²³For example, in fiscal year 1993, the average sentence for an offender convicted of a firearms offense who was in the least serious criminal history category (I) was 39.2 months. For an offender in the most serious category (VI), the average sentence for the same offense was 139.3 months.

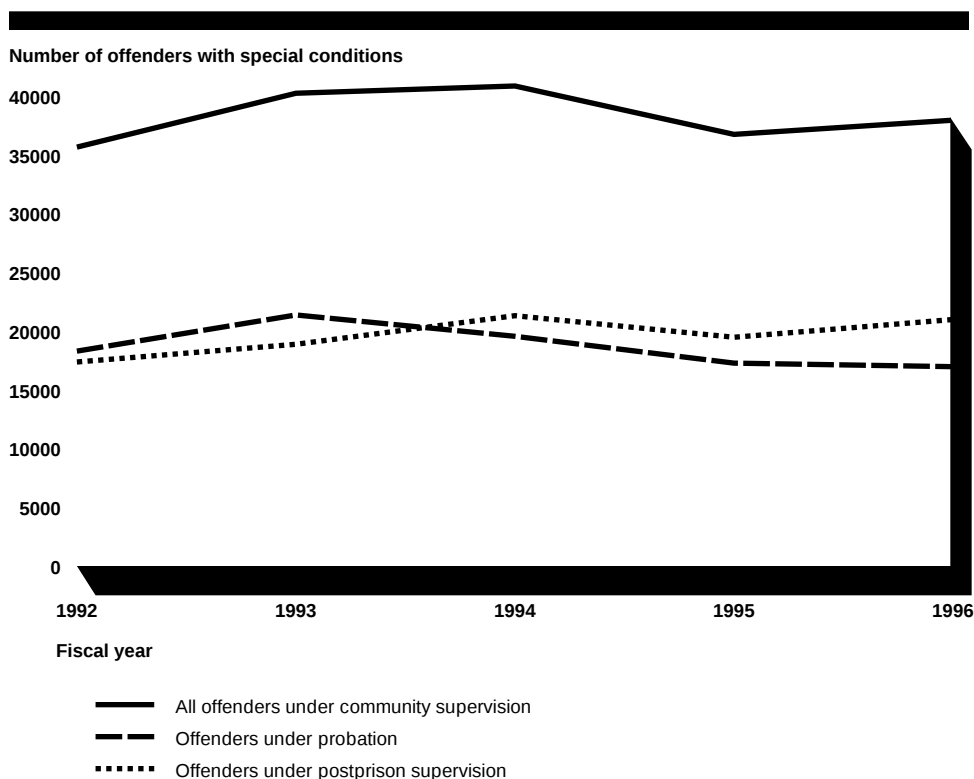
²⁴Fiscal year 1996 data were not available.

²⁵See table III.4 for actual numbers.

Number of Offenders on Community Supervision With Special Conditions Remained Relatively Stable

Offenders with special conditions may be placed on home confinement with or without electronic monitoring; be required to participate in drug, alcohol, or mental health treatment or counseling programs; be required to perform community service; or receive any combination of these conditions. As discussed earlier, AOUSC has indicated that workload can be affected by the extent to which offenders had special conditions imposed on their terms of supervision. Figure 5 shows that, between fiscal years 1992 and 1996, the number of offenders with special conditions remained relatively stable.

Figure 5: Trends in the Number of Offenders Under Community Supervision With Special Conditions, Fiscal Years 1992-1996



Source: GAO analysis of AOUSC data.

In addition, as shown in greater detail in table 2, the proportion of the total supervision population with special conditions remained relatively stable within a range of 42 to 46 percent during the same period.

Table 2: Federal Offenders Under Community Supervision With Special Conditions, by Type of Special Condition, Fiscal Years 1990-1996

Fiscal year	Special conditions						Percent of total supervision population with special conditions
	Drug treatment	Substance abuse treatment	Mental health treatment	Home confinement	Community service	Total ^a	
1992	18,574	4,447	3,307	1,715	7,588	35,631	41.5%
1993	20,418	4,715	3,808	2,363	8,910	40,214	46.3
1994	21,338	4,831	4,288	2,349	8,025	40,831	45.8
1995	18,291	3,864	4,681	2,451	7,428	36,715	42.8
1996	19,246	3,607	5,163	2,592	7,315	37,923	42.6

^aAn offender may be counted in more than one special condition category.

Source: GAO analysis of AOUSC data.

For each year in this 5-year period, the data showed that about 60 percent or more of the offenders with special conditions received treatment for drug or substance abuse.

As shown in table 3, the proportion of the total supervision population with special conditions varied within the three major types of supervision. Specifically, probation offenders with special conditions increased from about 39 to 50 percent. The percentage on parole decreased from about 44 to 41 percent, while those on supervised release declined from 45 to about 37 percent. The percentage of the parole and supervised release—i.e., postprison—population with special conditions decreased from about 45 to 38 percent.

**Table 3: Federal Offenders Under
Community Supervision With Special
Conditions, by Type of Supervision,
Fiscal Years 1992-1996**

Fiscal year	Number of offenders with special conditions	Probation	
		Percent of total on probation	Total offenders on probation
1992	18,277	38.7%	47,208
1993	21,354	48.7	43,810
1994	19,539	47.3	41,300
1995	17,257	48.4	35,679
1996	16,955	50.0	33,902

Parole			Supervised release			Postprison ^a		
Number of offenders with special conditions	Percent of total on parole	Total offenders on parole	Number of offenders with special conditions	Percent of total on supervised release	Total offenders on supervised release	Number of offenders with special conditions	Percent of total on postprison supervision	Total offenders on postprison supervision
8,572	44.3%	19,350	8,782	45.4%	19,362	17,354	44.8%	38,712
6,930	41.7	16,629	11,930	45.2	26,384	18,860	43.8	43,013
6,016	42.0	14,310	15,276	45.6	33,493	21,292	44.5	47,803
4,329	40.6	10,664	15,129	38.3	39,479	19,458	38.8	50,143
3,784	41.3	9,153	17,184	37.4	45,911	20,968	38.1	55,064

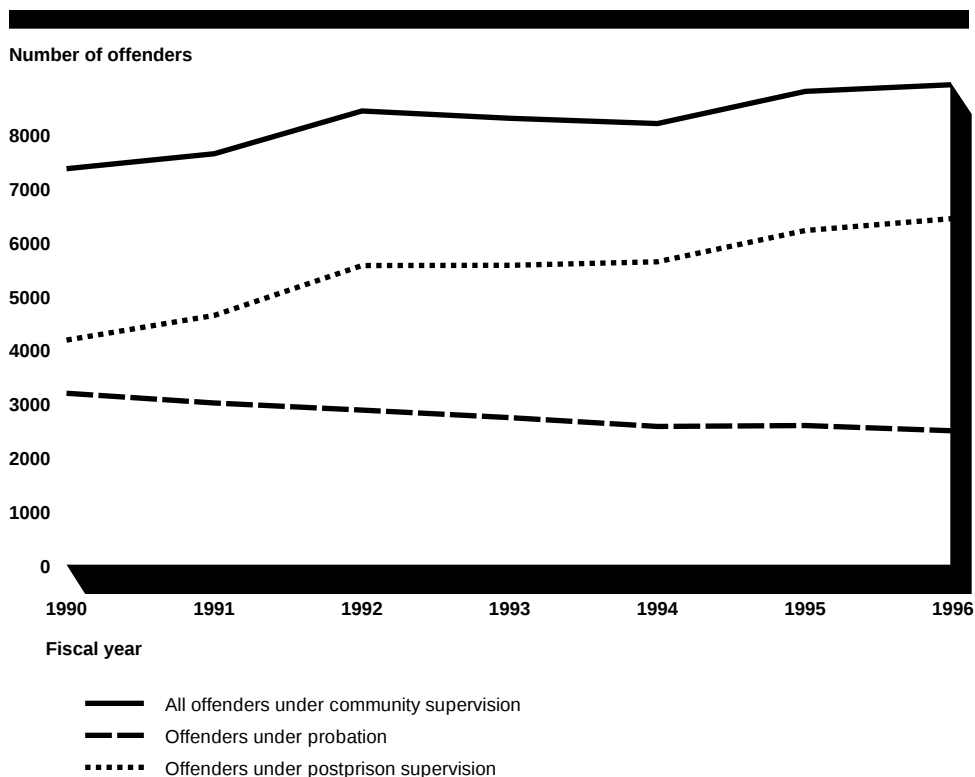
^aThe numbers in this category include parole and supervised release.

Source: GAO analysis of AOUSC data.

Number of Offenders on Community Supervision Who Were Removed for Violating Their Terms of Supervision Increased

Offenders can be removed from supervision because (1) they violate the terms of their supervision; or because (2) their term expires, they terminate early, or they terminate for noncriminal-related reasons. As noted earlier, AOUSC has indicated that workload can be affected by the extent to which offenders violate their terms of supervision. Figure 6 shows that, between fiscal years 1990 and 1996, the number of offenders removed from supervision for violating the terms of their supervision increased from 7,360 to 8,922 (about 21 percent).

Figure 6: Trends in the Number of Offenders Removed From Supervision for Violating Their Terms, Fiscal Years 1990-1996



Source: GAO analysis of AOUSC data.

As shown in more detail in table 4, in fiscal years 1990 through 1996, from 9 to 10 percent of the total federal supervision population were removed from their supervision annually because they had violated their terms. During the same period, from about 28 to 31 percent of the total population were removed from supervision without a violation.

Table 4: Federal Offenders Removed From Supervision, Fiscal Years 1990-1996

Fiscal year	Offenders removed with a violation		Offenders removed without a violation		Total offenders on supervision
	Number	Percent of total on supervision	Number	Percent of total on supervision	
1990	7,360	9.1%	23,926	29.7%	80,592
1991	7,638	9.2	24,574	29.6	83,012
1992	8,433	9.8	26,338	30.7	85,920
1993	8,297	9.6	25,493	29.4	86,823
1994	8,199	9.2	24,848	27.9	89,103
1995	8,797	10.3	25,937	30.2	85,822
1996	8,922	10.0	27,202	30.6	88,966

Source: GAO analysis of AOUSC data.

Table 5 shows that, in fiscal years 1990 through 1996, violation rates²⁶ remained relatively constant for probation and parole offenders, from 6 to 7 and 14 to 18 percent, respectively. After an initial jump from over 5 to nearly 12 percent from fiscal year 1990 to 1992, the violation rate for supervised release offenders remained relatively unchanged at about 11 percent.²⁷ Parole and supervised release—i.e., postprison—offenders had violation rates over 60 percent higher than that for offenders on probation.

²⁶For each category of supervision—probation, parole, or supervised release—the violation rate is defined as the percentage of all offenders on supervision during the fiscal year who were removed for a violation of the terms of their supervision.

²⁷For the reasons noted in footnote 11, the number of persons on supervised release was relatively small in 1990, and those on supervised release were likely to be offenders sentenced to short prison terms.

Table 5: Federal Offenders Removed From Supervision With a Violation, by Type of Supervision, Fiscal Years 1990-1996

Fiscal year	Number removed	Probation offenders	
		Percent of total on probation	Total probation
1990	3,186	6.1%	52,266
1991	3,005	6.1	49,399
1992	2,873	6.1	47,208
1993	2,733	6.2	43,810
1994	2,569	6.2	41,300
1995	2,586	7.3	35,679
1996	2,488	7.3	33,902

Parole offenders			Supervised release offenders			Postprison offenders ^a		
Number removed	Percent of total on parole	Total parole	Number removed	Percent of total on supervised release	Total supervised release	Number removed	Percent of total on postprison supervision	Total postprison
3,836	17.3%	22,188	338	5.5%	6,138	4,174	14.7%	28,326
3,348	15.5	21,664	1,285	10.8	11,949	4,633	13.8	33,613
3,254	16.8	19,350	2,306	11.9	19,362	5,560	14.4	38,712
2,642	15.9	16,629	2,922	11.1	26,384	5,564	12.9	43,013
2,055	14.4	14,310	3,575	10.7	33,493	5,630	11.8	47,803
1,925	18.1	10,664	4,286	10.9	39,479	6,211	12.4	51,143
1,513	16.5	9,153	4,921	10.7	45,911	6,434	11.7	55,064

^aThe numbers in this category include offenders on parole and supervised release.

Source: GAO analysis of AOUSC data.

Offenders can be removed from supervision for committing one of three types of violations: major, minor, or technical. In fiscal years 1990 through 1996, a higher percentage of postprison—i.e., parole and supervised release—offenders were removed for major violations (from 23 to 29 percent) than were offenders on probation (from 16 to 18 percent). Overall, technical violations accounted for an average of about 70 percent of all offenders removed for violations annually in fiscal years 1990 through 1996. During the same period, an average of about 8 percent were removed for committing a minor violation, while an average of 23 percent were removed for committing a major violation.

Agency Comments

On July 17, 1997, AOUSC provided us with written technical comments and clarifications on a draft of this report, which we incorporated into the report where appropriate. AOUSC generally agreed with the contents of the draft report.

We are providing copies of this report to the Director of AOUSC and other interested parties. Copies will be made available to others upon request.

The major contributors to this report are listed in appendix IV. Please contact me on (202) 512-3610 if you or your staff have any questions.

A handwritten signature in black ink that reads "Norman Rabkin". The signature is written in a cursive, flowing style.

Norman J. Rabkin
Director, Administration
of Justice Issues

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Abbreviations

AOUSC	Administrative Office of the U.S. Courts
BOP	Bureau of Prisons
USPC	United States Parole Commission

Objectives, Scope, and Methodology

We initiated this assignment to provide Congress with information on the size and growth of the community supervision population as a result of the implementation of the Sentencing Reform Act of 1984. Our overall objective was to identify changes in the federal community supervision population that could affect probation officers' workload. Specifically, we determined trends in (1) the growth of the total supervision population and any changes in the composition of that population by type of supervision; (2) the number of offenders who had special conditions imposed on their term of supervision, such as home confinement or drug treatment; and (3) the number of persons who were removed from supervision for violating the terms of their supervision.

To develop information on the growth trends in the supervision population, we obtained AOUSC annual reports for fiscal years 1990 through 1996 and other documents. The data for these reports were derived from AOUSC's Federal Probation Supervision Information System. We also analyzed AOUSC statistics on the number of individuals currently under supervision, the number removed from supervision—with and without a violation—and the principal reasons for their removal, for fiscal years 1990 through 1996. We chose fiscal year 1990 as our base year because it was the first full year in which the federal sentencing guidelines were implemented on a national basis.

To obtain some data on potential future trends in the postprison community supervision population, we reviewed BOP's estimates of the number of inmates who were expected to be released to community supervision in fiscal years 1997 through 2001. BOP estimated release dates for inmates in its prisons as of September 30, 1996. BOP provided these estimates by major offense for inmates sentenced under the preguidelines (parole) and guidelines (supervised release) sentencing rules. These data did not include estimates of the number of inmates who may be sentenced to prison and subsequently released in the years 1997 through 2001. BOP could not provide estimates of this population until its revision of its prison population projection model is complete. BOP said that these data were derived from its management information system, SENTRY. In addition, we analyzed data from the U.S. Sentencing Commission's annual reports for fiscal years 1991 through 1995 on the average length of

imprisonment for offenders sentenced, by criminal history category.¹ These data were derived from the Commission's MONFY data file, which contains sentencing information on offenders sentenced under the guidelines.

To describe the special conditions that may be imposed on supervisees, we analyzed information provided by AOUSC on special conditions for fiscal years 1992 through 1996, as well as the per diem cost of administering each condition. This information included the number of offenders who had received each type of treatment or who had been placed on electronic monitoring or community service in each of these years. It is possible for an offender to be counted in more than one of these categories, but the data AOUSC provided did not identify how many offenders had more than one special condition or the duration for which a special condition was imposed.

To obtain information on the number of offenders removed from supervision with and without violations, we obtained and analyzed AOUSC annual reports on removals.

We did not conduct an independent assessment of the databases or of the policies and procedures used to assess and ensure their reliability and validity.

¹Some offenders in criminal history category VI are classified as "career offenders." The 1990 annual report did not report separately the number of category VI offenders who were classified as career offenders or their average sentences. The annual reports for fiscal years 1991 through 1995 do provide separate data on category VI offenders who were classified as career offenders. Thus, for comparative purposes, we excluded from our analysis fiscal year 1990. In addition, at the time of our analysis, fiscal year 1996 data were not available.

Description of the Federal Community Supervision Process

Community supervision consists of three major programs: probation, parole, and supervised release. Persons on probation have usually been sentenced directly to probation at sentencing and may begin their term of probation immediately after sentencing. Persons on parole and supervised release enter community supervision after serving a term of imprisonment. The following sections describe how individual offenders proceed through the community supervision program.

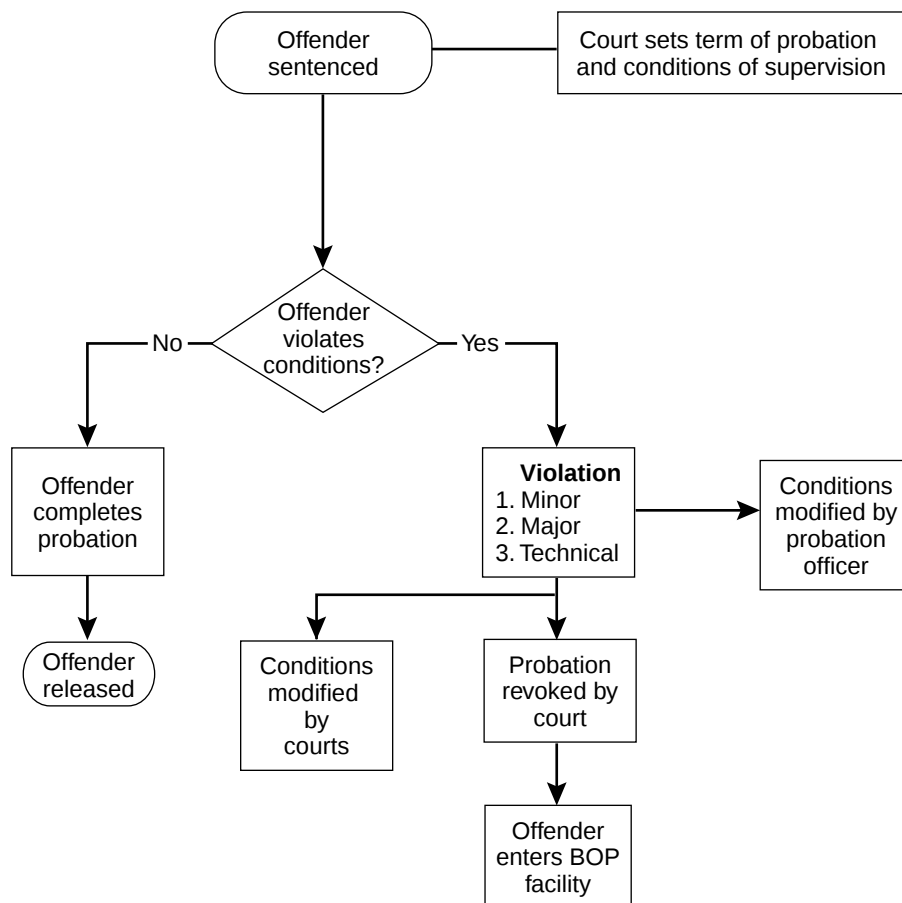
Probation

Prior to the Sentencing Reform Act of 1984, a term of probation operated as a suspended sentence. Under the terms of the act, as reflected in the federal sentencing guidelines, probation is a separate sentence that may have elements of punishment, incapacitation, deterrence, and correctional treatment.

Special conditions that may be imposed as part of a sentence of probation include home confinement with or without electronic monitoring; participation in drug, alcohol, or mental health treatment or counseling programs; community service; or any combination of these conditions. The judge may impose some special conditions as part of the sentence, and the probation officer may impose additional conditions as part of the supervision plan prepared for each offender. In addition to special conditions, there are mandatory conditions of supervision that apply to all offenders. These include prohibitions on (1) committing another federal, state, or local crime during the term of probation; (2) possessing a firearm; and (3) possessing controlled substances. In addition, the judge may order the offender to pay a fine and/or restitution as part of the sentence.

As figure II.1 indicates, if the offender does not violate the conditions set by the court or imposed by the probation officer during his or her term of probation, the offender is to be released at the end of the term.

Figure II.1: The Community
Supervision Process for Offenders on
Probation



Source: GAO analysis of AOUSC data.

If, however, the offender violates a condition or a set of conditions, the probation officer may report the offense to the court and recommend that probation be revoked and the offender be incarcerated. The court then determines whether the offender will be incarcerated. In the case of a new felony or misdemeanor, the offender may be tried for a new crime.

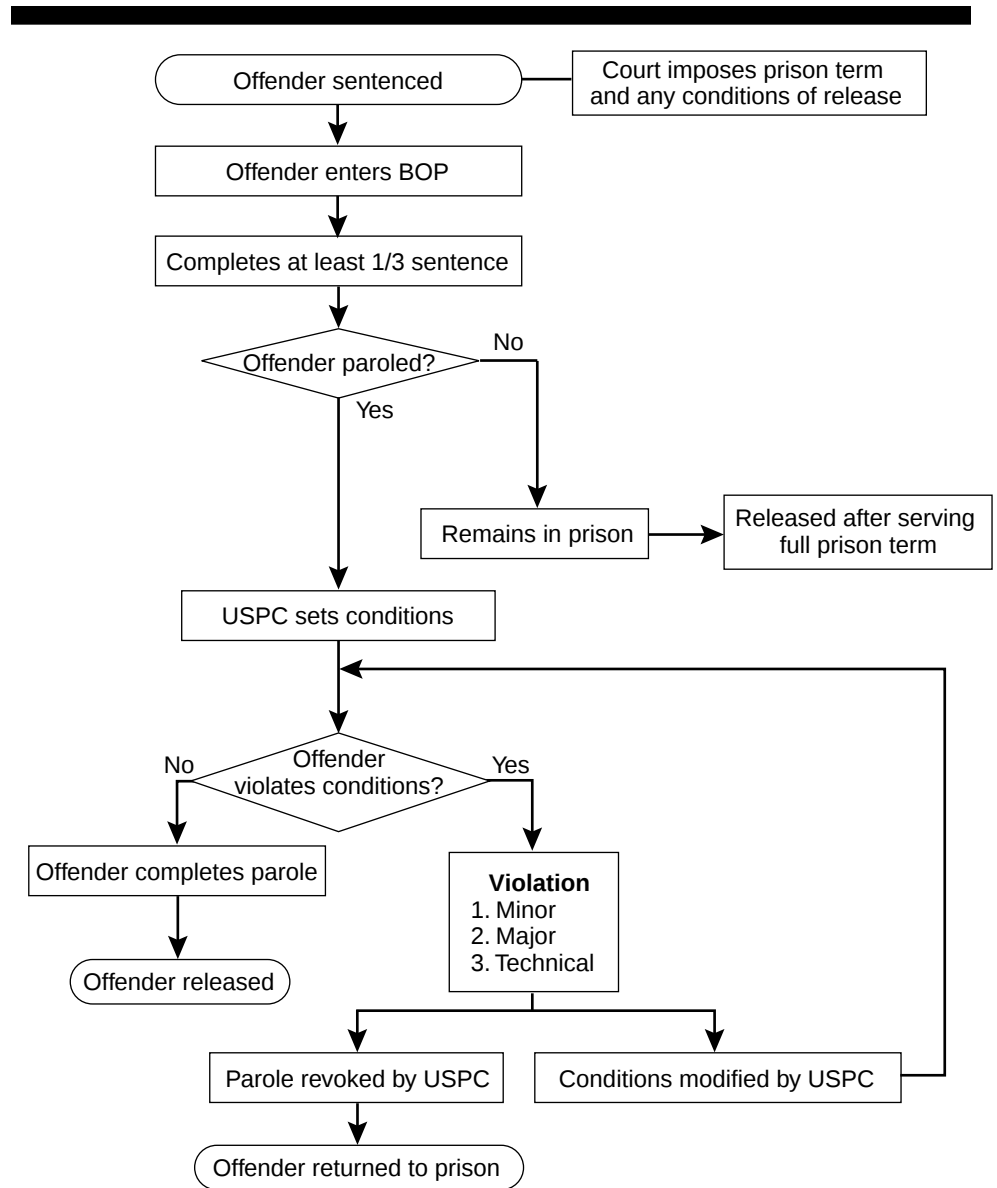
Not all violations lead to court hearings. For example, instances of noncompliance may be addressed initially through an administrative case conference involving the deputy chief probation officer or supervising

probation officer, the probation officer, and the offender. The conference is to involve a complete review of the case and consideration of possible interventions or sanctions, including community service, drug or alcohol in-patient treatment, and electronically monitored home confinement. For these sanctions to be imposed, the offender must waive his or her right to counsel and a hearing.

Parole

Figure II.2 shows that offenders imprisoned under the presentencing guidelines system can be released on parole after serving a portion of their prison terms. These offenders committed crimes prior to November 1, 1987. Offenders who exhibit good behavior while in prison may be released on parole after serving as little as one-third of their prison terms. The United States Parole Commission (USPC) determines whether and when an offender will be granted parole.

Figure II.2: The Community Supervision Process for Offenders on Parole



Source: GAO analysis of AOUSC data.

As is the case with probation, mandatory and special conditions may be imposed on parolees. Offenders convicted of crimes committed before

November 1, 1987, may receive a sentence of incarceration followed by a period of parole. Offenders receiving prison terms must complete a minimum of one-third of the sentence before they are eligible for parole to the community. Some offenders are not paroled to the community because the USPC deems them to be a risk to the community. These offenders are to remain in prison until they have served their entire sentence, less a minimum period for community supervision. They are then released to the community under mandatory release.¹

After an offender has served one-third of the sentence, USPC may approve parole and impose special and mandatory conditions. If the offender does not violate any of the conditions, he or she completes supervision. If, however, the offender violates a condition or a set of conditions, USPC can either modify the conditions of supervision by making them more restrictive or revoke parole and have the offender reincarcerated. In the event the offender has committed a new crime, he or she may be prosecuted for the offense.

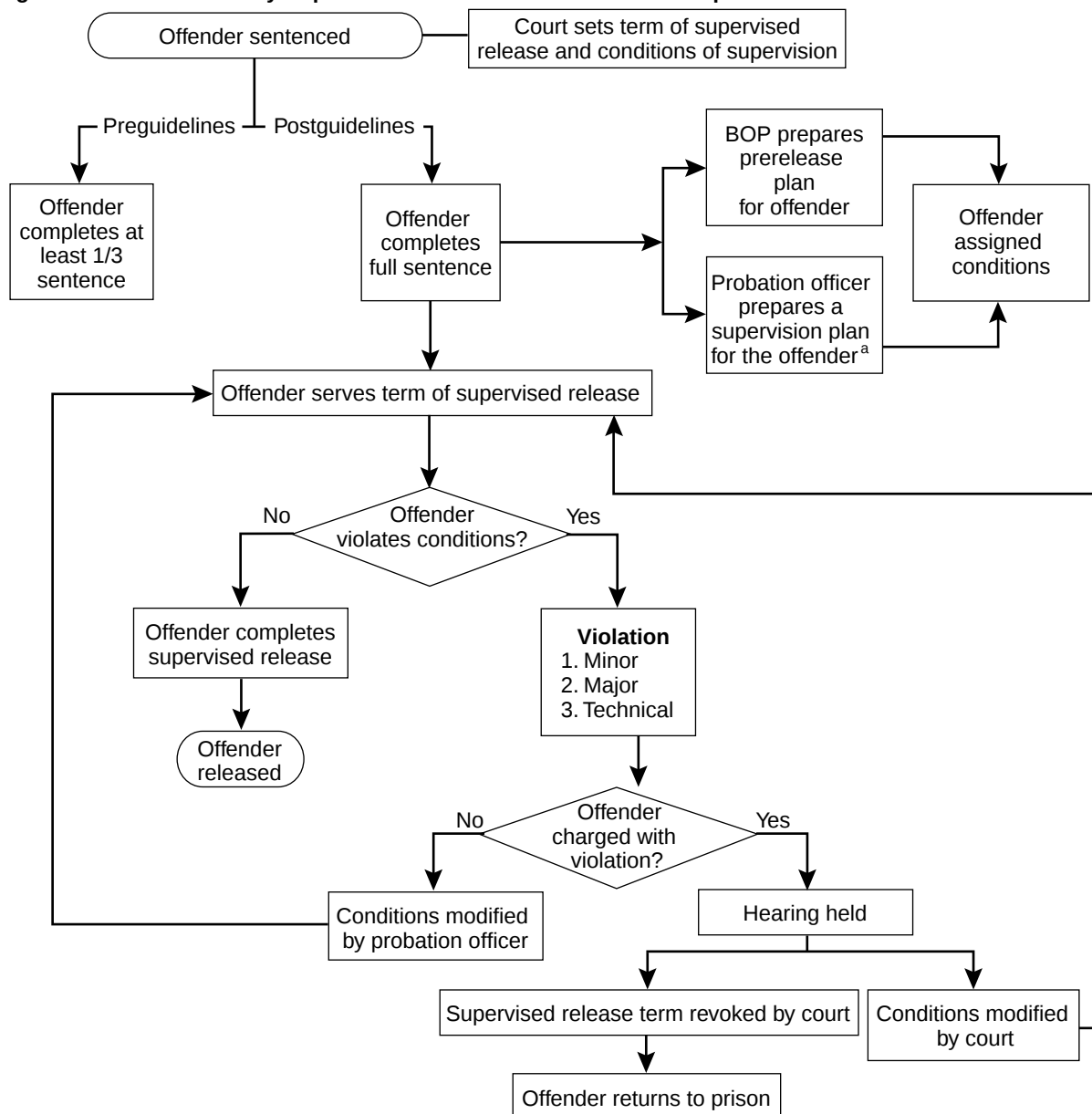
Supervised Release

Offenders who committed offenses on or after November 1, 1987, may be given both a term of imprisonment and a term of supervised release by the sentencing judge. The offender serves his or her entire prison sentence, less a maximum reduction of 54 days per year for satisfactory behavior. As in the cases of probation and parole, the supervised release offender is also assigned mandatory and, if needed, special conditions. Figure II.3 shows that mandatory and special conditions may be imposed by the sentencing judge, as well as by the probation officer, in cases where the need for a special condition has arisen after sentencing. The conditions imposed by the probation officer may have been specified in the prerelease plan developed by BOP prior to the offender's release from prison. The probation officer may also determine that special conditions are required when preparing the supervision plan or when monitoring the offender's behavior while on supervised release.

¹As a form of release from prison mandated by statute, and which has been phased out under the Sentencing Reform Act, mandatory release can be distinguished from either probation or parole in that mandatory releasees essentially are denied regular parole because they are dangerous offenders or committed serious acts. The statute provided for release 180 days prior to the expiration of the prisoner's sentence to allow for a minimal period of supervision.

Appendix II
Description of the Federal Community
Supervision Process

Figure II.3: The Community Supervision Process for Offenders on Supervised Release



^aThe conditions imposed by the probation officer may have been specified in the prerelease plan developed by BOP prior to the offender's release from prison. The probation officer may also determine that special conditions are required when preparing the supervision plan or when monitoring the offender's behavior while on supervised release.

Source: GAO analysis of AOUSC data.

If the offender does not violate any of the conditions, he or she can complete supervision as planned. If, however, he or she violates the conditions, the probation officer can exercise some discretion in either modifying the special conditions or referring the case to the court for disposition. Unlike parole, where revocation and reincarceration decisions can be made by USPC, in the case of supervised release, these decisions are made by the district court. In the event the offender has committed a new crime, he or she may be prosecuted for the offense.

As previously outlined in the discussion of probation, not all infractions are reported to the courts or result in revocation of supervision. The probation officer has some discretion in deciding whether to refer a case to the court or to an administrative case conference.

Changes in the Federal Community Supervision Population

As shown in table III.1, the federal community supervision population rose by about 10 percent between fiscal years 1990 and 1996. The corresponding population growth in the federal prison system¹ was about 63 percent, from 58,021 in fiscal year 1990 to 94,695 in fiscal year 1996.²

Table III.1: Federal Prison and Community Supervision Populations, Fiscal Years 1990-1996

Fiscal year	Total federal prison population	Total federal community supervision population
1990	58,021	80,592
1991	64,131	83,012
1992	70,670	85,920
1993	79,799	86,823
1994	85,850	89,103
1995	90,159	85,822
1996	94,695	88,966
Percent change, fiscal years 1990-1996	63.2%	10.4%

Source: GAO analysis of BOP and AOUSC data.

Table III.2 shows that, from fiscal years 1990 to 1996, the probation and parole populations decreased about 35 and 59 percent, respectively; while the supervised release population increased 648 percent. Overall, the postprison population increased 94 percent during the same period.

¹Includes only inmates in BOP facilities. BOP also supervises inmates in community corrections centers, contract detention centers, other contract facilities, and home confinement.

²The disparity between the growth in the prison population and the slower growth in the supervision population reflects the effect of the sentencing guidelines on sentences. Longer sentences combined with the requirement that inmates serve at least 85 percent of their sentences have resulted in a growing BOP population of older inmates.

Appendix III
Changes in the Federal Community
Supervision Population

Table III.2: Trends in the Federal Community Supervision Population, by Type of Supervision, Fiscal Years 1990-1996

Fiscal year	Probation	Parole	Supervised release	Postprison ^a
1990	52,266	22,188	6,138	28,326
1991	49,399	21,664	11,949	33,613
1992	47,208	19,350	19,362	38,712
1993	43,810	16,629	26,384	43,013
1994	41,300	14,310	33,493	47,803
1995	35,679	10,664	39,479	50,143
1996	33,902	9,153	45,911	55,064
Percent change, fiscal years 1990-1996	(35.1)%	(58.7)%	648.0%	94.4%

^aThe numbers in this category include offenders on parole and supervised release.

Source: GAO analysis of AOUSC data.

Table III.3 shows the distribution of offenders on community supervision for the major crime types. As shown, drug offenders, who accounted for the largest number of offenders on community supervision, increased from nearly 32 percent of the total community supervision population in fiscal year 1992 to about 38 percent in fiscal year 1996.

Table III.3: Trends in the Community Supervision Population, by Type of Offense Committed, Fiscal Years 1992-1996

Fiscal year	Type of offense committed							
	Drugs		Violent		White collar		All other ^a	
	Number of offenders	Percent of total on supervision	Number of offenders	Percent of total on supervision	Number of offenders	Percent of total on supervision	Number of offenders	Percent of total on supervision
1992	27,346	31.8%	8,138	9.5%	24,324	28.3%	26,112	30.4%
1993	28,677	33.0	8,422	9.7	24,630	28.4	25,094	28.9
1994	30,586	34.3	8,630	9.7	25,136	28.2	24,751	27.8
1995	31,193	36.4	8,315	9.7	23,870	27.8	22,444	26.2
1996	34,046	38.3	8,728	9.8	23,838	26.8	22,354	25.1

^aThis category includes burglary, larceny, auto theft, forgery and counterfeiting, immigration, liquor/tax, postal, traffic, and other related offenses.

Source: GAO analysis of AOUSC data.

Table III.4 shows the number of offenders sentenced each year, by criminal history category, in fiscal years 1991 through 1995. As shown, the number of offenders sentenced each year in the three most serious

Appendix III
Changes in the Federal Community
Supervision Population

criminal history categories (IV, V, and VI) grew at greater rates than those for offenders with lesser criminal histories.

Table III.4: Number of Offenders Sentenced Each Year, by Criminal History Category, Fiscal Years 1991-1995

Year sentenced	Number of offenders sentenced by criminal history category					
	I (0 or 1) ^a	II (2 or 3) ^a	III (4-6) ^a	IV (7-9) ^a	V (10-12) ^a	VI (13 or more) ^b
1991	13,194	3,014	3,257	1,721	1,007	1,350
1992	15,101	3,451	3,714	1,956	1,236	1,584
1993	17,070	3,693	4,187	2,303	1,378	2,005
1994	15,457	3,616	4,278	2,374	1,373	2,338
1995	14,818	3,379	4,202	2,482	1,503	2,385
Percent change, fiscal years 1991-1995	12.3%	12.1%	29.0%	44.2%	49.3%	76.7%

^aNumbers in parenthesis are the range of criminal history points for each category.

^bNumbers in category VI exclude offenders classified as career criminals, whose average sentence in each year exceeded 193 months.

Source: U.S. Sentencing Commission annual reports.

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Glossary

Mandatory Release	A form of release from prison mandated by statute, which has been phased out by the Sentencing Reform Act of 1984. Mandatory release can be distinguished from either probation or parole in that mandatory releasees essentially are denied regular parole because they are dangerous offenders or have committed serious acts. The statute provided for release 180 days prior to the expiration of the prisoner's sentence to allow for a minimal period of supervision.
Military Parole	A form of early release from a military prison through the exercise of discretion by the United States Parole Commission (USPC) and the operation of the good-time laws that were in effect before the Sentencing Reform Act of 1984.
Parole	A form of early release from prison through the exercise of discretion by the USPC and the operation of the good-time laws that were in effect before the Sentencing Reform Act of 1984. Parole can be distinguished from either probation or supervised release in that parolees are released from custody early but remain in the legal custody of the Attorney General while in the community. If parole is revoked, the parolee may be returned to custody to continue serving the sentence. Prisoners can be released again to parole and reincarcerated until the maximum sentence imposed has been served.
Probation	A sentence to supervision in the community by a probation officer. In addition to some mandatory conditions, other conditions may apply. The maximum term of probation supervision varies by offense class.
Special Parole	An additional term of supervision, which has been phased out by the Sentencing Reform Act of 1984. A term of special parole begins upon completion of any period on parole or mandatory release supervision from the regular sentence. If the prisoner is released by expiration of good time without any supervision, the special parole term begins upon such release.
Supervised Release	Following completion of the offender's term of imprisonment, a period of supervision in the community imposed by a judge at the time of sentencing. In addition to some mandatory conditions, other conditions may apply. Under the sentencing guidelines, the court must order

supervised release to follow any term of imprisonment that exceeds 1 year or if required by a specific statute. The court may order supervised release to follow imprisonment in any other case. The maximum term of supervised release varies by offense class. Offenders on supervised release are supervised by probation officers.

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