

State of New York  
Department of Correctional Services

Building Number 2  
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Albany, New York 12226

**UNDER CUSTODY REPORT:**  
**Profile of Inmate Population**  
**Under Custody on January 1, 2009**



**David A. Paterson**  
Governor



**Brian Fischer**  
Commissioner

**Profile of Inmate Population  
Under Custody on January 1, 2009**

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**Profile of Inmate Population  
Under Custody on January 1, 2009**

**Executive Summary**

<b>Characteristics</b>	<b>Category</b>	<b>Total Under</b>
<b>Population January 1, 2009</b>		60,081
<b>Gender</b>	Male	96%
<b>Age</b>	Average Age	37.0
<b>Race/Ethnic Status</b>	White	21.3%
	African-American	51.5%
	Hispanic	25.2%
<b>Region</b>	From New York City	50.3%
	Suburban New York	11.7%
	Upstate Urban	22.2%
	Upstate Other	15.8%
<b>Birthplace</b>	Foreign Born	10.2%
<b>Marital Status</b>	Never Married	65.8%
<b>Living Children</b>	One or more living children	59.5%
<b>Religious Affiliation</b>	Catholic	25.6%
	Protestant	29.9%
	Islam	12.3%
<b>Veteran Status</b>	Veteran	5.2%
<b>Minimum Sentence</b>	Median time in months	60.0
	Average time in months	111.3
<b>Crime</b>	Violent Felony	58.9%
	Other Coercive	7.9%
	Drug Offenses	19.9%
	Property/Other	11.4%
	Youthful/Juvenile	1.9%
<b>Second Felony Offender Status</b>	First Felony	53.1%
	Second Felony	42.7%
	Persistent Felony	4.2%
<b>Prior Adult Criminal Record</b>	No Prior Arrest	14.9%
	No Prior Conviction	7.8%
	Conviction No Jail	17.9%
	Prior Jail	24.6%
	Prior prison term	34.8%
<b>Time Served in Department Custody</b>	Median time in months	24.9
	Average time in months	56.6
<b>Time to Earliest Release</b>	Median time in months	15.0
	Average time in months	47.7

**Profile of Inmate Population  
Under Custody on January 1, 2009**

**INTRODUCTION**

**Purpose of the Report**

This report profiles the inmate population by demographic and criminal history characteristics. It presents information on inmates held under Department of Correctional Services (DOCS) custody on January 1, 2009.

**Sections of the Report**

The first section describes the demographic characteristics of inmates, including gender, age, race/ethnic status, region of commitment, birthplace, marital status, number of living children, religious affiliation, and veteran status. The second section describes the criminal history of inmates, including information on minimum sentence, commitment crime, second felony sentencing status, prior adult criminal record, length of time served at current facility, length of time in Department custody, and time to earliest release.

## Section One

### DEMOGRAPHIC CHARACTERISTICS

#### Gender Distribution

There were 60,081 inmates under custody on January 1, 2009. Of this total, 96% (57,502) were male and 4% (2,579) were female.

#### Age Distribution

The average age of offenders under DOCS custody on January 1, 2009 was 37 years old.

Inmates under 21 years old constituted 5% of the total under custody population while inmates 60 and over represented 3% of the inmate population.

Figure 1. Inmate Age

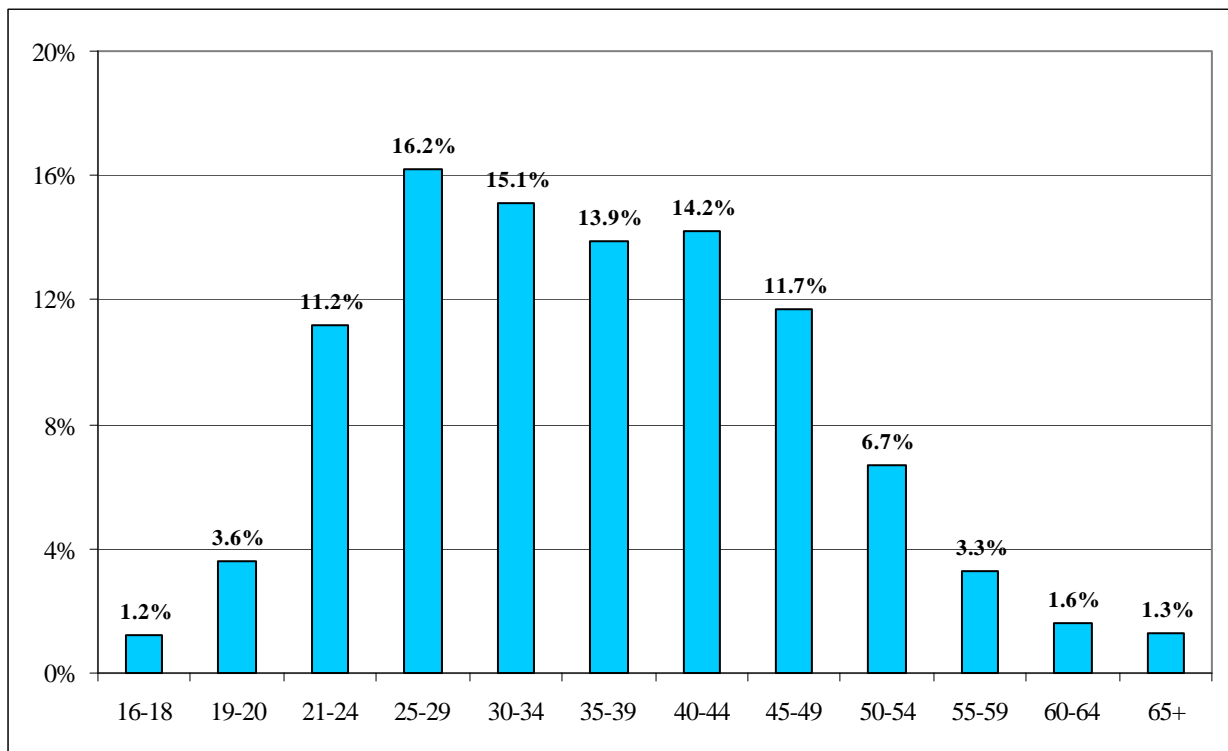


Table 1. Inmate Age, Under Custody Population on January 1, 2009

Gender	16-18	19-20	21-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65+	Total	Average
Male	682	2,102	6,416	9,376	8,710	7,973	8,077	6,722	3,871	1,881	932	760	57,502	37.0
Female	22	69	295	374	344	391	456	317	173	77	36	25	2,579	37.4
Total	704	2,171	6,711	9,750	9,054	8,364	8,533	7,039	4,044	1,958	968	785	60,081	37.0
	1.2%	3.6%	11.2%	16.2%	15.1%	13.9%	14.2%	11.7%	6.7%	3.3%	1.6%	1.3%	100.0%	

### Race/Ethnic Distribution

Over half (51%) of under custody inmates were African-American, one-fourth were Hispanic (25%) and approximately one-fifth were White (21%).

Figure 2. Race/Ethnic Status

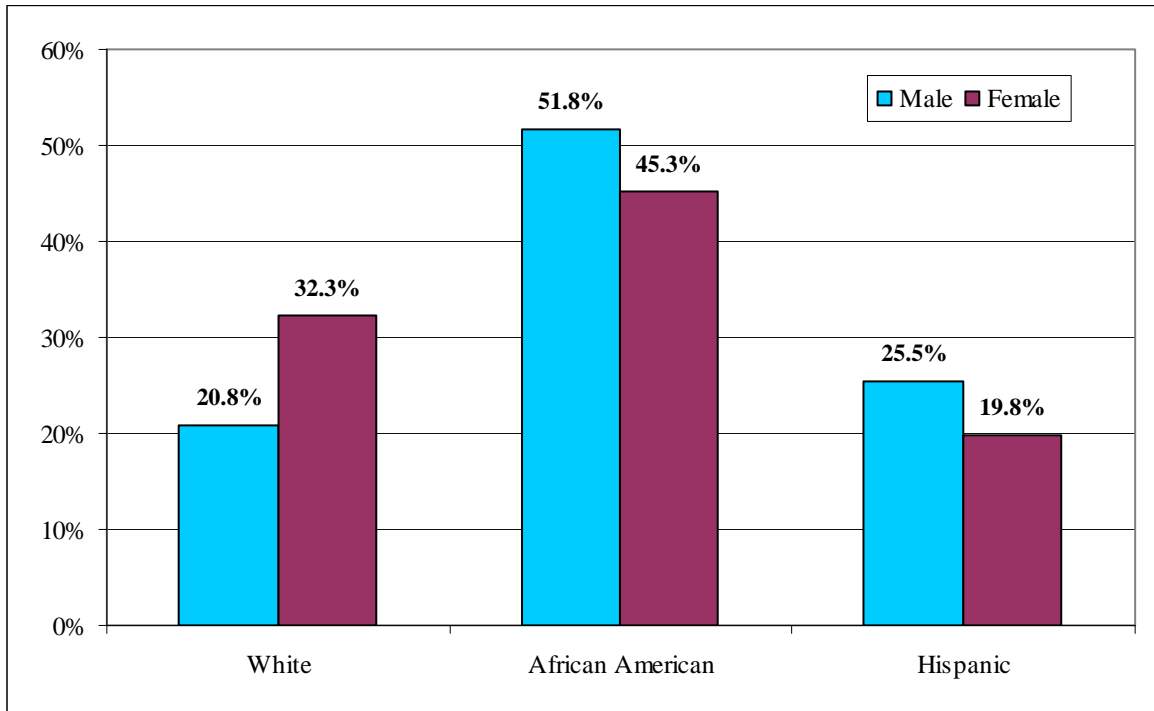


Table 2. Race/Ethnic Status; Under Custody Population on January 1, 2009

Race/ethnic Status by Gender	White	African American	Hispanic	Native American	Asian	Other	Unknown	Total
Male	11,957	29,762	14,661	384	301	275	162	57,502
Female	834	1,168	510	7	24	28	8	2,579
Total	12,782	30,926	15,169	391	325	302	186	60,081
	21.3%	51.5%	25.2%	0.7%	0.5%	0.5%	0.3%	100.0%

### Region of Commitment

Half (50%) of the inmates under custody on January 1, 2009 were committed from New York City and 12% were committed from suburban New York (Nassau, Rockland, Suffolk, and Westchester counties). Upstate counties with a population center containing 50,000 inhabitants or more (Albany, Broome, Erie, Monroe, Oneida, Onondaga, Niagara, Rensselaer, and Schenectady counties) committed 22% of the inmate population. The remaining 16% was sentenced from the other Upstate counties.

Figure 3. Region of Commitment

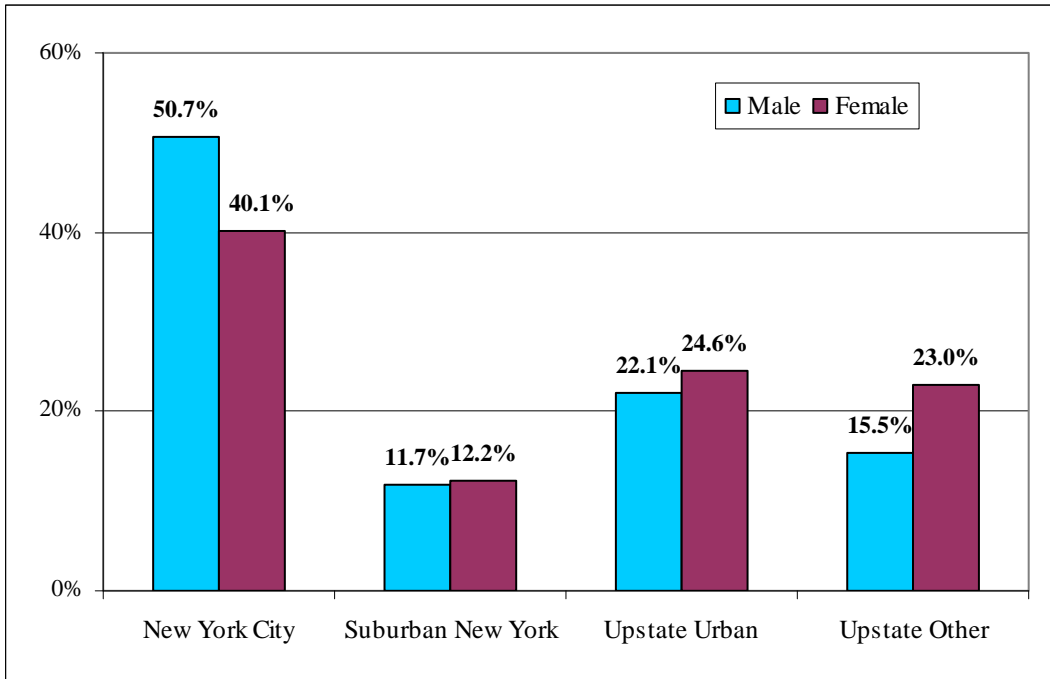


Table 3. Region of Commitment; Under Custody Population January 1, 2009

Region by Gender	New York City	Suburban New York	Upstate Urban	Upstate Other	Total*
Male	29,171	6,738	12,695	8,898	57,502
Female	1,035	315	635	593	2,578
Total	30,206	7,053	13,330	9,491	60,080
	50.3%	11.7%	22.2%	15.8%	100.0%

\*One out-of-state case lacks county of commitment.

### Country of Birth

Ninety percent (90%) of under custody inmates were born in the United States or a United States Territory. Approximately ten percent of under custody inmates report birth in a foreign country. Most of these inmates reporting birth in a foreign country were from one of the island nations in the Caribbean basin (5% of under custody inmates).<sup>1</sup>

Figure 4. Foreign Born Inmates Under Custody Population January 1, 2009

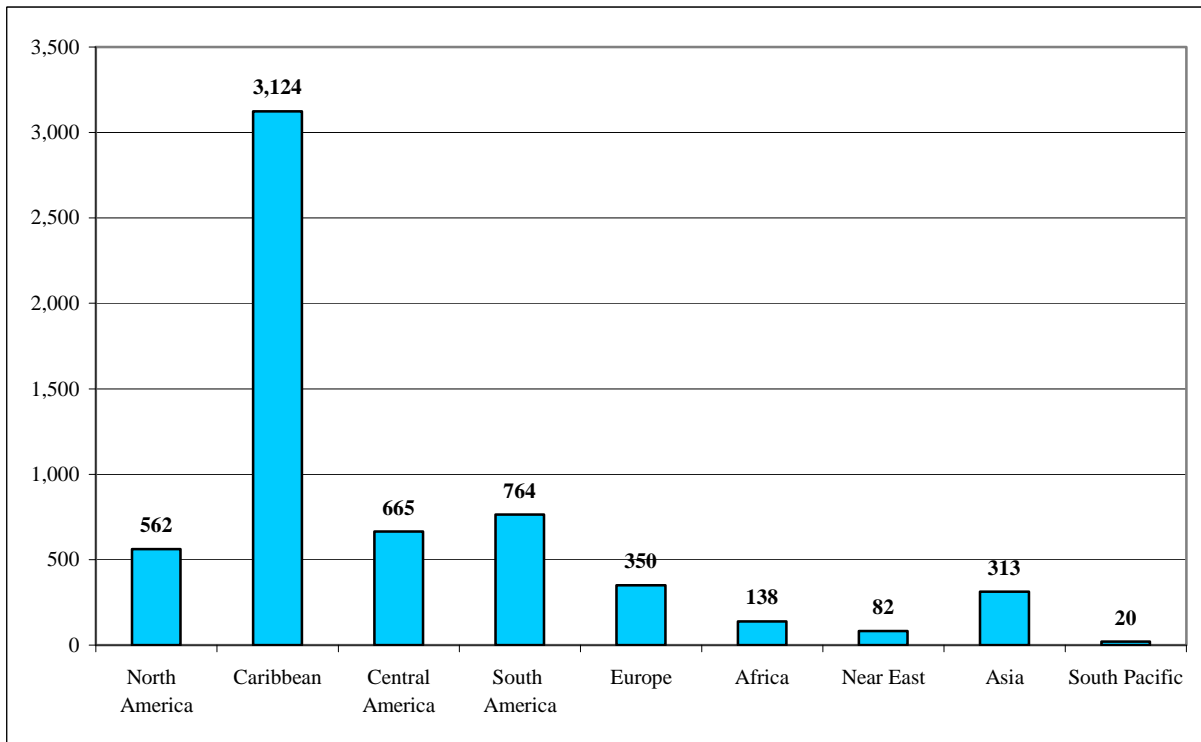


Table 4. World Region of Birth; Under Custody Population January 1, 2009

United States	North America	Caribbean	Central America	South America	Europe	Africa	Near East	Asia	South Pacific	Not Known	Total
52,061	562	3,124	665	764	350	138	82	313	20	299	58,378
89.2%	1.0%	5.4%	1.1%	1.3%	0.6%	0.2%	0.1%	0.5%	0.0%	0.5%	100.0%

1. For additional information on foreign born inmates see "The Impact of Foreign-Born Inmates on the New York State Department of Correctional Services" (July, 2008), New York State Department of Correctional Services, Albany, New York 12226. On the DOCS web site at: <http://www.docs.state.ny.us/Research/annotate.asp#pop>



## Marital Status

Two thirds (66%) of the inmate population report never being married.

Figure 5. Marital Status

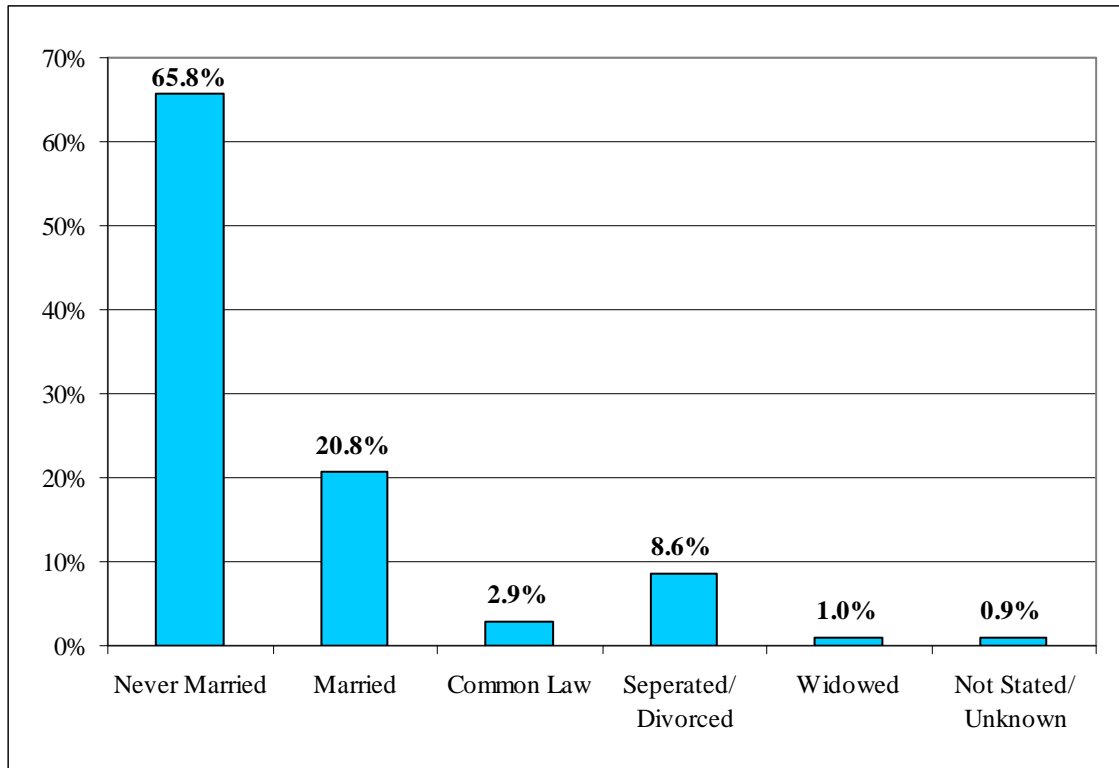


Table 5. Marital Status; Under Custody Population January 1, 2009

Never Married	Married	Common Law	Separated/Divorced	Widowed	Not Stated/Unknown	Total
39,523	12,483	1,758	5,156	617	544	60,081
65.8%	20.8%	2.9%	8.6%	1.0%	0.9%	100.0%

## Number of Living Children

The majority of inmates under custody (60%) report at least one living child.

Figure 6. Inmates With One or More Living Children

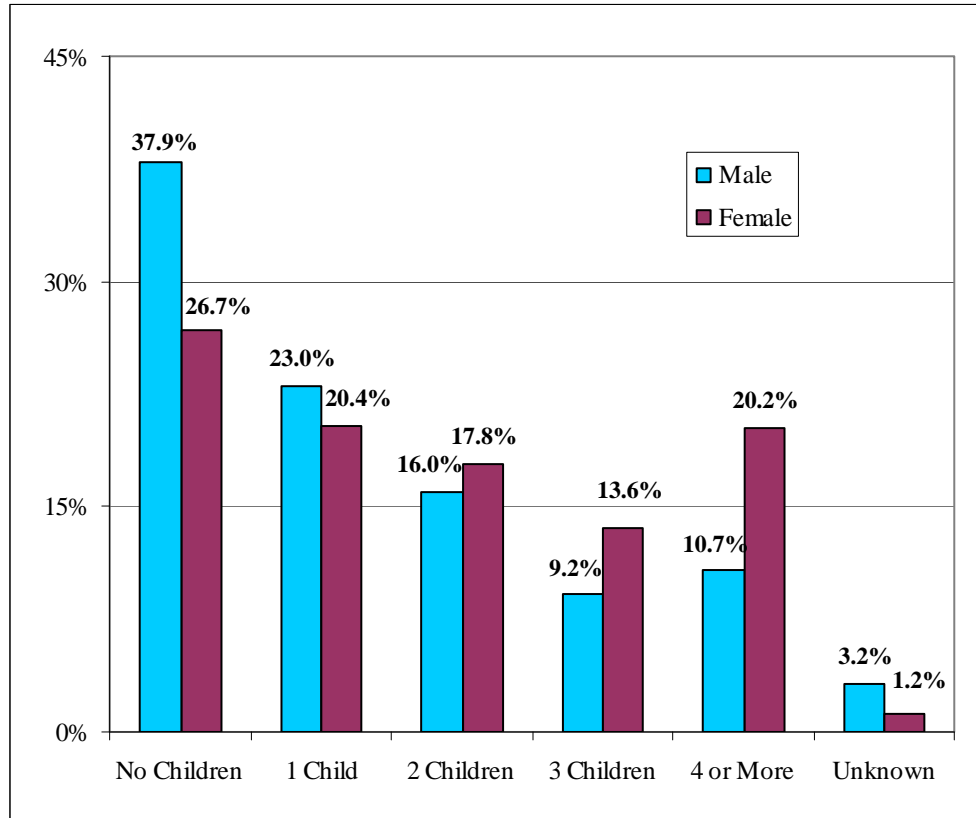


Table 6. Number of Children; Under Custody Population January 1, 2009

Children by Gender	No Children	1 Child	2 Children	3 Children	4 or More	Unknown	Total
Male	21,785	13,244	9,195	5,267	6,178	1,833	57,502
Female	689	527	459	350	522	32	2,579
Total	22,474	13,771	9,654	5,617	6,700	1,865	60,081
	37.4%	22.9%	16.1%	9.3%	11.2%	3.1%	100.0%

## Religious Affiliation

Eighty-seven percent (87%) of under custody inmates claimed affiliation with a recognized religion. Thirty percent (30%) were Protestant and twenty-six percent (26%) were Catholic. Twelve percent (12%) were affiliated with the Islamic faith.

Figure 7. Religious Affiliation

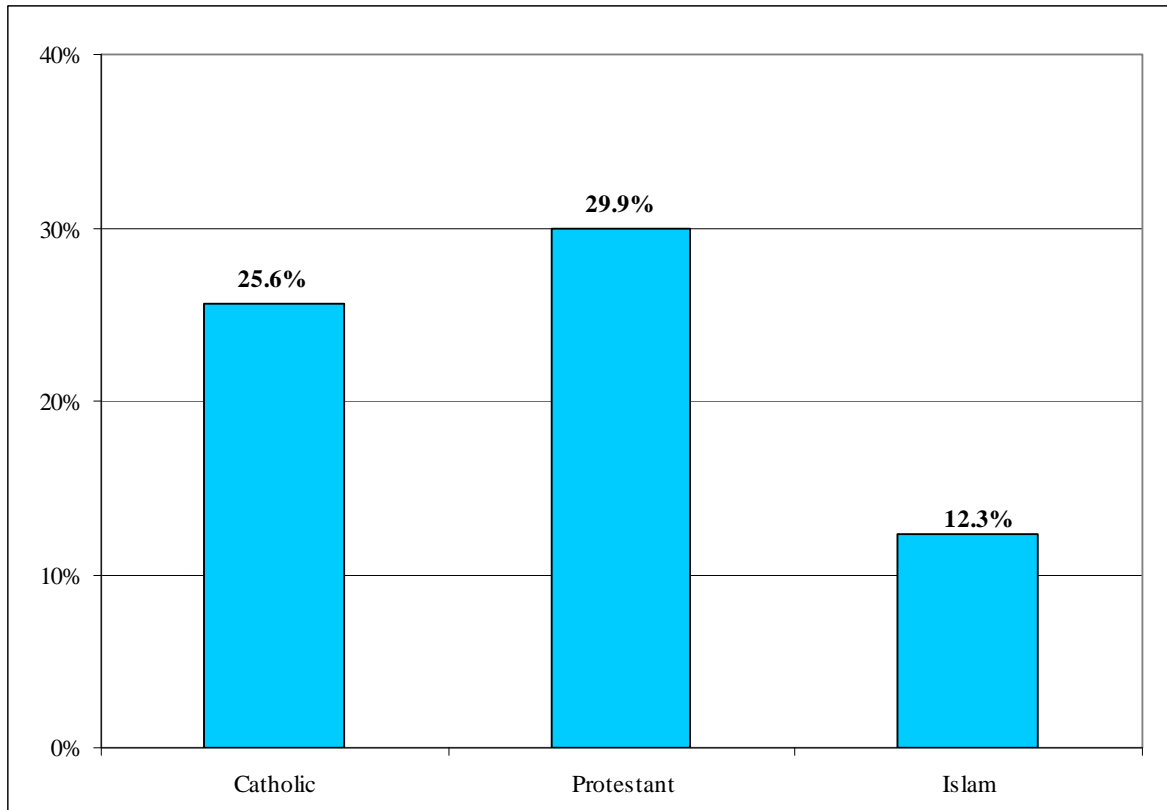


Table 7. Religious Affiliation; Under Custody January 1, 2009

Catholic	Prot- estant	Islam	Nation of Islam	Rasta- farians	Jewish	Asian Religions	Native American	Greek Ortho- dox	Other	None Listed	Total
15,383	17,993	7,380	2,341	3,316	3,569	327	334	60	1,342	8,036	60,081
25.6%	29.9%	12.3%	3.9%	5.5%	5.9%	0.5%	0.6%	0.1%	2.2%	13.4%	100.0%

## Veteran Status

Of the 60,081 inmates under custody on January 1, 2009, 5% (3,122) report military service. Of this total, the largest number report military service in the Post Vietnam Era.

Figure 8. Inmate Veterans by Military Service Era

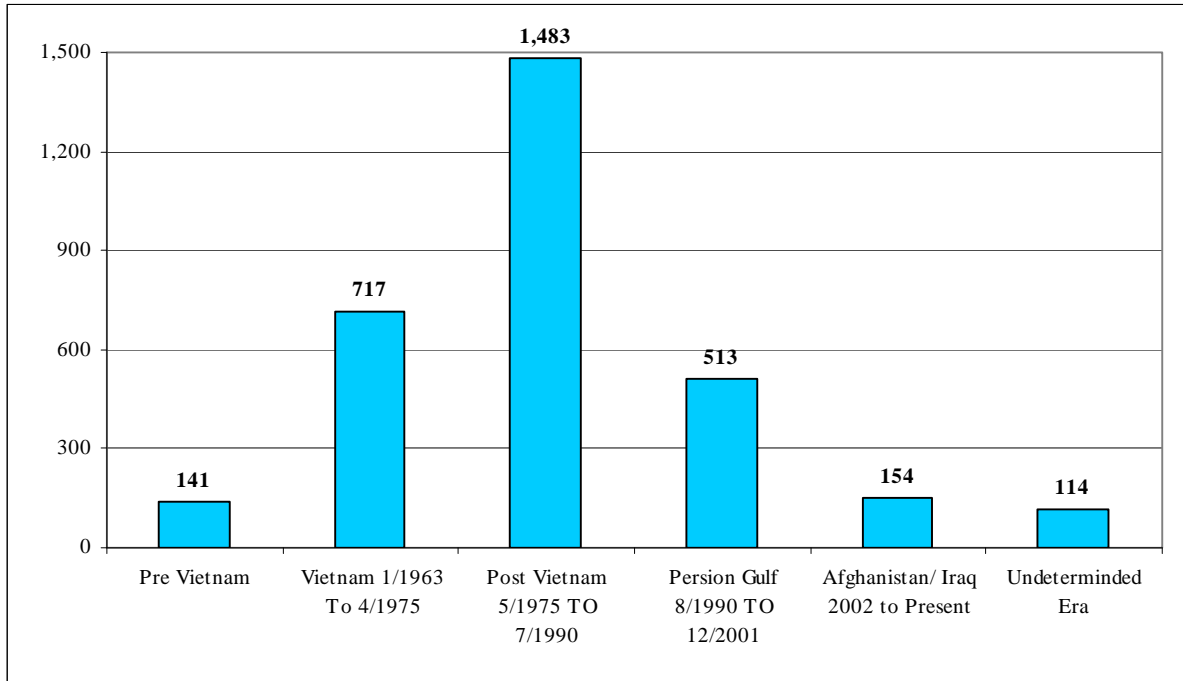


Table 8. Veteran Status by Service Era; Under Custody Population January 1, 2009

Not Veteran	Pre Vietnam	Vietnam 1/1963 To 4/1975	Post Vietnam 5/1975 TO 7/1990	Persian Gulf 8/1990 TO 12/2001	Afghanistan/ Iraq 2002 to Present	Undetermined Era	Total
56,959	141	717	1,483	513	154	114	60,081
94.8%	0.2%	1.2%	2.5%	0.9%	0.3%	0.2%	100.0%

## Section Two

### CRIMINAL HISTORY

#### Minimum Sentence

The median minimum sentence of under custody inmates was 5 years<sup>2</sup>. However, the average minimum sentence length was over nine years, reflecting the influence of lengthy minimum sentences received by many inmates.

As of January 1, 2009, there were 202 inmates under custody who were serving sentences of “Life Without Parole”.

Figure 10. Minimum Sentence Length

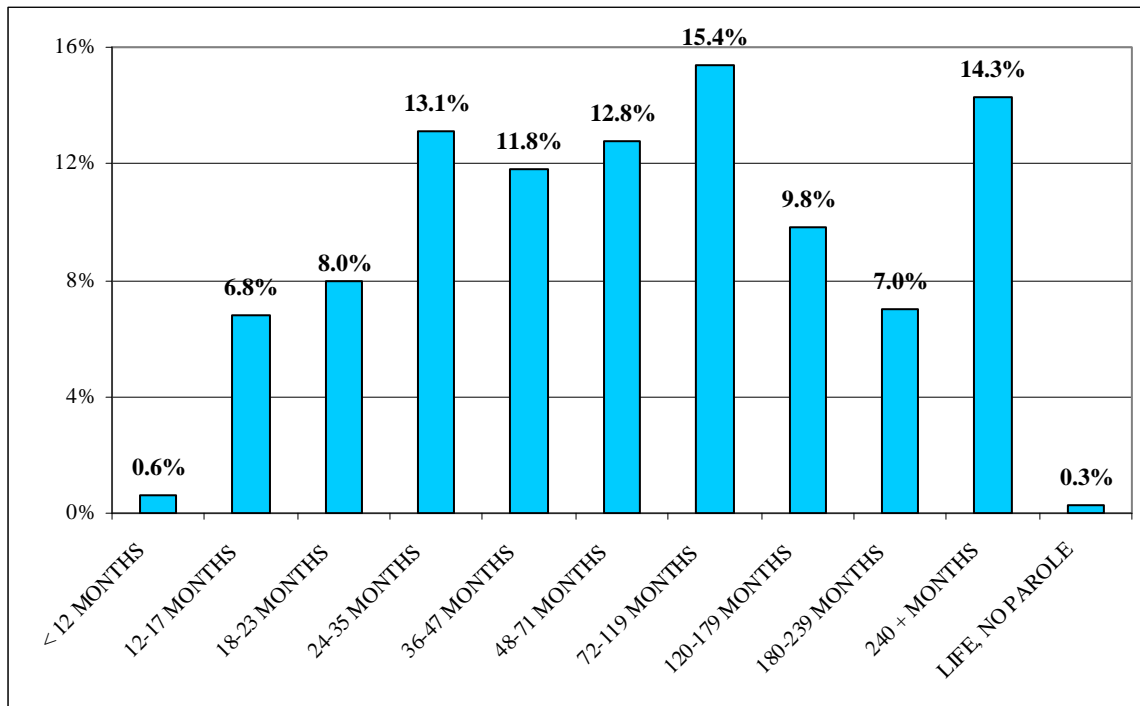


Table 10. Minimum Sentence; Under Custody Population January 1, 2009

Minimum Sentence by Gender	< 12 Months	12-17 Months	18-23 Months	24-35 Months	36-47 Months	48-71 Months	72-119 Months	120-179 Months	180-239 Months	240 + Months	Life, No Parole	Total	Average in Months	Median in Months
Male	345	3,762	4,501	7,384	6,691	7,358	8,997	5,784	4,090	8,393	197	57,502	113.2	62.0
Female	40	348	316	476	376	334	264	133	115	172	5	2,579	68.6	36.0
Total	385	4,110	4,817	7,860	7,067	7,692	9,261	5,917	4,205	8,565	202	60,081	111.3	60.0
	0.6%	6.8%	8.0%	13.1%	11.8%	12.8%	15.4%	9.8%	7.0%	14.3%	0.3%	100.0%		

<sup>2</sup> The median is a measure of central tendency which represents the value of the middle case (i.e. the case or cases at the 50<sup>th</sup> percentile) in the distribution of cases. The median is less subject to the influence of extreme values than is the arithmetic average and is preferred by some users for this reason.

## Commitment Crime

Nearly 60% of the inmates under custody on January 1, 2009 had been convicted of a Violent Felony Offense (VFO). Another 20% of inmates had been convicted of a drug crime. Forty percent (40%) of female inmates had been committed for a violent felony crime compared to 60% for male inmates. In contrast, 30% of female inmates were committed for a drug offense compared to 19% percent of male inmates. Table 11B lists the commitment crimes that are included in each of the general categories in figure 11.

Figure 11. Commitment Crime Category

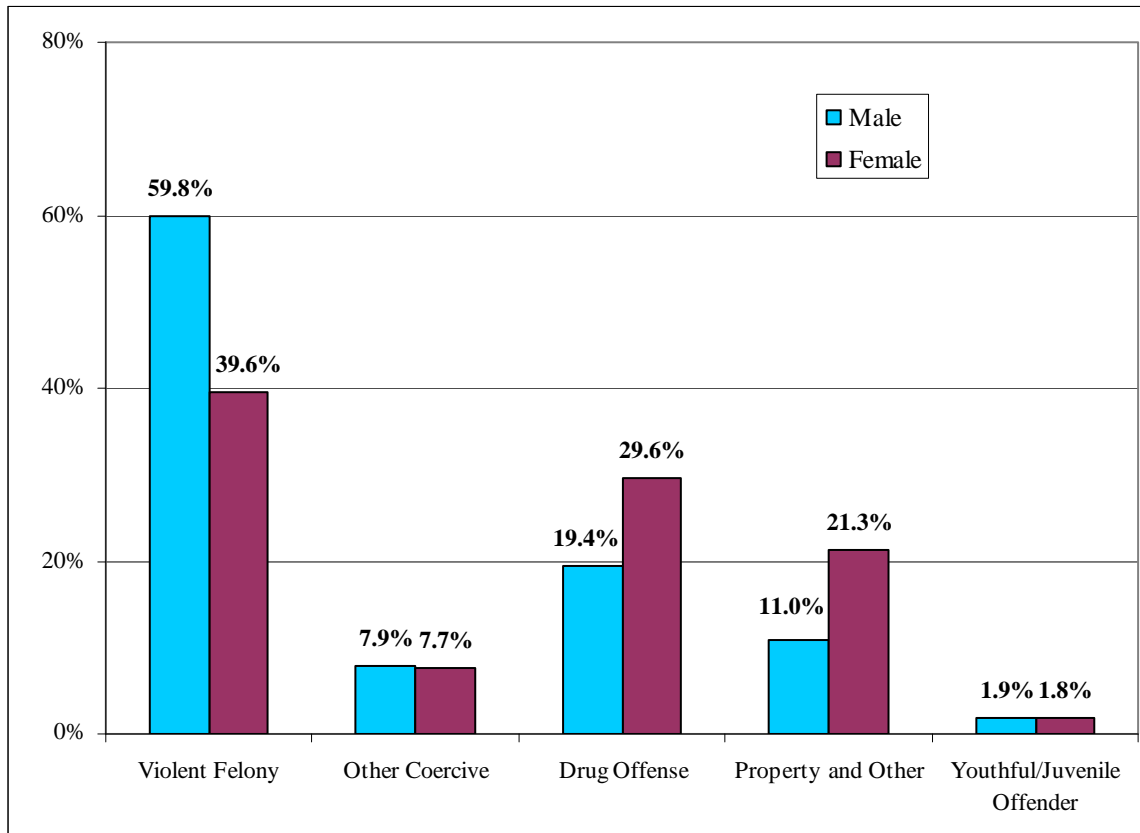


Table 11A. Crime Category; Under Custody Population January 1, 2009

Commitment Crime Type by Gender	Violent Felony	Other Coercive	Drug Offense	Property and Other	Youthful Offender	Juvenile Offender	Total
Male	34,391	4,541	11,179	6,310	899	182	57,502
Female	1,020	199	764	549	44	3	2,579
Total	35,411	4,740	11,943	6,859	943	185	60,081
	58.9%	7.9%	19.9%	11.4%	1.6%	0.3%	100.0%

Table 11B. By VFO and Crime; Under Custody Population January 1, 2009

VFO BY CRIME	MALE	FEMALE	TOTAL
<b>VIOLENT FELONY</b>			
MURDER	7,409	214	7,623
ATTEMPTED MURDER	1,456	27	1,483
MANSLT 1ST,AG 2ND	2,202	159	2,361
RAPE 1ST	1,851	8	1,859
ROBBERY 1ST	5,155	117	5,272
ROBBERY 2ND	3,223	104	3,327
ASSAULT 1ST	1,804	109	1,913
ASSAULT 2ND	1,411	85	1,496
BURGLARY 1ST	988	20	1,008
BURGLARY 2ND	3,220	94	3,314
ARSON 1ST,2ND	162	20	182
SODOMY 1ST	1,175	7	1,182
SEX AB 1ST,AG.2	1,184	10	1,194
WEAPONS OFFENSES	2,693	30	2,723
KIDNAPPING 1ST,2ND	373	15	388
OTHER VFO SEX OFF	35	0	35
OTHER VIOLENT	50	1	51
SUBTOTAL	34,391	1,020	35,411
	59.8%	39.6%	58.9%
<b>OTHER COERCIVE</b>			
MANSLAUGHTER 2ND	319	40	359
OTHER HOMICIDE	85	7	92
ROBBERY 3RD	1,298	45	1,343
ATT ASSAULT 2ND	402	31	433
CONSPIRACY 2,3,4	279	12	291
OTHER WEAPONS	630	9	639
OTHER SEX OFFENSES	1,082	23	1,105
OTHER COERCIVE	446	32	478
SUBTOTAL	4,541	199	4,740
	7.9%	7.7%	7.9%
<b>DRUG OFFENSES</b>			
DRUG SALE	6,350	509	6,859
DRUG POSSESSION	4,829	255	5,084
SUBTOTAL	11,179	764	11,943
	19.4%	29.6%	19.9%
<b>PROPERTY AND OTHER OFFENSES</b>			
BURGLARY 3RD	2,083	51	2,134
GRAND LARCENY	1,200	193	1,393
FORGERY	516	120	636
STOLEN PROPERTY	501	29	530
DRIVE INTOXICATED	823	66	889
CONTEMPT 1ST	328	6	334
ALL OTHER FELONIES	859	84	943
SUBTOTAL	6,310	549	6,859
	11.0%	21.3%	11.4%
<b>YO &amp; JO</b>			
YOUTHFUL OFFENDER	899	44	943
JUVENILE OFFENDER	182	3	185
SUBTOTAL	1,081	47	1,128
	1.9%	1.8%	1.9%
<b>GRAND TOTAL</b>			
	57,502	2,579	60,081
	100.0%	100.0%	100.0%

## Second Felony Offender Status

Over half (53%) of the inmates under custody on January 1, 2009 were sentenced as first felony offenders. Crime by predicate felony sentencing status is presented in Table 12A.

New York State Penal Law establishes more severe sentences for second felony offenders than for first felony offenders. However, some of the inmates included among the first felony offenders identified in both Figure 12 and Table 12A below had been convicted of prior felony crimes and some had previous sentences to state prison. The majority of such inmates were convicted of class A-1 violent felony crimes, which do not provide for sentencing as a second felony offender since the penalties for A-1 violent felony crimes are already the most severe.

Figure 12. Predicate Felony Sentencing Status

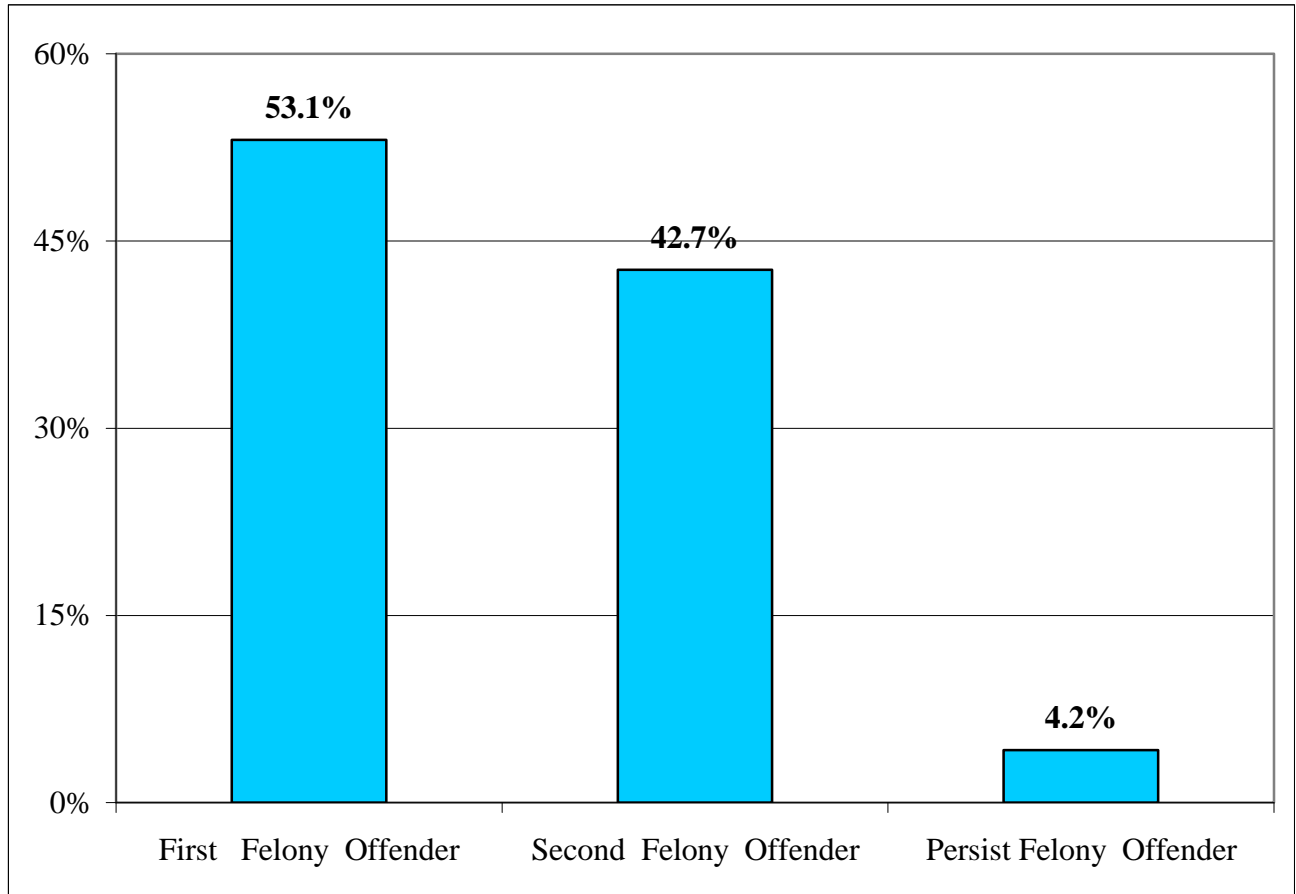




Table 12A. Second Felony Sentencing Status by VFO and Crime;  
Under Custody Population January 1, 2009

VFO BY CRIME	FIRST FELONY OFFENDER	SECOND FELONY	PERSIST FELONY	TOTAL
<b>VIOLENT FELONY</b>				
MURDER	7,623	0	0	7,623
ATTEMPTED MURDER	957	463	63	1,483
MANSLT 1ST,AG 2ND	1,764	546	51	2,361
RAPE 1ST	1,094	637	128	1,859
ROBBERY 1ST	2,326	2,378	568	5,272
ROBBERY 2ND	1,559	1,368	400	3,327
ASSAULT 1ST	1,209	619	85	1,913
ASSAULT 2ND	761	623	112	1,496
BURGLARY 1ST	468	450	90	1,008
BURGLARY 2ND	1,093	1,672	549	3,314
ARSON 1ST,2ND	121	60	1	182
SODOMY 1ST	819	308	55	1,182
SEX AB 1ST,AG.2	885	274	35	1,194
WEAPONS OFFENSES	1,376	1,173	174	2,723
KIDNAPPING 1ST,2ND	297	73	18	388
OTHER VFO SEX OFF	28	5	2	35
OTHER VIOLENT	40	9	2	51
SUBTOTAL	22,420	10,658	2,333	35,411
	63.3%	30.1%	6.6%	100.0%
<b>OTHER COERCIVE</b>				
MANSLAUGHTER 2ND	268	83	8	359
OTHER HOMICIDE	75	15	2	92
ROBBERY 3RD	386	931	26	1,343
ATT ASSAULT 2ND	118	311	4	433
CONSPIRACY 2,3,4	158	126	7	291
OTHER WEAPONS	142	475	22	639
OTHER SEX OFFENSES	736	362	7	1,105
OTHER COERCIVE	236	237	5	478
SUBTOTAL	2,119	2,540	81	4,740
	44.7%	53.6%	1.7%	100.0%
<b>DRUG OFFENSES</b>				
DRUG SALE	1,801	5,042	16	6,859
DRUG POSSESSION	1,685	3,392	7	5,084
SUBTOTAL	3,486	8,434	23	11,943
	29.2%	70.6%	0.2%	100.0%
<b>PROPERTY AND OTHER OFFENSES</b>				
BURGLARY 3RD	571	1,535	28	2,134
GRAND LARCENY	455	916	22	1,393
FORGERY	171	461	4	636
STOLEN PROPERTY	103	417	10	530
DRIVE INTOXICATED	869	17	3	889
CONTEMPT 1ST	143	188	3	334
ALL OTHER FELONIES	431	496	16	943
SUBTOTAL	2,743	4,030	86	6,859
	40.0%	58.8%	1.3%	100.0%
<b>YOUTHFUL &amp; JUVENILE OFFENDER</b>				
YOUTHFUL OFFENDER	943	0	0	943
JUVENILE OFFENDER	185	0	0	185
SUBTOTAL	1,128	0	0	1,128
	100.0%	0.0%	0.0%	100.0%
<b>GRAND TOTAL</b>	<b>31,896</b>	<b>25,662</b>	<b>2,523</b>	<b>60,081</b>
	53.1%	42.7%	4.2%	100.0%

**Prior Adult Criminal Record**

Inmates are placed in a prior adult criminal record category based on their most extensive penetration into the criminal justice system prior to their current incarceration. Thirty-five percent (35%) of under custody inmates had served a prior prison term. For twenty-five percent (25%), prior jail was the most serious contact with the criminal justice system while fifteen percent (15%) had no prior arrest.

Figure 13. Prior Adult Criminal Record

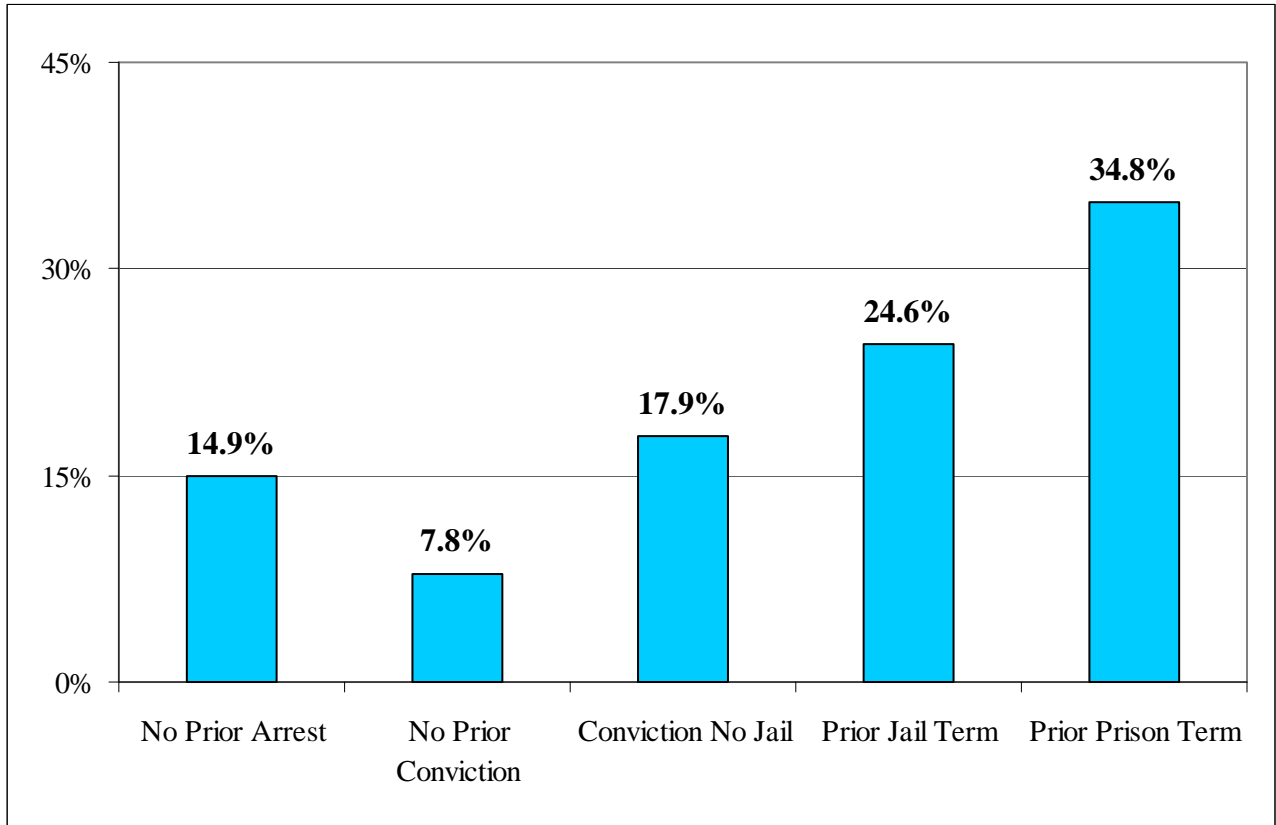


Table 13. Prior Adult Criminal Record; Under Custody Population January 1, 2009

No Prior Arrest	No Prior Conviction	Conviction No Jail	Prior Jail Term	Prior Prison Term	Total*
8,964	4,657	10,754	14,769	20,924	60,068
14.9%	7.8%	17.9%	24.6%	34.8%	100.0%

\*Missing data on 13 cases.

### Length of Time in Department Custody

One quarter (25%) of the inmate population had spent 6 years or more under custody since latest admission to DOCS while nearly one third (32%) had spent less than one year under custody.

Inmates under custody on January 1, 2009 had spent an average of 56.6 months in DOCS since their latest admission date. The median length of time served was 24.9 months.

Figure 14. Length of Time Served in DOCS Custody Since Last Admission Date

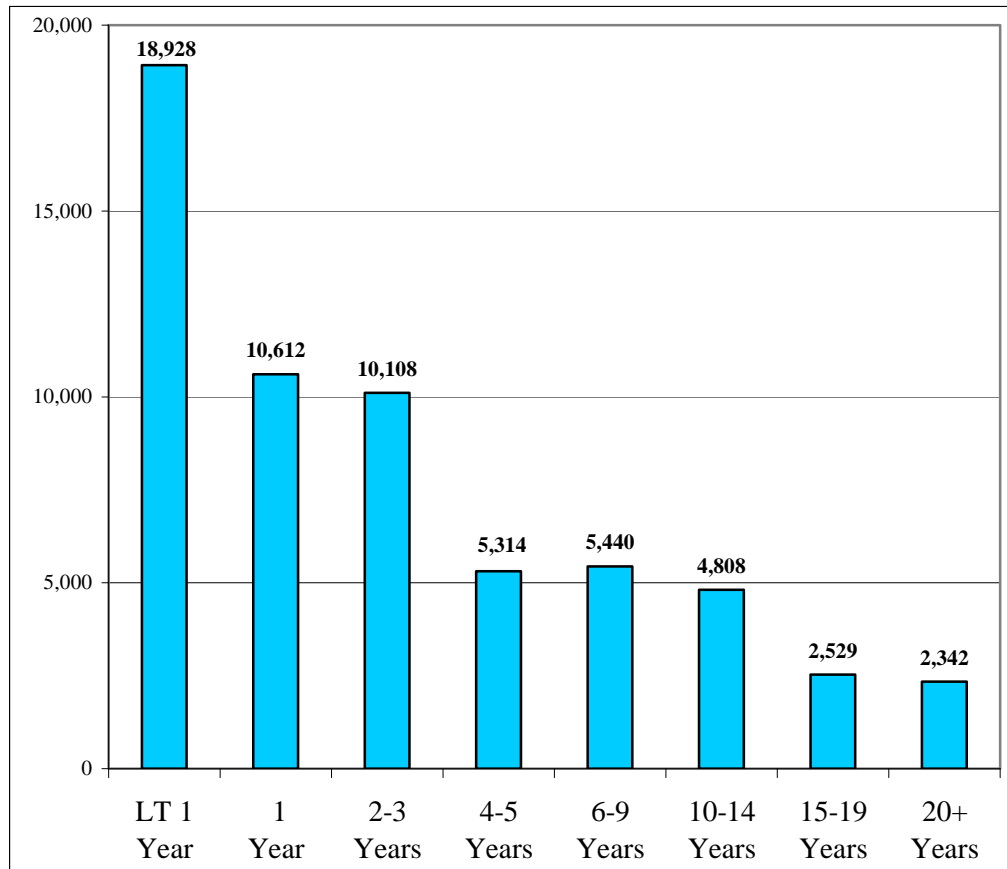


Table 14. DOCS Time Served in Months; Under Custody Population January 1, 2009

LT 1 Year	1 Year	2-3 Years	4-5 Years	6-9 Years	10-14 Years	15-19 Years	20+ Years	Total
18,928	10,612	10,108	5,314	5,440	4,808	2,529	2,342	60,081
31.5%	17.7%	16.8%	8.8%	9.1%	8.0%	4.2%	3.9%	100.0%

## Time to Earliest Release Eligibility

Time to earliest release date is a measure of the length of time until the earliest possible date at which the inmate (including returned parole violators) can be legally released.

Nearly two-thirds (64%) of the inmate population have less than two years to earliest release date. The "average time to earliest release" for the under custody population on January 1, 2009 was 47.7 months, and the "median time to earliest release" was 15.0 months (excluding Life Without Parole).

Figure 15. Length of Time to Earliest Release Date

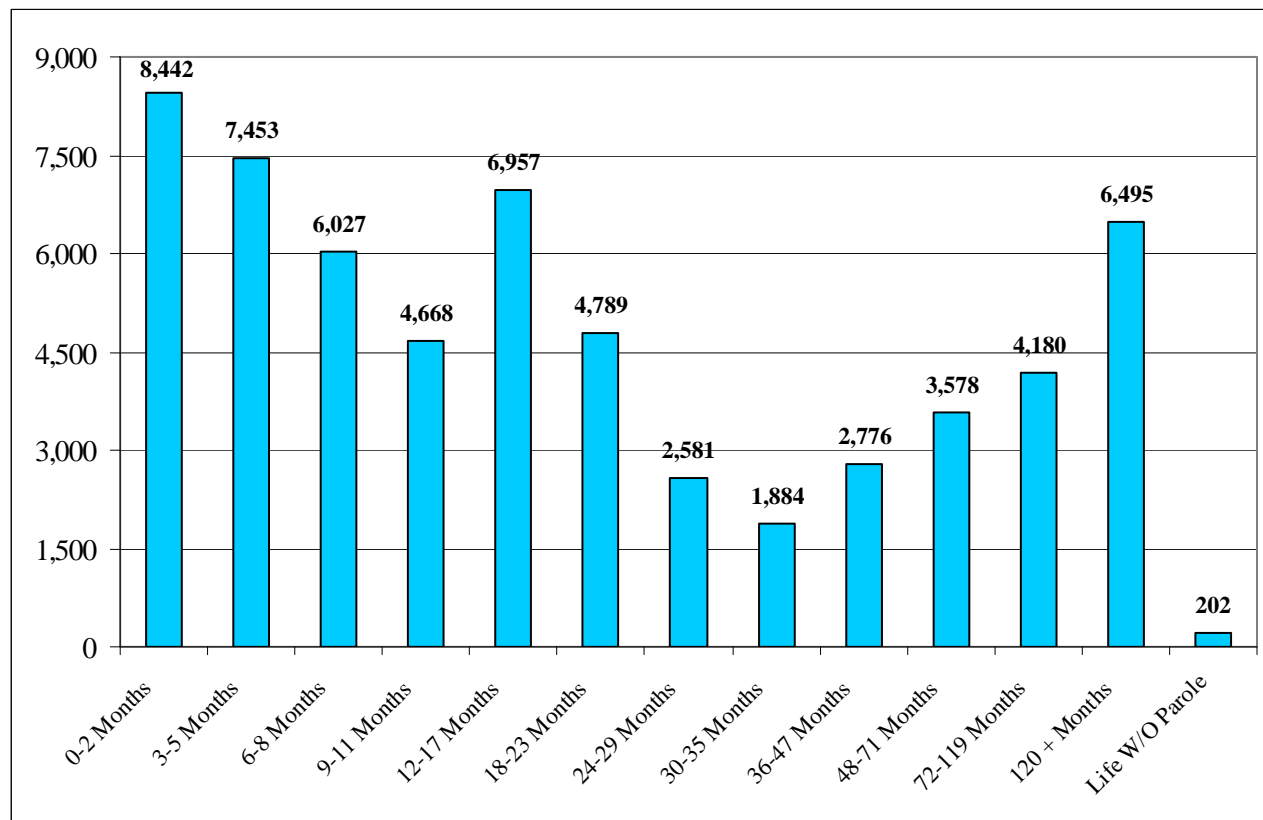


Table 15. Time to Earliest Release Date in Months; Under Custody Population January 1, 2009

0-2 Months	3-5 Months	6-8 Months	9-11 Months	12-17 Months	18-23 Months	24-29 Months	30-35 Months	36-47 Months	48-71 Months	72-119 Months	120+ Months	Life W/O Parole	Total*
8,442	7,453	6,027	4,668	6,957	4,789	2,581	1,884	2,776	3,578	4,180	6,495	202	60,032
14.1%	12.4%	10.0%	7.8%	11.6%	8.0%	4.3%	3.1%	4.6%	6.0%	7.0%	10.8%	0.3%	100.0%
Average Time to Earliest Release Date in Months													47.7
Median Time to Earliest Release Date in Months													15.0

\*Missing data on 49 cases.

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August 2009