



Commission Update

Federal Criminal Defense Practice Spring Seminar

May 17, 2024

Eastern District of North Carolina

Jessica Collins

Senior Attorney

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Office of Education and Sentencing Practice

[Online HelpLine Form](#)



Agenda

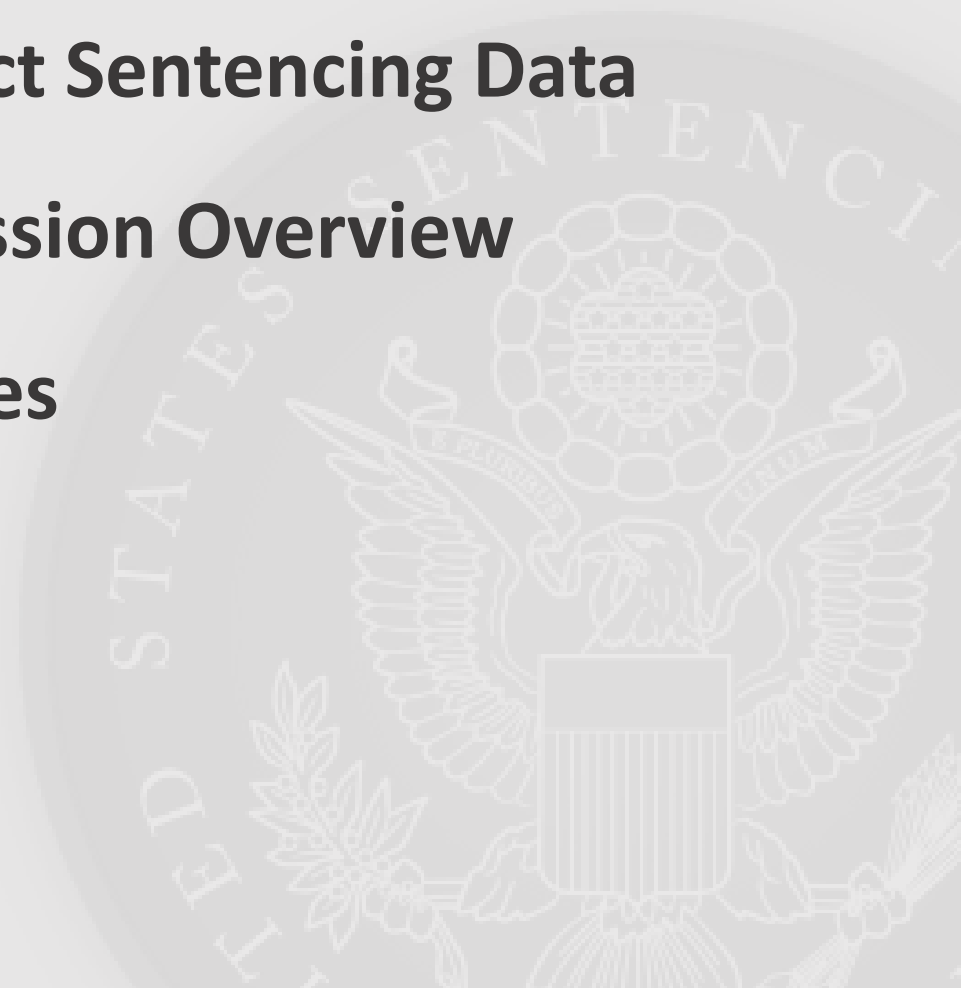


National and District Sentencing Data

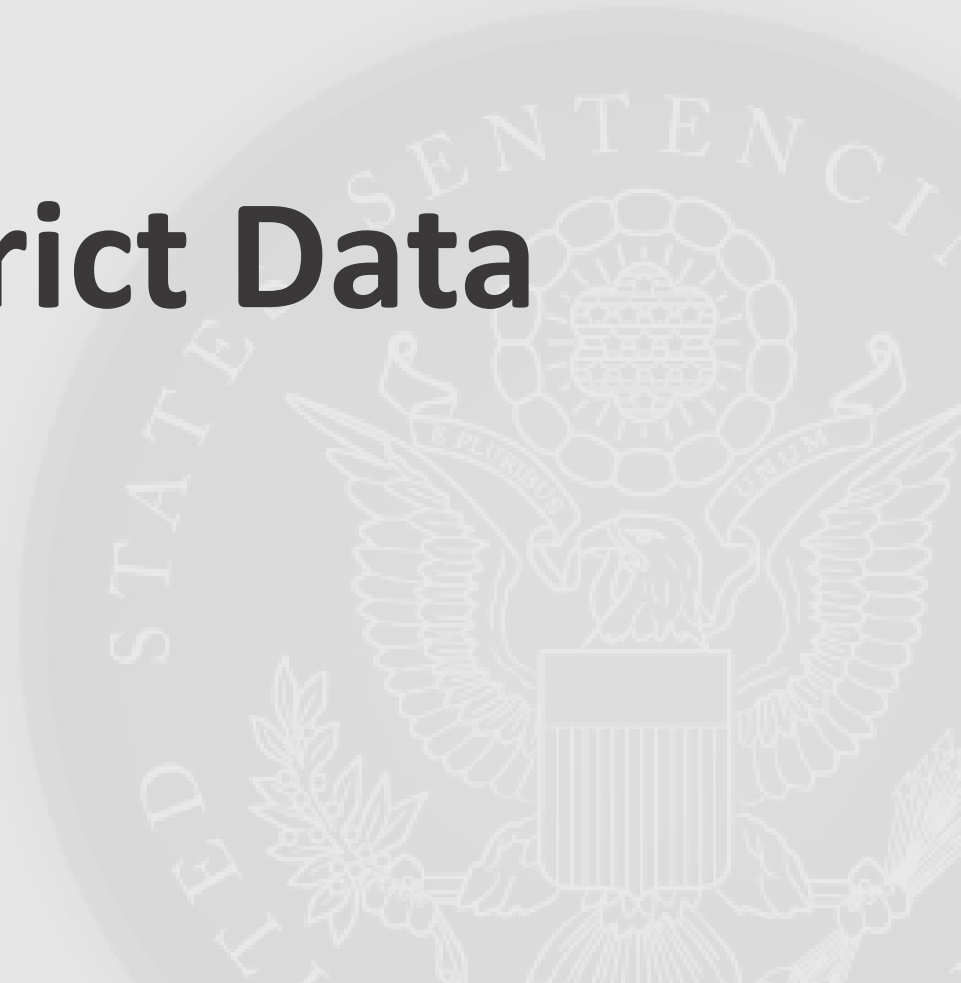
Sentencing Commission Overview

2024 Policy Priorities

Online Resources

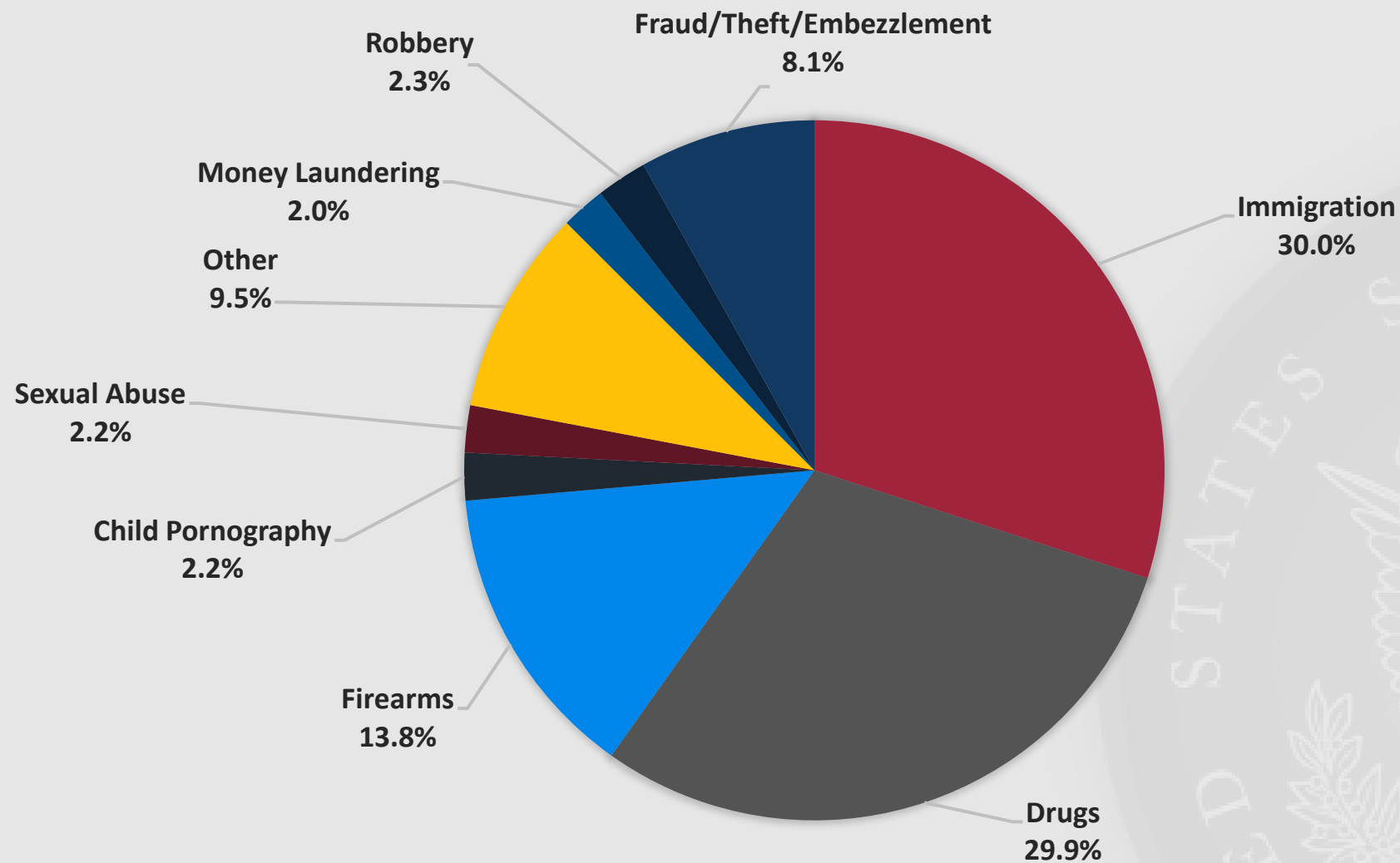


National and District Data



Primary Offense Types

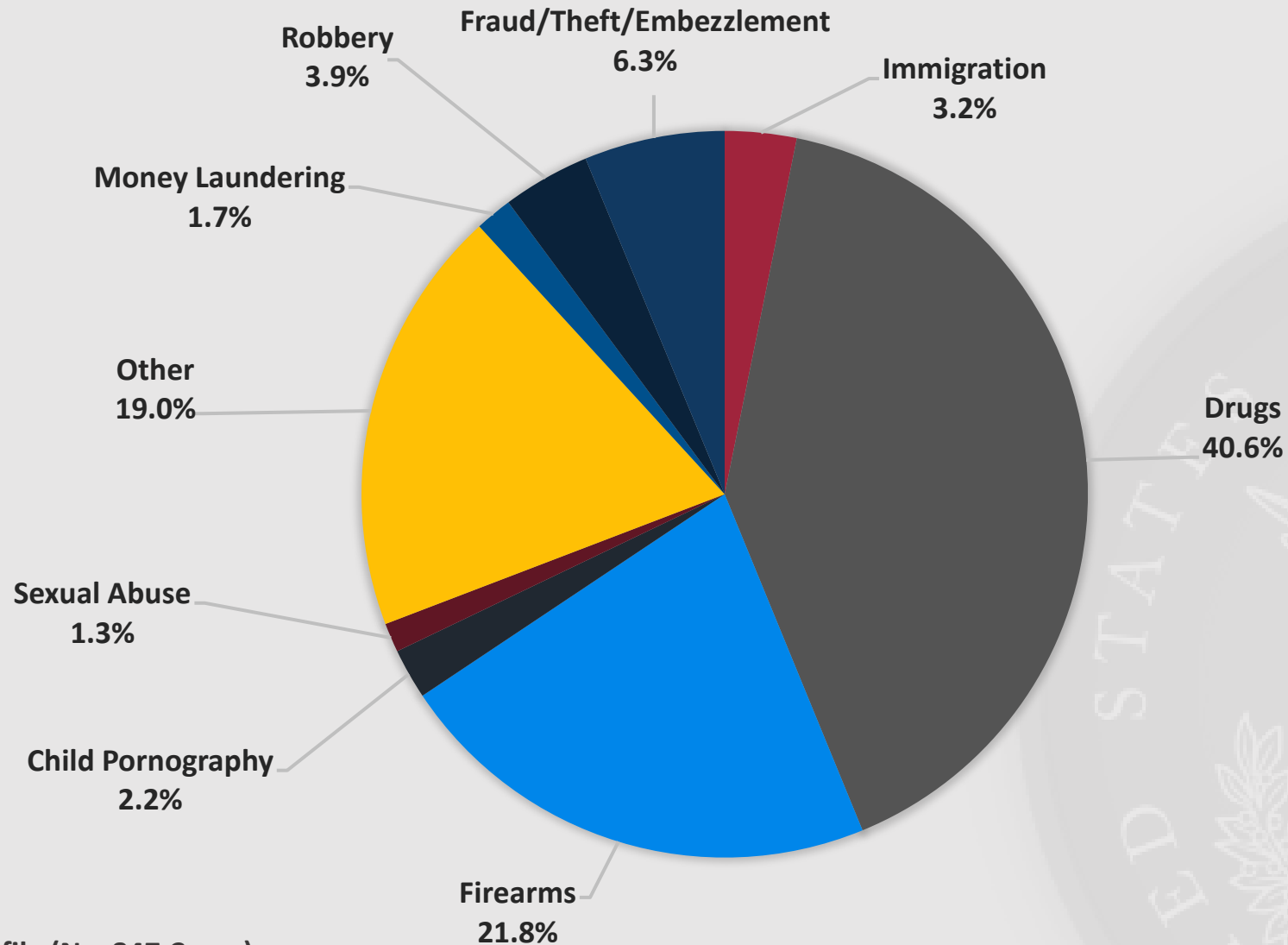
National – FY2023



SOURCE: 2023 USSC Datafile (N = 64,126 Cases)

Primary Offense Types

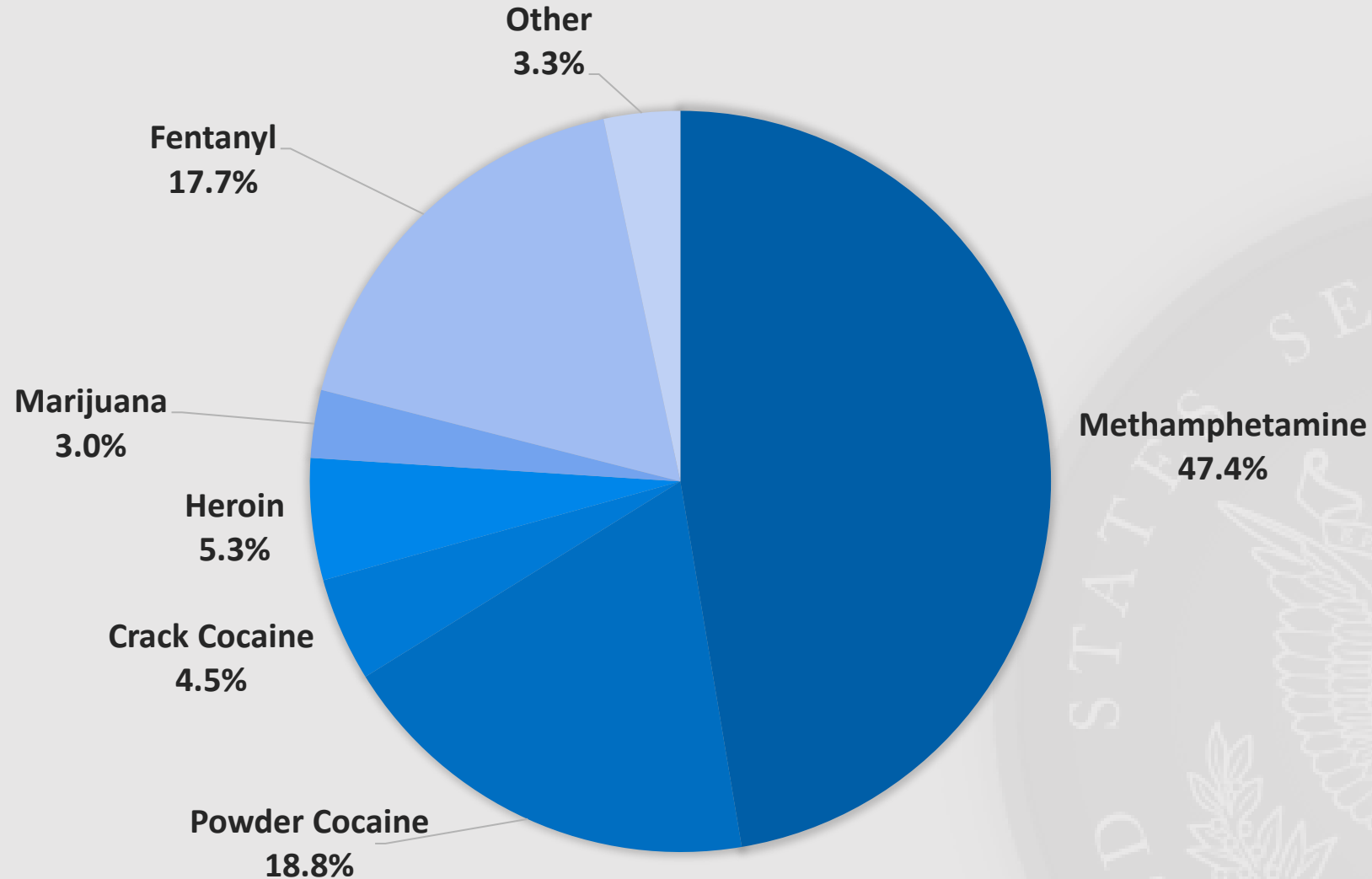
Eastern District of North Carolina – FY2023



SOURCE: 2023 USSC Datafile (N = 847 Cases)

Primary Drug Types

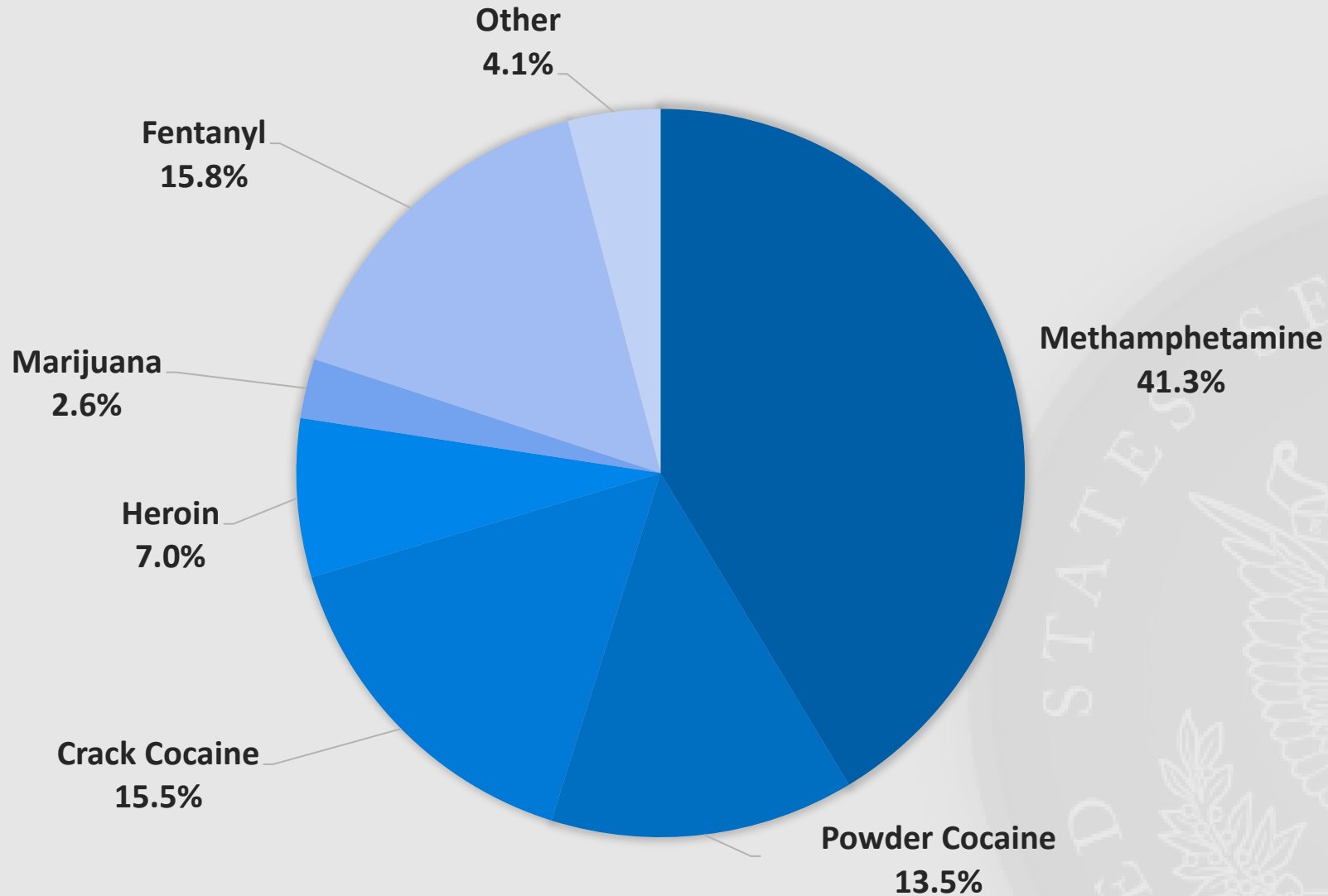
National – FY2023



SOURCE: 2023 USSC Datafile (N = 19,066 Cases)

Primary Drug Types

Eastern District of North Carolina – FY2023



SOURCE: 2023 USSC Datafile (N = 341 Cases)

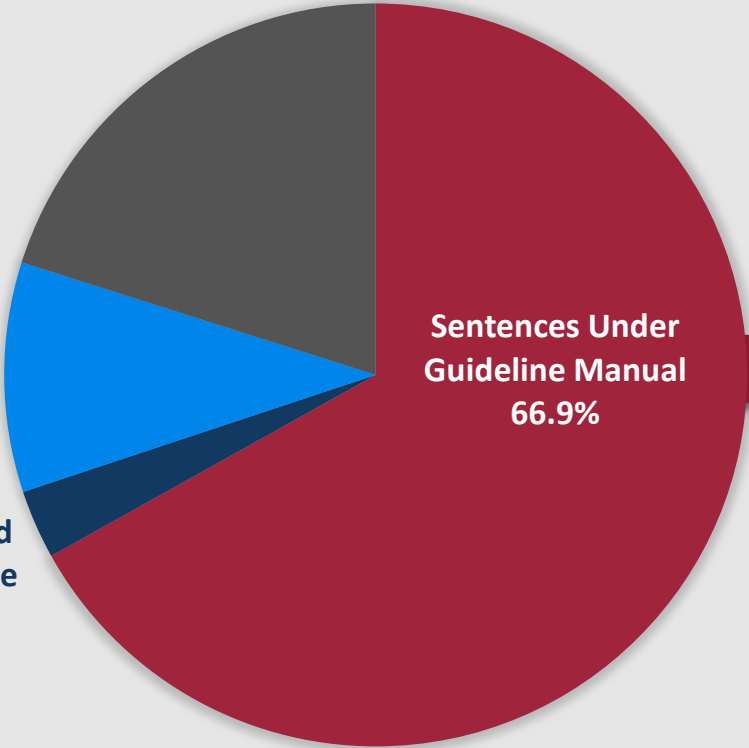
Position of Sentences in Relation to Guideline Range

National – FY2023

Downward Variance - No Government
20.1%

Downward Variance - Government
10.0%

Upward Variance
3.0%



Sentences Under
Guideline Manual
66.9%

Substantial Assistance (§5K1.1) - 10.2%

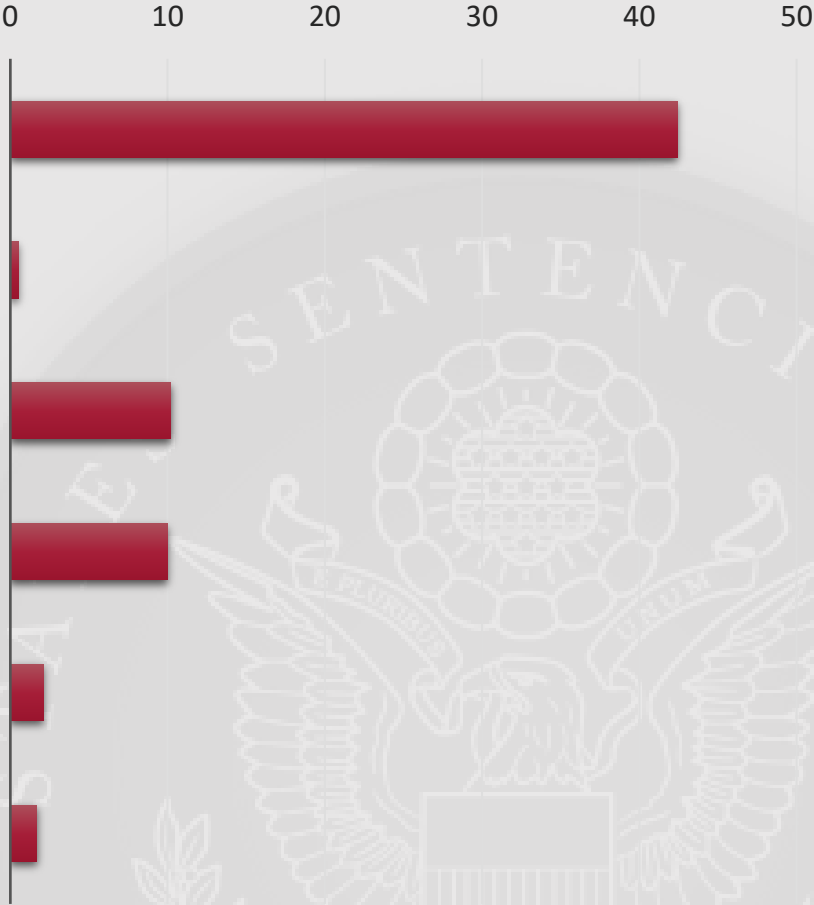
Early Disposition (§5K3.1) - 10.0%

Other Government Departure - 2.1%

Non-Government Departure - 1.7%

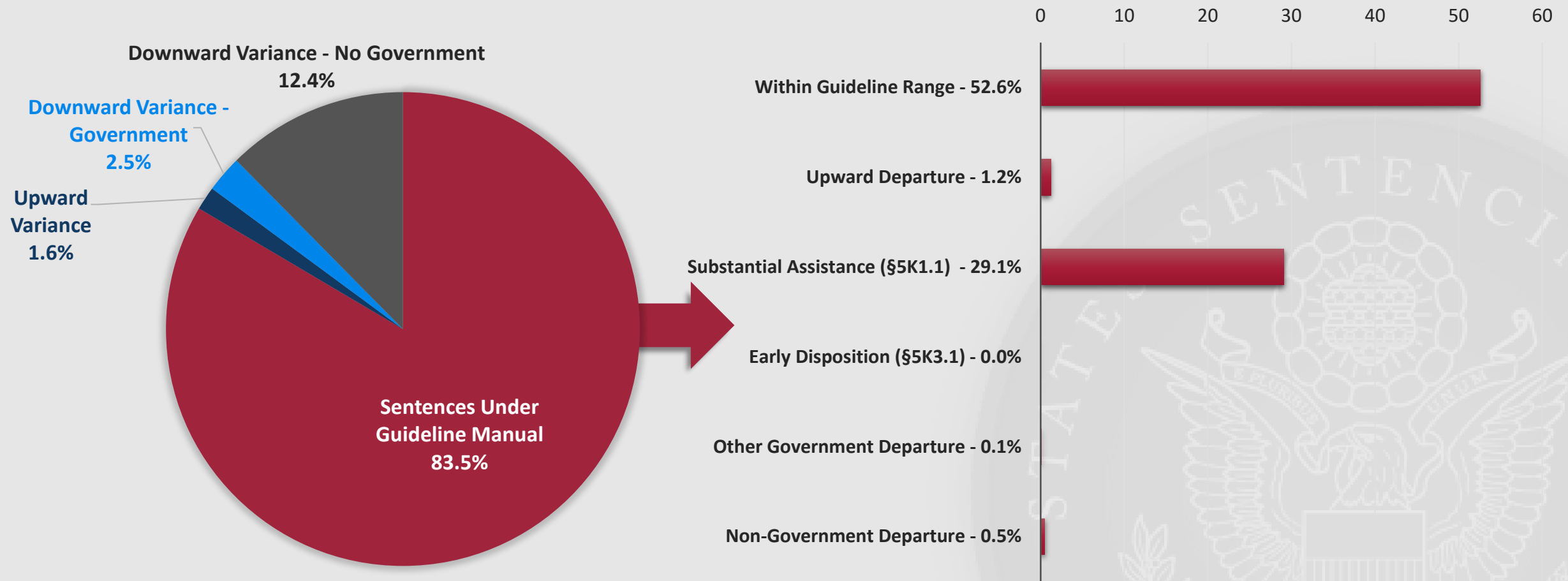
Within Guideline Range - 42.4%

Upward Departure - 0.5%



Position of Sentences in Relation to Guideline Range

Eastern District of North Carolina – FY2023

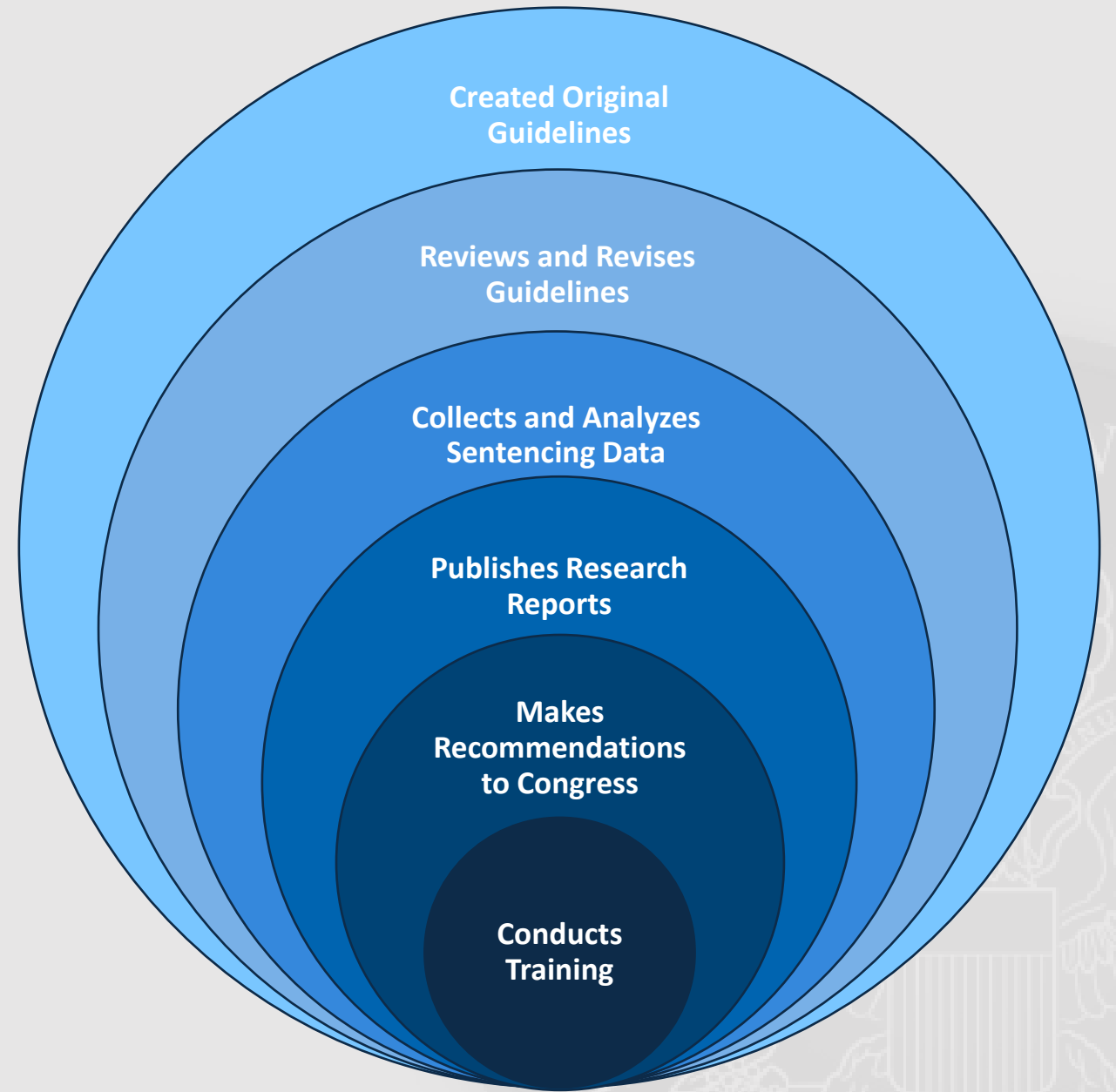


SOURCE: 2023 USSC Datafile (N = 825 Cases)

Sentencing Commission Overview



The United States Sentencing Commission



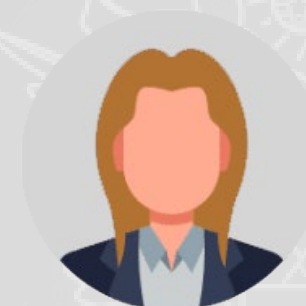
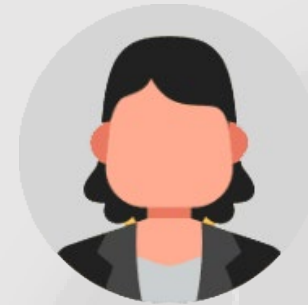
USSC Voting Body

28 U.S.C. § 991(a)

7

**Voting
Commissioners**

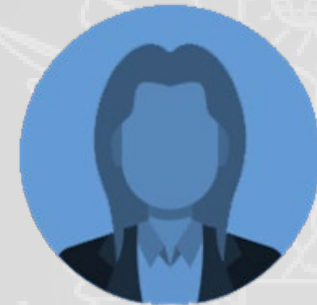
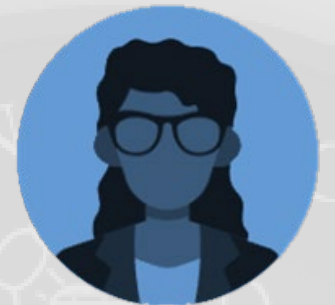
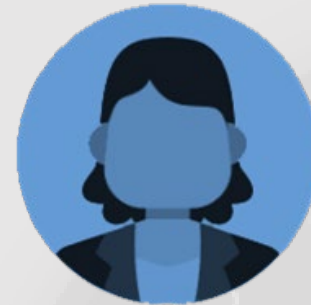
28 U.S.C. § 991



USSC Voting Body

28 U.S.C. § 991(a)

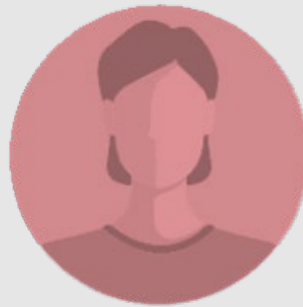
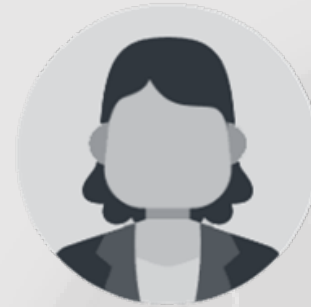
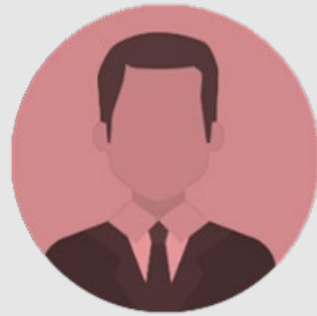
Bipartisan
No More Than 4
from the Same
Political Party



USSC Voting Body

28 U.S.C. § 991(a)

Bipartisan
No More Than 4
from the Same
Political Party



USSC Voting Body

28 U.S.C. § 991(a)

3

Must Be
Federal
Judges

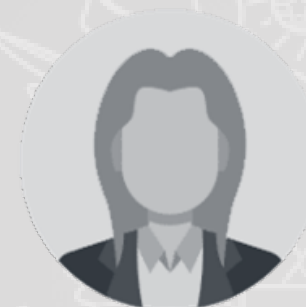
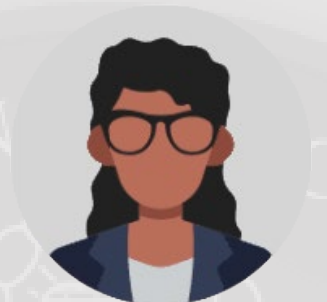
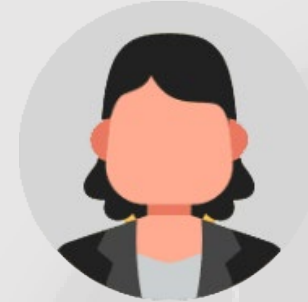


USSC Voting Body

28 U.S.C. § 991(a)

4+

Required for
Quorum



Current Commissioners

Confirmed August 2022



Judge Carlton Reeves
Chair



Claire McCusker Murray
Vice Chair



Laura Mate
Vice Chair



Judge Luis Felipe Restrepo
Vice Chair



Judge Claria Horn Boom



John Gleeson



Candice Wong

Amendment Cycle



2023–2024 Amendment Cycle

General Updates

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Acquitted Conduct

**Status of
Commentary**

Circuit Conflicts

Miscellaneous

Technical

Simplification



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Eligibility

In some instances, a listed offense will exclude an individual only if specific or additional circumstances are present. These specific or additional circumstances are indicated in bold text in the Description column.

Filter table by offense category:

All Arson Assault Burglary and Robbery Damage to Property Involving Endangerment to Human Life Drugs Espionage, National Security, and Terrorism Explosives, Firearms, and Weapons Homicide Human Trafficking Immigration Individual Rights Kidnapping Miscellaneous Offenses Involving Correctional Facilities Offenses Involving Government Officials Sex Offenses

Or search the table for a specific statute or keyword:

Search in table

Page 1 of 14 >

Offense Category	Statute	Title	Description	FSA Citation
Arson	18 U.S.C. § 81	Arson within special maritime and territorial jurisdiction		18 U.S.C. § 3632(d)(4)(D)(iv).
Assault	18 U.S.C. § 111(b)	Assaulting, resisting, or impeding certain officers or employees	"[R]elating to assaulting, resisting, or impeding certain officers or employees using a deadly or dangerous weapon or inflicting bodily injury."	18 U.S.C. § 3632(d)(4)(D)(v).
Assault	18 U.S.C. § 113(a)(1)	Assaults within maritime and territorial jurisdiction	"[R]elating to assault with intent to commit murder."	18 U.S.C. § 3632(d)(4)(D)(vi).
Assault	18 U.S.C. § 113(a)(7)	Assaults within maritime and territorial jurisdiction	"[R]elating to assault resulting in substantial bodily injury to a spouse or intimate partner, a dating partner, or an individual who has not attained the age of 16 years."	18 U.S.C. § 3632(d)(4)(D)(vi).

*FSA time credits are distinct from, and in addition to, any "good time credit" awarded under 18 U.S.C. § 3624(b) or credits for participation in RDAP.

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Federal Problem-Solving Courts



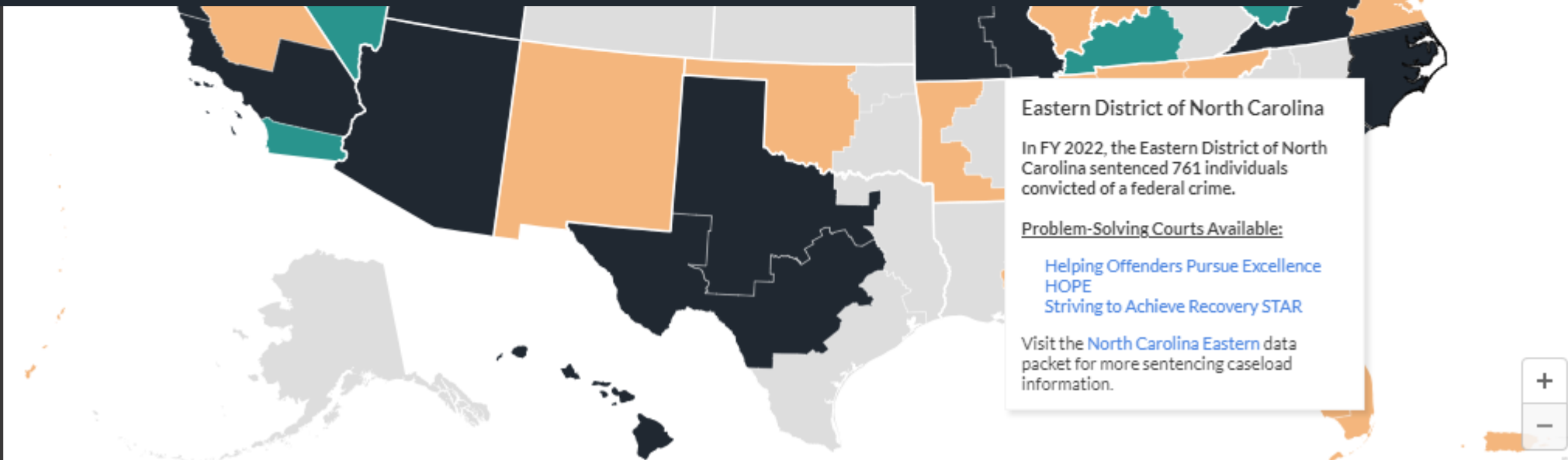
Follow along with the work of the 2023-2024 Alternatives-to-Incarceration Policy Team in this Commission Chats miniseries, featuring the federal judges who lead the problem-solving court programs available around the country. Parts One through Eight are out now! *(Latest episode published April 2024)*

LISTEN HERE

Diversion or Reentry Programming?

Diversion
Reentry
Both

- > The info the crim acad
- > In the reso unde fede



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Career Offender



UNITED STATES
SENTENCING COMMISSION

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ROUNDTABLE – FEBRUARY 7, 2024



Roundtable on Career Offender & the Categorical Approach

Wednesday, February 7, 2024

Washington, DC

By Invitation

The Commission has [prioritized](#) the continued examination of the career offender guidelines (§§[4B1.1](#), [4B1.2](#)), including the exploration of alternatives to the “categorical approach” to determine whether an offense is a “crime of violence” or a “controlled substance offense.”

While the Commission did not propose 2024 amendments addressing this policy priority, the Commission continued its multiyear examination of the career offender guidelines inviting several experts to the February 2024 roundtable to generate alternatives to the categorical approach in the guidelines and solicit fresh perspectives on what, if anything, can be done to address the critiques of the categorical approach.

This wide-ranging and informative discussion included both circuit and district court judges, representatives from the Department of Justice, the Federal Public Defenders, the Commission's Practitioners Advisory Group, private practitioners, and law professors.

The Commission welcomes further comment and input on the career offender guidelines and the categorical approach. Please feel free to email us at PubAffairs@ussc.gov.

Related Materials:

- [Primer on the Categorical Approach](#)
- [2016 Report to the Congress](#)
- [Quick Facts on Career Offenders](#)
- [2022 Sourcebook of Federal Sentencing Statistics, Table 26](#) 

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Youthful Sentenced Individuals

Part

A

Modify §4A1.2(d) (Offenses Before 18)



Part

B

Proposal to Expand §5H1.1 (Age)



Youthful Sentenced Individuals

Part

B

Proposal to Expand §5H1

Proposed Amendment:

§5H1.1. Age (Policy Statement)

Age (including youth) may be relevant in determining whether a departure is warranted, if considerations based on age, individually or in combination with other offender characteristics, are present to an unusual degree and distinguish the case from the typical cases covered by the guidelines.

Age may be a reason to depart downward in a case in which the defendant is elderly and infirm and where a form of punishment such as home confinement might be equally efficient as and less costly than incarceration.

A downward departure also may be warranted due to the defendant's youthfulness at the time of the offense or prior offenses. Certain risk factors may affect a youthful individual's development into the mid-20's and contribute to involvement in criminal justice systems, including environment, adverse childhood experiences, substance use, lack of educational opportunities, and familial relationships. In addition, youthful individuals generally are more impulsive, risk-seeking, and susceptible to outside influence as their brains continue to develop into young adulthood. Youthful individuals also are more amenable to rehabilitation.

The age-crime curve, one of the most consistent findings in criminology, demonstrates that criminal behavior tends to decrease with age. Age-appropriate interventions and other protective factors may promote desistance from crime. Accordingly, in an appropriate case, the court may consider whether a form of punishment other than imprisonment might be sufficient to meet the purposes of sentencing.

Physical condition, which may be related to age, is addressed at §5H1.4 (Physical Condition, Including Drug or Alcohol Dependence or Abuse; Gambling Addiction).

* * *

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**Relevant
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**Acquitted
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Status of Commentary

Loss



Actual Loss

>>



Intended Loss

Commentary

**Actual vs. Intended
(Use the Greater)**

Guidelines

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Part

A

Altered or Obliterated = Illegible (§2K2.1(b)(4))

Part

B

Section 924(c) does NOT impact grouping

United States v. Harris

720 F.3d 499 (4th Cir. 2013)

“[A] serial number that is made *less* legible is made different and therefore is altered for purposes of the enhancement.”



Circuit Conflicts

Part

A

Altered or Obliterated = Illegible (§2K2.1(b)(4))

- (4) If (A) any firearm was stolen, increase by **2** levels; or (B)(i) any firearm had ~~an altered or obliterated serial number~~ a serial number that was modified such that the original information is rendered illegible or unrecognizable to the unaided eye; or (ii) the defendant knew that any firearm involved in the offense was not otherwise marked with a serial number (other than a firearm manufactured prior to the effective date of the Gun Control Act of 1968) or was willfully blind to or consciously avoided knowledge of such fact, increase by **4** levels.

Circuit Conflicts

Part

A

Altered or Obliterated = Illegible (§2K2.1(b)(4))

Part

B

Section 924(c) does NOT impact grouping

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Part

A

Export Control Reform Act (App'x A & §2M5.1)

Part

B

Section 2S1.3 (BSA Reporting Requirements)

Part

C

Antitrust Offenses (App'x A & §2R1.1)

Part

D

Section 2D1.1 (Base Offense Levels)

Part

E

Section 4C1.1 (Sex Offense Definition)

Miscellaneous

Part

D

Section 2D1.1 (Base Offense Levels)

Part

E

Section 4C1.1 (Sex Offense Definition)

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Technical

A

Section §4C1.1 (Offense Exclusion)

(10) the defendant did not receive an adjustment under §3B1.1 (Aggravating Role)~~and~~; and

(11) the defendant was not engaged in a continuing criminal enterprise, as defined in 21 U.S.C. § 848;

2023–2024 Amendment Cycle

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Simplification

Guidelines

Departures

Variances



Simplification

Guidelines

Variances

**Next
Amendment Cycle**



Retroactivity

28 U.S.C. § 994(u)

If the Commission reduces the term of imprisonment recommended in the guidelines, it shall specify whether the sentences may be **retroactively reduced**.



Retroactive Application of Amendments

USSC Rule 4.1A of Practice and Procedure

At the same hearing, or soon thereafter, the Commission shall decide whether to:

1 Publish a Request for Comment on Retroactivity;

2 Perform Retroactivity Analysis;

3 Hold Public Hearing on Retroactivity; and

4 Schedule Vote on Retroactivity.

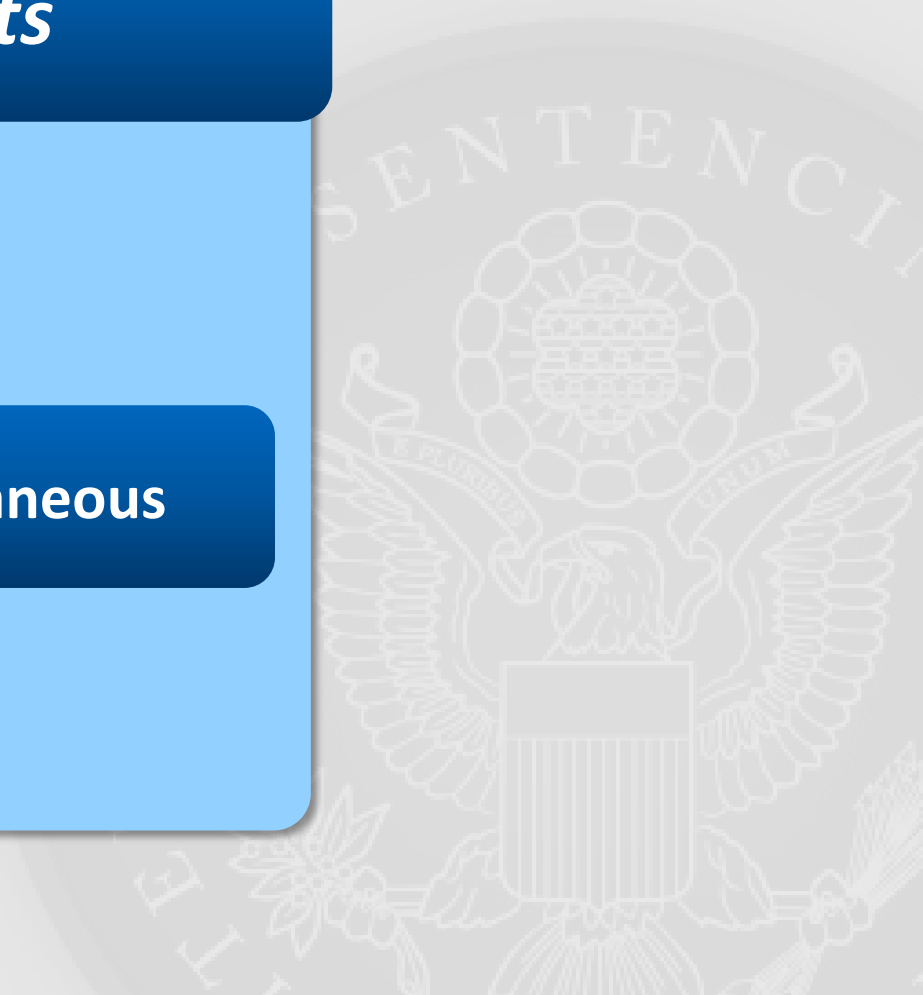
Possible Retroactive Amendments

Proposed Amendments

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UNITED STATES SENTENCING COMM

GUIDELINES | RES

FILTERS



AMENDMENT CYCLE

- ☐ Adopted Amendments
- ☐ Proposed Amendments

TOPIC

- ☐ 2014 Drug Amendment
- ☐ Acceptance of Responsibility
- ☐ Acquitted Conduct
- ☐ Alien Smuggling
- ☐ Alternatives to Incarceration
- ☐ Amendments
- ☐ Animal Fighting

AMENDMENT



Adopted Amendment
November 1, 2024)

APRIL 2024

Amendment Cycle:
Adopted Amendments

PDF "Reader-Friendly" PDF
PDF Official Text PDF



2024 AMENDMENTS TO THE SENTENCING GUIDELINES, POLICY STATEMENTS, AND OFFICIAL COMMENTARY

1. ACQUITTED CONDUCT

Reason for Amendment: This amendment revises §1B1.3 (Relevant Conduct (Factors that Determine the Guideline Range)) to exclude acquitted conduct from the scope of relevant conduct used in calculating a sentence range under the federal guidelines. Acquitted conduct is unique, and this amendment does not comment on the use of uncharged, dismissed, or other relevant conduct as defined in §1B1.3 for purposes of calculating the guideline range.

The use of acquitted conduct to increase a defendant's sentence has been a persistent concern for many within the criminal justice system and the subject of robust debate over the past several years. A number of jurists, including current and past Supreme Court Justices, have urged reconsideration of acquitted-conduct sentencing. *See, e.g., McClinton v. United States*, 143 S. Ct. 2400, 2401 & n.2 (2023) (Sotomayor, J., Statement respecting the denial of certiorari) (collecting cases and statements opposing acquitted-conduct sentencing). In denying certiorari last year in *McClinton*, multiple Justices suggested that it would be appropriate for the Commission to resolve the question of how acquitted conduct is considered under the guidelines. *See id.* at 2402–03; *id.* at 2403 (Kavanaugh, J., joined by Gorsuch, J. and Barrett, J., Statement respecting the denial of certiorari), *but see id.* (Alito, J., concurring in the denial of certiorari). Many states have prohibited consideration of acquitted conduct. *See id.* at 2401 n.2 (collecting cases). And, currently, Congress is considering bills to prohibit its consideration at sentencing, with bipartisan support. *See* Prohibiting Punishment of Acquitted Conduct Act of 2023, S. 2788, 118th Cong. (1st Sess. 2023); Prohibiting Punishment of Acquitted Conduct Act of 2023, H.R. 5430, 118th Cong. (1st Sess. 2023).

First, the amendment revises §1B1.3 by adding new subsection (c), which provides that “[r]elevant conduct does not include conduct for which the defendant was criminally charged and acquitted in federal court unless such conduct also establishes, in whole or in part, the instant offense of conviction.” This rule seeks to promote respect for the law, which is a statutory obligation of the Commission. *See* 28 U.S.C. § 994(a)(2); *id.* § 991(b)(1)(A) & (B); 18 U.S.C. § 3553(a)(2).

This amendment seeks to promote respect for the law by addressing some of the concerns that numerous commenters have raised about acquitted-conduct sentencing, including those involving the “perceived fairness” of the criminal justice system. *McClinton*, 143 S. Ct. at 2401 (Sotomayor, J., Statement respecting the denial of certiorari). Some commenters were concerned that consideration of acquitted conduct to increase the guideline range undermines the historical role of the jury and diminishes “the public’s perception that justice is being done, a concern that is vital to the legitimacy of the criminal justice system.” *McClinton*, 143 S. Ct. at 2402–03 (Sotomayor, J., Statement respecting the denial of certiorari); *see United States v. Settles*, 530 F.3d 920, 924 (D.C. Cir. 2008) (expressing concern that “using acquitted conduct to increase a defendant’s sentence undermines respect for the law and the jury system”). They argue that consideration of acquitted conduct at sentencing contributes to the erosion of the jury-trial right and enlarges the already formidable power of the government, reasoning that

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Commission Resources



Guideline Resources



UNITED STATES SENTENCING COMMISSION

GUIDELINES

RESEARCH

POLICYMAKING

EDUCATION

ABOUT

BY TOPIC

> **2023 GUIDELINES MANUAL ANNOTATED**

Archive

> **GUIDELINES APP**

Drug Conversion Calculator

Drug Quantity Calculator

> **SENTENCING TABLE**

> **JUDICIARY SENTENCING INFORMATION (JSIN)**

Tutorial Video

> **ORGANIZATIONAL GUIDELINES**

> **PRIMERS**

THE FEDERAL SENTENCING GUIDELINES

- > The Commission promulgates guidelines that judges consult when sentencing federal offenders. When the guidelines are amended, a subsequent *Guidelines Manual* is published.
- > In this section, you will find the Commission's comprehensive archive of yearly amendments and *Guidelines Manuals* dating back to 1987.

§2B1.1 - LARCENY, EMBEZZLEMENT, AND OTHER FORMS OF THEFT; OFFENSES INVOLVING STOLEN PROPERTY; PROPERTY DAMAGE OR DESTRUCTION; FRAUD AND DECEIT; FORGERY; OFFENSES INVOLVING ALTERED OR COUNTERFEIT INSTRUMENTS OTHER THAN COUNTERFEIT BEARER OBLIGATION OF THE UNITED STATES

(a) Base Offense Level:

- (1) 7, if (A) the defendant was convicted of an offense referenced to this guideline; and (B) that offense of conviction has a statutory maximum term of imprisonment of 20 years or more; or
- (2) 6, otherwise.

(b) Specific Offense Characteristics

- (1) If the loss exceeded \$6,500, increase the offense level as follows:

Loss (apply the greatest)	Increase in Level
(A) \$6,500 or less	no increase
(B) More than \$6,500	add 2
(C) More than \$15,000	add 4

3. Loss Under Subsection (b)(1).—This application note applies to the determination of loss under subsection (b)(1).

(A) General Rule.—Subject to the exclusions in subdivision (D), loss is the greater of actual loss or intended loss.

(i) **Actual Loss.**—“**Actual loss**” means the reasonably foreseeable pecuniary harm that resulted from the offense.

(ii) **Intended Loss.**—“**Intended loss**” (I) means the pecuniary harm that the defendant purposely sought to inflict; and (II) includes intended pecuniary harm that would have been impossible or unlikely to occur (*e.g.*, as in a government sting operation, or an insurance fraud in which the claim exceeded the insured value).

(iii) **Pecuniary Harm.**—“**Pecuniary harm**” means harm that is monetary or that otherwise is readily measurable in money. Accordingly, pecuniary harm does not include emotional distress, harm to reputation, or other non-economic harm.

(iv) **Reasonably Foreseeable Pecuniary Harm.**—For purposes of this guideline, “**reasonably foreseeable pecuniary harm**” means pecuniary harm that the defendant knew or, under the circumstances, reasonably should have known, was a potential result of the offense.

(v) **Rules of Construction in Certain Cases.**—In the cases described in subdivisions (I) through (III), reasonably foreseeable pecuniary harm shall be considered to include the pecuniary harm specified for those cases as follows:

Historical Note:

Effective November 1, 1987. Amended effective June 15, 1988 ([Amendment 7](#)); November 01, 1991 ([Amendment 393](#)); November 01, 1993 ([Amendment 481](#)); November 01, 1993 ([Amendment 482](#)); November 01, 1997 ([Amendment 551](#)); November 01, 2000 ([Amendment 596](#)); November 01, 2001 ([Amendment 617](#)); November 01, 2002 ([Amendment 638](#)); January 25, 2003 ([Amendment 647](#)); November 01, 2003 ([Amendment 653](#)); November 01, 2003 ([Amendment 654](#)); February 06, 2008 ([Amendment 714](#)); November 01, 2008 ([Amendment 719](#)); November 01, 2008 ([Amendment 725](#)); November 01, 2009 ([Amendment 726](#)); November 01, 2009 ([Amendment 737](#)); November 01, 2010 ([Amendment 747](#)); November 01, 2011 ([Amendment 749](#)); November 01, 2012 ([Amendment 761](#)); November 01, 2013 ([Amendment 772](#)); November 01, 2015 ([Amendment 792](#))



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victims, particularly in high-loss cases.

Intended Loss

Second, the amendment revises the commentary at §2B1.1, Application Note 3(A)(ii), which has defined intended loss as “pecuniary harm that was intended to result from the offense.” In interpreting this provision, courts have expressed some disagreement as to whether a subjective or an objective inquiry is required. Compare United States v. Manatau, 647 F.3d 1048 (10th Cir. 2011) (holding that a subjective inquiry is required), United States v. Diallo, 710 F.3d 147, 151 (3d Cir. 2013) (“To make this determination, we look to the defendant’s subjective expectation, not to the risk of loss to which he may have exposed his victims.”), United States v. Confredo, 528 F.3d 143, 152 (2d Cir. 2008) (remanding for consideration of whether defendant had “proven a subjective intent to cause a loss of less than the aggregate amount” of fraudulent loans), and United States v. Sanders, 343 F.3d 511, 527 (5th Cir. 2003) (“our case law requires the government prove by a preponderance of the evidence that the defendant had the subjective intent to cause the loss that is used to calculate his offense level”), with United States v. Innarelli, 524 F.3d 286, 291 (1st Cir. 2008) (“we focus our loss inquiry for purposes of determining a defendant’s offense level on the objectively reasonable expectation of a person in his position at the time he perpetrated the fraud, not on his subjective intentions or hopes”) and United States v. Lane, 323 F.3d 568, 590 (7th Cir. 2003) (“The determination of intended loss under the Sentencing Guidelines therefore focuses on the conduct of the defendant and the objective financial risk to victims caused by that conduct”).

The amendment adopts the approach taken by the Tenth Circuit by revising the commentary in Application Note 3(A)(ii) to provide that intended loss means the pecuniary harm that “the defendant purposely sought to inflict.” The amendment reflects the Commission’s continued belief that intended loss is an important factor in economic crime offenses, but also recognizes that sentencing enhancements predicated on intended loss, rather than losses that have actually accrued, should focus more specifically on the defendant’s culpability.

Sophisticated Means

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Categorical Approach

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Primer

Primer on Categorical Approach (2023)

a. "Force" or "elements" clauses

A "force clause," sometimes referred to as an "elements clause," requires that the offense have an element of physical force against a person. For example, the ACCA defines a "violent felony" in part as a prior conviction that "*has as an element* the use, attempted use, or threatened use of *physical force* against the person of another."²¹ Section 4B1.2(a)(1) likewise defines a "crime of violence" as a felony offense that "*has as an element* the use, attempted use, or threatened use of *physical force* against the person of another."²²

In the context of the ACCA, the Supreme Court has held "physical force against another" means that the crime necessarily must involve violent force—that is, "force capable of causing physical pain or injury to another person."²³ In so holding, the Court rejected the common law definition of "force," which could be satisfied by even the slightest offensive touching, because it did not fit the context of the ACCA.²⁴ The Supreme Court has since further clarified that in the context of the ACCA, "force capable of causing pain or injury," includes the amount of force necessary to overcome a victim's resistance."²⁵ However, the Court previously held that a "misdemeanor crime of domestic violence," as defined by a force clause in 18 U.S.C. § 921(a)(33)(A) to include an offense that "has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon," could be supported by "the degree of force that supports a common-law battery conviction."²⁶

In the context of 18 U.S.C. § 16(a), a statute providing that a "crime of violence" means an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, the Supreme Court has held in *Leocal v. Ashcroft* that accidental or negligent conduct does not constitute the "use" of force in section 16(a).²⁷ The Court explained that the word "use" joined in context with the

offense" similarly); *United States v. Woods*, 576 F.3d 400, 403–04 (7th Cir. 2009) (because the language is identical in the ACCA's "violent felony" and §4B1.2's "crime of violence" definitions, "we therefore refer to the ACCA and the career offender provisions of the Guidelines interchangeably").

²¹ 18 U.S.C. § 924(e)(2)(B)(i) (emphasis added).

²² USSG §4B1.2(a)(1) (emphasis added).

²³ *Johnson v. United States*, 559 U.S. 133, 140 (2010).

²⁴ *Id.* at 139; see also *id.* at 141 ("It is significant, moreover, that the meaning of 'physical force' the Government would seek to import into this definition of 'violent felony' is a meaning derived from a common-law misdemeanor").

²⁵ *Stokeling v. United States*, 139 S. Ct. 544, 552, 554–55 (2019) ("force capable of causing physical pain or injury" in the force clause of the ACCA "does not require any particular degree of likelihood or probability that the force used will cause physical pain or injury; only potentiality" (citation omitted)); see also *United States v. Alvarez*, 60 F.4th 554, 564 (9th Cir. 2023) (discussing the definition of "capable" in *Johnson* and *Stokeling*); *Johnson v. United States*, 24 F.4th 1110, 1119 (7th Cir. 2022) (discussing the definition of "physical force" in *Johnson* and *Stokeling*).

²⁶ *United States v. Castleman*, 572 U.S. 157, 168 (2014); 18 U.S.C. § 921(a)(33)(A).

²⁷ 543 U.S. 1, 9 (2004).

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Drug Offenses

D.C. Circuit



United States v. Miller, 75 F.4th 215 (4th Cir. 2023) (Career Offender)
 United States v. Davis, 72 F.4th 605 (4th Cir. 2023) (Career Offender)
 United States v. Groves, 65 F.4th 166 (4th Cir. 2023) (Career Offender)
 United States v. Thomas, 87 F.4th 267 (4th Cir. 2023) (Categorical Approach)
 United States v. McDaniel, 85 F.4th 176 (4th Cir. 2023) (Categorical Approach)
 United States v. Redd, 85 F.4th 153 (4th Cir. 2023) (Categorical Approach)
 United States v. Ogle, 82 F.4th 272 (4th Cir. 2023) (Categorical Approach)
 United States v. Green, 67 F.4th 657 (4th Cir. 2023) (Categorical Approach)
 United States v. Ivey, 60 F.4th 99 (4th Cir. 2023) (Categorical Approach)
 United States v. Henderson, 88 F.4th 534 (4th Cir. 2023) (Chapter Three Adjustments)
 United States v. Brown, 78 F.4th 122 (4th Cir. 2023) (Compassionate Release)
 United States v. Mangarella, 57 F.4th 197 (4th Cir. 2023) (Compassionate Release)
 United States v. Malone, 57 F.4th 167 (4th Cir. 2023) (Compassionate Release)
 United States v. Bond, 56 F.4th 381 (4th Cir. 2023) (Compassionate Release)
 United States v. Fowler, 58 F.4th 142 (4th Cir. 2023) (Criminal History)
 United States v. Wysinger, 64 F.4th 207 (4th Cir. 2023) (Drug Offenses)
 United States v. Henderson, 88 F.4th 534 (4th Cir. 2023) (Firearms)
 United States v. Dix, 64 F.4th 230 (4th Cir.), *reh'g en banc denied*, 64 F.4th 149 (2023) (Firearms)
 United States v. Waters, 64 F.4th 199 (4th Cir. 2023) (Firearms)
 United States v. Troy, 64 F.4th 177 (4th Cir. 2023) (First Step Act of 2018)
 United States v. Jones, 60 F.4th 230 (4th Cir. 2023) (First Step Act of 2018)
 United States v. Reed, 58 F.4th 816 (4th Cir. 2023) (First Step Act of 2018)
 United States v. Taylor, 62 F.4th 146 (4th Cir. 2023) (Restitution)
 United States v. Carter, 87 F.4th 217 (4th Cir. 2023) (Sentencing Procedure)

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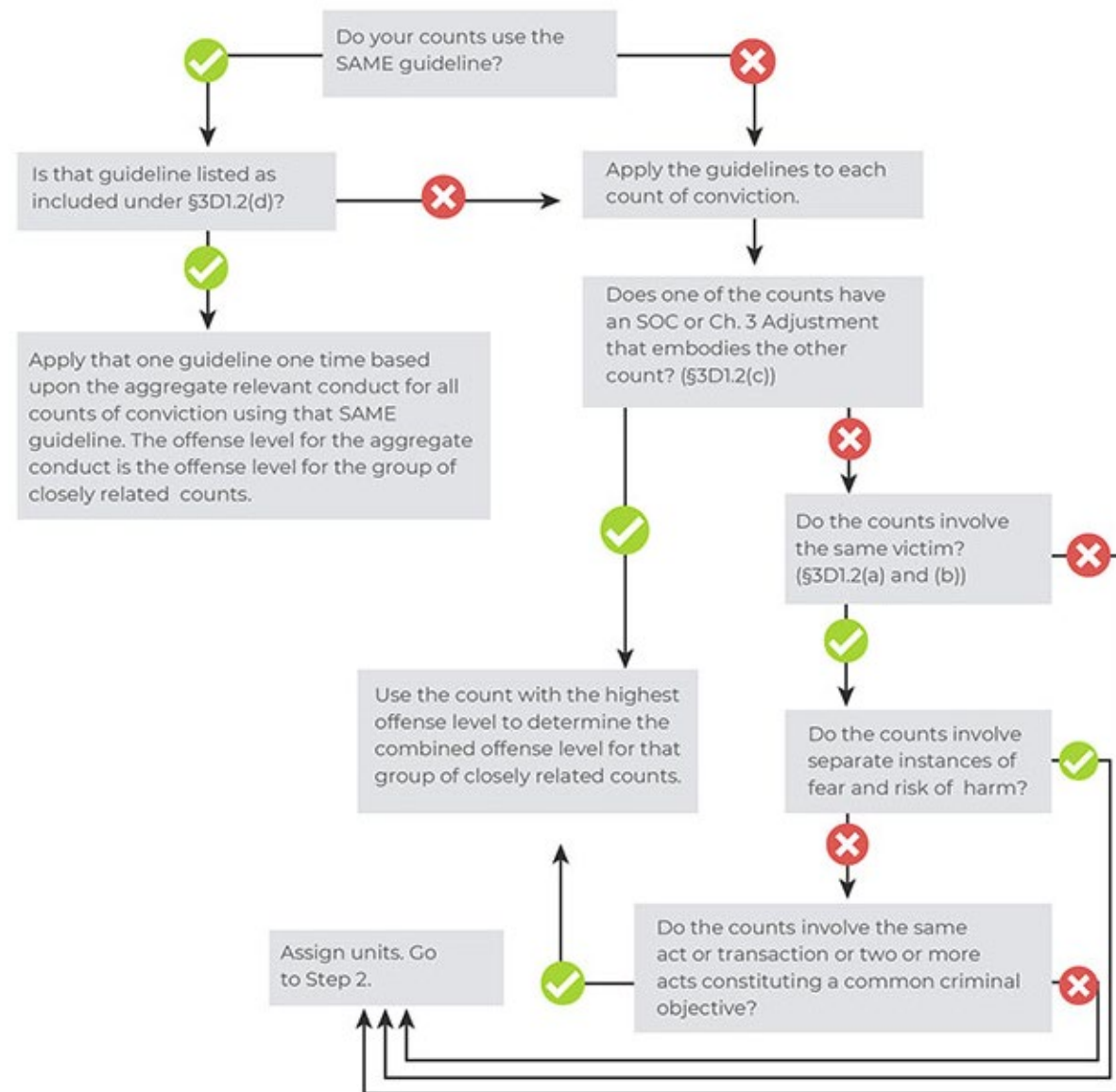
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Multiple Counts – Quick Reference Materials

DECISION TREE

AUGUST 2020

Grouping of Multiple Counts If you've ever encountered a federal case with more than one count of conviction, you need...



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Research Notes

Quick Facts publications give readers basic facts. The Commission releases new Quick Facts periodically.

Offender Groups

- [Offenders in the Federal Bureau of Prisons](#)
- [Career Offenders](#) (July 2023)
- [Non-U.S. Citizens](#) (July 2023)
- [Women in the Federal Offender Population](#)
- [Native Americans in the Federal Offender Population](#)

Drugs

- [Drug Trafficking](#) (May 2023)
- [Methamphetamine Trafficking](#) (June 2023)
- [Powder Cocaine Trafficking](#) (July 2023)
- [Crack Cocaine Trafficking](#) (June 2023)
- [Fentanyl Trafficking](#) (May 2023)
- [Fentanyl Analogue Trafficking](#) (May 2023)
- [Heroin Trafficking](#) (July 2023)
- [Marijuana Trafficking](#) (July 2023)
- [Oxycodone Trafficking](#) (July 2023)

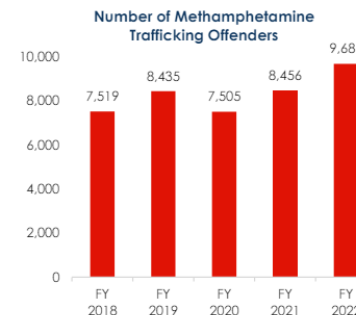


Quick Facts

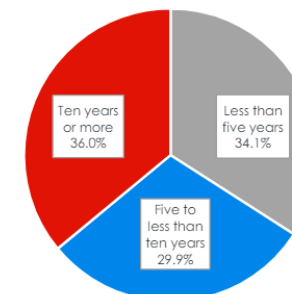
— Methamphetamine Trafficking Offenses —

Fiscal Year 2022

- ▶ In FY 2022, 64,142 CASES WERE REPORTED TO THE U. S. SENTENCING COMMISSION.
- ▶ 20,037 CASES INVOLVED DRUGS.¹
- ▶ 19,851 INVOLVED DRUG TRAFFICKING.²
- ▶ 48.8% OF DRUG TRAFFICKING CASES INVOLVED METHAMPHETAMINE.
- ▶ METHAMPHETAMINE TRAFFICKING OFFENSES HAVE INCREASED BY 28.8% SINCE FY 2018.



Sentence Length FY 2022



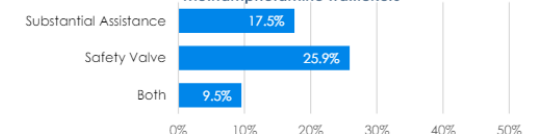
Offender and Offense Characteristics³

- 78.1% of methamphetamine trafficking offenders were men.
- 39.8% were Hispanic, 38.2% were White, 17.9% were Black, and 4.1% were Other races.
- Their average age was 38 years.
- 87.6% were United States citizens.
- 34.8% had little or no prior criminal history (Criminal History Category I); 5.8% were career offenders (§4B1.1).
- The median base offense level in these cases was 32, corresponding to between 1.5 and five kilograms of methamphetamine mixture or 150 and 500 grams of methamphetamine actual/"ICE."
- Sentences were increased for:
 - ♦ possessing a weapon (28.6%);
 - ♦ a leadership or supervisory role in the offense (5.0%).
- Sentences were decreased for:
 - ♦ minor or minimal participation in the offense (22.2%);
 - ♦ meeting the safety valve criteria in the sentencing guidelines (34.2%).
- The top five districts for methamphetamine trafficking offenders were:
 - ♦ Southern District of California (1,264);
 - ♦ Northern District of Texas (489);
 - ♦ Western District of Texas (487);
 - ♦ Southern District of Texas (388);
 - ♦ Eastern District of Tennessee (267).

Punishment

- The average sentence for methamphetamine trafficking offenders was 95 months.
- 98.2% were sentenced to prison.
- 73.3% were convicted of an offense carrying a mandatory minimum penalty; of those offenders, 52.9% were relieved of that penalty.

Means of Relief from Mandatory Minimum Penalty for Methamphetamine Traffickers



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Interactive Data Analyzer (IDA)



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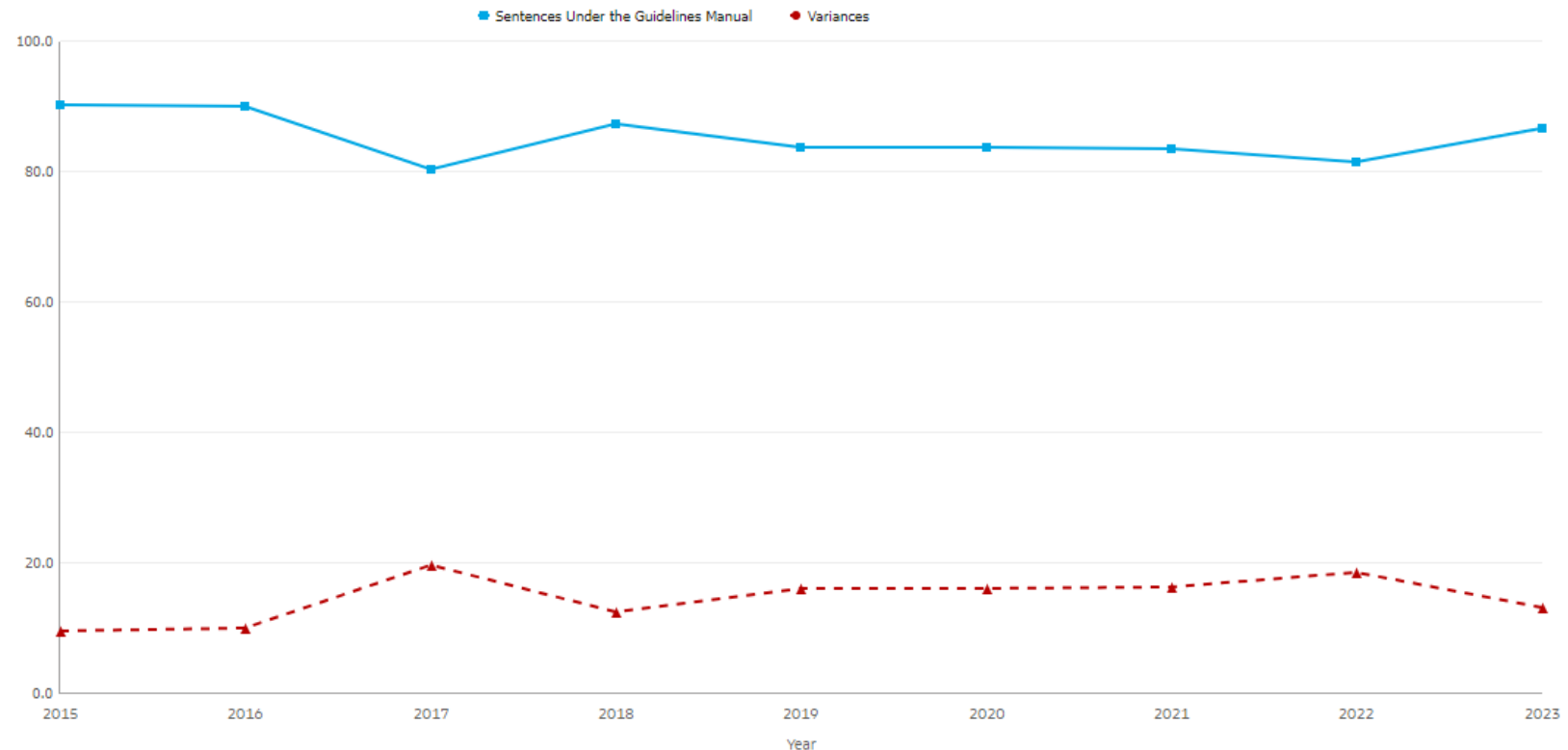
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Drug Type

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Sentences Under the Guidelines Manual and Variances Over Time

Fiscal Year 2015,2016,2017,2018,2019,2020,2021,2022,2023



The figure includes the 2,294 cases reported to the Commission. Cases missing information necessary to complete the analysis were excluded from this figure.

FILTER:

Fiscal Year: 2015,2016,2017,2018,2019,2020,2021,2022,2023; Circuit: All; State: All; District: North Carolina, Eastern; Race: All; Gender: All; Age: All; Citizenship: All; Education: All; Crime Type: All; Guideline: §2D1.1; Drug Type: All; Criminal History: All; Career Offender Status: All

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