

2023 Annual Report

UNITED STATES SENTENCING COMMISSION





UNITED STATES SENTENCING COMMISSION
2023 ANNUAL REPORT

Carlton W. Reeves
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Luis Felipe Restrepo
Vice Chair

Laura E. Mate
Vice Chair

Claire Murray
Vice Chair

Claria Horn Boom
Commissioner

John Gleeson
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Candice C. Wong
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Patricia K. Cushwa
Ex Officio

Jonathan J. Wroblewski
Ex Officio



MEMORANDUM

TO: Members of Congress
Article III Judges
United States Attorneys
Federal Public and Community Defenders
Chief United States Probation Officers

FROM: United States Sentencing Commission

SUBJECT: Fiscal Year 2023 *Annual Report*

Enclosed is a copy of the United States Sentencing Commission's 2023 *Annual Report*. The *Annual Report* presents an overview of the Commission and highlights the Commission's major activities and accomplishments during the year.

The 2023 *Annual Report* includes a new in-depth analysis of federal sentencing trends and noteworthy shifts in the caseload. The online version of the *Annual Report* features new interactive graphics to illustrate these trends.

With the expansion of the Commission's online data platforms, the Commission has discontinued the print version of the *Sourcebook* and will explore further development of the online version of the *Sourcebook*.

The full collection of *Annual Reports*, *Sourcebooks of Federal Sentencing Statistics*, and quarterly updates to federal sentencing data as well as the Interactive Data Analyzer are available at <https://www.ussc.gov/research>.

Kenneth P. Cohen
Staff Director

James T. Strawley
Deputy Staff Director

Susan M. Brazel
Director of Administration

Jennifer S. Burita
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Alan C. Dorhoffer
Director of Education and Sentencing Practice

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Annual Report

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Introduction

The United States Sentencing Commission (“the Commission”) was created by the Sentencing Reform Act provisions of the Comprehensive Crime Control Act of 1984. The Commission is an independent agency in the Judicial Branch of the federal government, with statutory duties that include:

- establishing and amending sentencing guidelines to be considered by sentencing judges in all federal criminal cases;
- collecting, analyzing, and reporting sentencing data systematically to detect new criminal trends, assess federal sentencing policies, and serve as a clearinghouse for federal sentencing statistics;
- conducting research on sentencing issues and serving as an information center for the collection, preparation, and dissemination of information on federal sentencing practices; and
- providing specialized training to judges, probation officers, staff attorneys, law clerks, prosecutors, defense attorneys, and other members of the federal criminal justice community on application of the federal sentencing guidelines and federal sentencing matters.

Website Resources

Interest in the Commission’s work remains significant. Thus, the Commission prioritizes making its work and resources accessible and user-friendly. For example, in FY 2023, its website served nearly one million users with overall sessions increasing for the fifth consecutive year.

The Commission launched a new, easy to use, public comment portal which facilitated the receipt of more than 8,000 public comments related to the Commission’s 2023 work, policy priorities and guideline amendments. These public comments totaled more than the last several years combined.

The Judiciary Sentencing Information (“JSIN”) platform was initiated in 2021 at the request of judges and others in the criminal justice community.

This informative tool is regularly updated and provides quick online access to sentencing data for similarly situated individuals, including the types of sentences imposed and average and median sentences. Like other features on the Commission’s website, JSIN’s user base grew steadily in FY 2023. JSIN served nearly 35,000 users and averaged more than 3,400 visits per month.

JSIN follows the Commission’s 2020 launch of the Interactive Data Analyzer (“IDA”) that enables users to easily and independently analyze federal sentencing data by district, circuit, or state. IDA also provides data on specific crime type and is updated regularly to provide users the most recent and reliable data possible.

The Commission has also added a new “Problem-Solving Courts” resource to its website. Examining programs that focus on alternatives to incarceration and reentry was among the Commission’s 2023 policy priorities. This webpage is a compilation of information about court-sponsored programs, including diversion programs, alternatives-to-incarceration, and reentry programs throughout the nation. It will be updated periodically as the Commission continues to follow relevant approaches and developments in courts throughout the country.

Moreover, in late FY 2023, the Commission began work on a new First Step Act page on its website, which compiles data from other government agencies to assist users in understanding how some incarcerated individuals may earn time credits for participating in recidivism reduction programs or other activities. The First Step Act of 2018 created a process for incarcerated individuals to earn credit towards early release by participating in certain programs.

In its ongoing effort to make its work as user-friendly and accessible as possible, the Commission created “Amendments in Brief” to provide an overview and easily accessible summaries of Guideline Amendments that have gone into effect.

Federal Sentencing Data Reports

In 2023, the Commission released several data reports that provide useful federal sentencing information to the criminal justice community, policymakers, and others. These reports include:

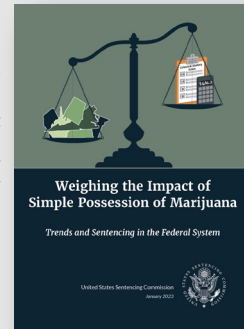
- *Education Levels of Federally Sentenced Individuals*
- *Federal Escape Offenses*
- *Demographic Differences in Federal Sentencing*
- *Weighing the Impact of Simple Possession of Marijuana*
- *Periodic Compassionate Release Data Reports*

The Commission also reports quarterly and annual national federal sentencing statistics, as well as data specific to each state, judicial district, and circuit.

FY 2023 Research Reports

Published January 2023

Assesses recent trends in federal sentencing for simple possession of marijuana, as well as how prior sentences for simple possession affect criminal history calculations under the guidelines.



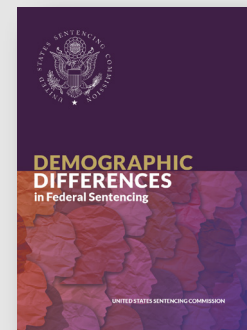
Published September 2023

Combines data the Commission regularly collects with data from a special coding project to provide a deeper understanding of escape offenses and the individuals who commit those crimes.



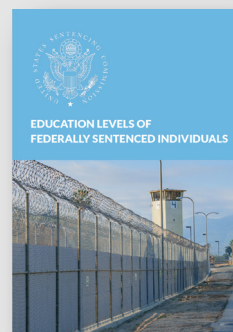
Published November 2023

Uses new analytical techniques and newly available data to research whether demographic factors are associated with two important sentencing decisions: whether to impose a sentence of prison or probation, and the length of imprisonment, when imposing a prison sentence.



Published December 2023

Provides the Commission's first analysis of the educational attainment levels of federally sentenced individuals.



Agency Overview

Commissioners

The Commission consists of up to seven voting members appointed to staggered six-year terms by the President with the advice and consent of the Senate. By statute, at least three of the commissioners shall be federal judges, and no more than four may be members of the same political party. The Attorney General (or the Attorney General's designee) and the Chairperson of the U.S. Parole Commission are *ex officio* members of the Commission.

In 2022, the Senate confirmed a full slate of seven commissioners, all of whom served throughout 2023 – Judge Carlton W. Reeves (Chair), Judge Luis Felipe Restrepo (Vice Chair), Laura Mate (Vice Chair), Claire Murray (Vice Chair), Judge Claria Horn Boom, Judge John Gleeson, and Candice C. Wong. (The commissioners' bios can be found at: <https://www.ussc.gov/commissioners>.)

The confirmation of these seven commissioners marked the first time since 2018 that the Commission had a voting quorum—and the first time since 1999 that a full slate of seven voting commissioners was appointed at once. Other commissioners include Patricia K. Cushwa (*ex officio*, U.S. Parole Commission) and Jonathan J. Wroblewski (*ex officio*, U.S. Department of Justice).

On October 24, 2023, President Biden renominated Commissioners John Gleeson and Judge Claria Horn Boom, whose terms are set to expire. The Commission's statute enables Commissioners Gleeson and Boom to continue to serve until they are reconfirmed by the Senate, or until Congress adjourns *sine di* for the 118th Congress, whichever comes first.

Organization

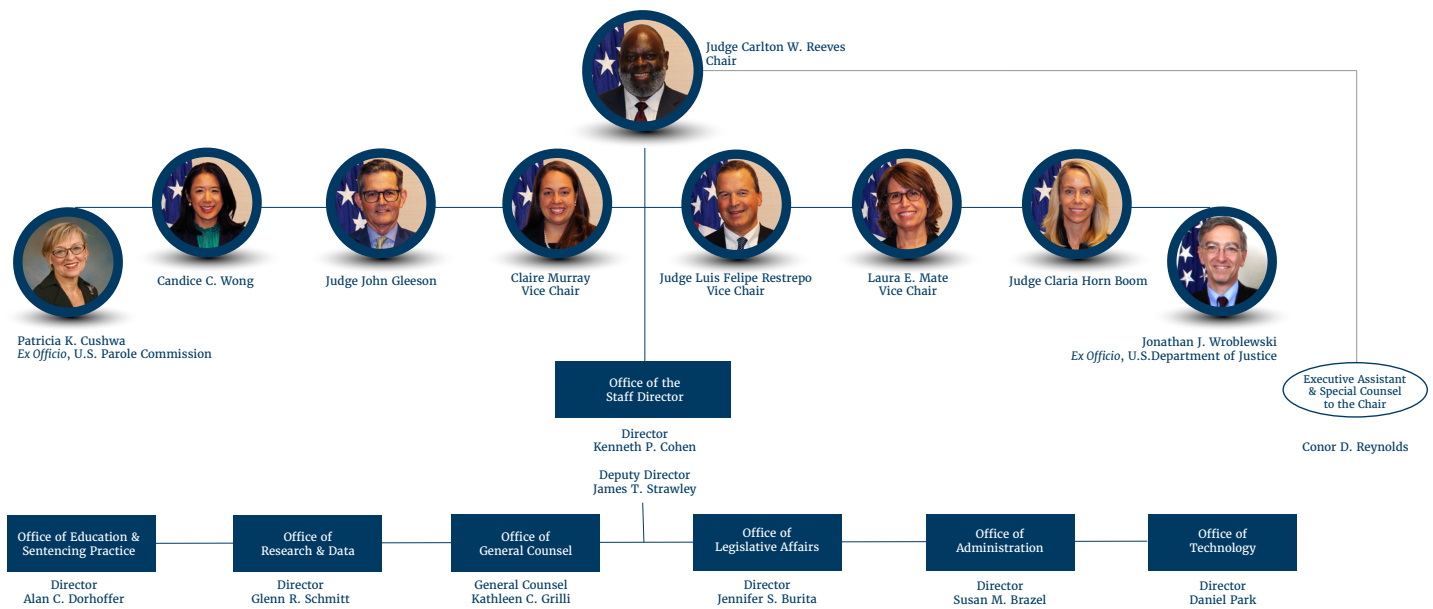
In FY 2023, the Commission staff was divided into the Offices of the Staff Director, General Counsel, Education and Sentencing Practice, Research and Data, Legislative Affairs, Administration, and Technology.

The **Office of the Staff Director** supervises and coordinates all agency functions. The director of each office outlined above reports to the staff director, who in turn reports to the Commission chair. The Office of Public Affairs also falls under the purview of the Office of the Staff Director. The office works jointly with other offices to respond to requests for information, coordinate public events, and produce, edit, and disseminate Commission work product. The office is also responsible for the Commission's website and social media communications.

The **Office of General Counsel** supports the Commission on a variety of legal issues, including the formulation and application of the guidelines and guideline amendments, legislative proposals, and statutory interpretations.

Legal staff monitor the district and circuit courts' application and interpretation of the guidelines and advise commissioners about statutes affecting the Commission's work. The legal staff also provides training support in conjunction with the Office of Education and Sentencing Practice.

In addition, the office performs all drafting services for the Commission, prepares the *Guidelines Manual* for printing, formally manages and maintains all papers and exhibits received by the Commission that constitute requests for Commission action on sentencing policy development, coordinates the Commission's policy initiatives, and oversees the annual guideline amendment cycle, including providing notice to the public of proposed amendments and obtaining witnesses for public hearings.



The **Office of Education and Sentencing Practice** performs the lead role in teaching guideline application to judges, probation officers, prosecuting and defense attorneys, and other criminal justice professionals. The staff develops training materials, participates in the sentencing guideline segments of training programs sponsored by other agencies, works in conjunction with the Administrative Office of the U.S. Courts and the Federal Judicial Center to create webcasts that are aired on the Commission’s website, and helps inform the Commission about current guideline application practices. The office also operates the “HelpLine” to respond to guideline application questions from guideline practitioners.

The **Office of Research and Data** provides statistical and social science research and analyses on specific sentencing issues and federal crime. The office receives documents from the federal courts concerning the sentences imposed, analyzes and enters information from those documents into the Commission’s comprehensive computer database, and creates annual datafiles of sentencing information. Individual offender datafiles (without individual identifiers) from

FY 2002 to the present are available on the Commission’s website. Working with the Office of the General Counsel, the Office of Research and Data also collects information on organizations convicted of crimes and on appeals filed in individual and organizational cases.

The office studies a variety of sentencing issues, including changes in the types and severity of federal crimes, demographic characteristics and criminal history of federal offenders, and sentencing trends. The office creates periodic reports on federal sentencing practices and tracks the application of the sentencing guidelines. These reports provide data concerning the types of crimes committed, the offenders who commit those crimes, and how courts sentence offenders and use the guidelines.

The office also provides projections of the impact on the federal prison population of proposed legislation and proposed guideline amendments. The reports are distributed to the courts, Congress, the Executive Branch, and the public.

The **Office of Legislative Affairs** serves as the Commission’s liaison with Congress on sentencing matters, monitors Congress’s criminal law agenda and hearings, analyzes legislative proposals, and takes the lead role in responding to congressional inquiries, including specific requests for federal sentencing data.

The office also provides services and information to other external entities, including the judiciary, Executive Branch agencies, academia, and advocacy groups. The office works closely with the Office of General Counsel on analyses of proposed and recently enacted legislation.

The **Office of Administration** provides general support to commissioners and staff regarding budget and finance, contracting, human resources, information systems, facilities, and a variety of other office operations and functions.

The **Office of Technology** provides the Commission the technological support necessary to operate its computer networks, remote capabilities, cybersecurity, website, records management, and extensive information systems applications. Consistent with its commitment to continuously strengthen and expand its technology and cyber security capabilities, in 2023, the Commission launched the office as a new unit, which was previously housed in the Office of Administration.

Policy Accomplishments

By statute, the Commission must submit guideline amendments to Congress for review no later than May 1 of each year. In its initial 2023 abbreviated amendment cycle, the Commission focused on sentencing legislation enacted during the four years (2018-2022) that it lacked a voting quorum.

The Commission voted to approve 11 guideline amendments that went into effect on November 1, 2023. These amendments addressed the following policy areas:

First Step Act of 2018 (Pub. L. No. 115-391)

The Commission’s first priority was implementation of the First Step Act of 2018 (FSA). This landmark legislation expanded the availability and use of reductions in terms of imprisonment motions under 18 U.S.C. § 3582(c)(1)(A) (referred to in shorthand as “compassionate release” but courts may also reduce or modify terms of imprisonment under the statute) by authorizing defendants for the first time to file motions on their own. Most courts of appeal then held that the Commission’s compassionate release policy statement at §1B1.13 did not apply to motions filed by the defendant. In the absence of a governing policy statement, various courts of appeal reached differing conclusions as to what could constitute an “extraordinary and compelling” circumstance, and district courts granted such motions at vastly differing rates across the nation.

In response, the Commission amended §1B1.13 (Reduction in Term of Imprisonment Under 18 U.S.C. § 3582(c)(1)(A) (Policy Statement)) to reflect that defendants are authorized to file such motions. The amendment also expanded the list of extraordinary and compelling reasons for a reduction in sentence to better account for the plain language of section 3582(c)(1)(A) and its legislative history, to reflect the reasons relied upon by many courts after passage of the FSA, and to account for recent lessons learned during the COVID-19 pandemic.

The FSA also expanded eligibility for the statutory safety valve, which provides relief from specified drug offenses carrying mandatory minimum penalties, to include

certain individuals with more than one criminal history point. The Commission amended §5C1.2 (Limitation on Applicability of Statutory Minimum Sentences) to reflect the broader class of eligible individuals.

2022 Bipartisan Safer Communities Act (Pub. L. No. 117-159)

The Commission also prioritized implementation of the 2022 Bipartisan Safer Communities Act (BCSA).

The BCSA created two new offenses at 18 U.S.C. §§ 932 and 933 further proscribing straw purchasing and trafficking of firearms, increased the statutory maximum penalties for certain firearms offenses, and included a corresponding directive to the Commission requiring consideration of several aggravating and mitigating factors. The Commission passed a multi-part amendment that expands an existing enhancement, adds two new enhancements covering knowing participation in a criminal organization and “ghost guns,” and provides a new decrease for less culpable straw purchasers.

Fentanyl

The Commission also responded to a request from the Drug Enforcement Administration (DEA) regarding fentanyl and “fake pills,” illicitly manufactured pills represented as legitimate pharmaceutical pills.

According to the DEA, more than 78 million fentanyl-laced fake pills and nearly 12,000 pounds of fentanyl powder were seized in FY 2023. Seven of ten pills tested contained deadly doses of fentanyl.

The Commission added a new 2-level enhancement targeting individuals who act with willful blindness that the substance the individual misrepresented as a legitimate drug contains fentanyl or fentanyl analogue.

Chair Reeves meets with Senator Durbin, Chair of the Senate Judiciary Committee (January 2024).



Criminal History

The Commission changed how the guidelines account for criminal history. Because of recent data suggesting that “status points” improve the predictive value of the criminal history score less than previously believed, the Commission amended the guidelines to target status points to individuals with seven or more criminal history points and decreasing their impact by one point.

Second, informed by studies showing that individuals with zero criminal history points are significantly less likely to be rearrested than those with even one point, the Commission created a new guideline, §4C1.1 (Adjustment for Certain Zero-Point Offenders), that provides a targeted 2-level decrease for individuals with zero criminal history points whose instant offense did not involve specified aggravating factors.

The Commission also expanded the availability of alternatives to imprisonment and added a departure provision regarding prior simple possession of marijuana offenses in light of the shifting legal landscape in many states.

Because the criminal history amendment reduced the guideline range for a certain category of offenders, the Commission was required by 28 U.S.C. § 994(u) to consider whether it should apply retroactively to currently incarcerated individuals. After considering expert testimony and public comment, the Commission voted to make these reductions retroactive, but courts can grant retroactivity only after considering all the factors at 18 U.S.C. § 3553(a), in particular public safety.

The Commission delayed implementation of retroactivity until February 1, 2024, to provide all parties involved adequate time to carefully review petitions and to prepare

those who are granted reduced sentences for successful reentry. The Commission estimates that 11,495 incarcerated individuals with status points and 7,272 with zero criminal history points are eligible for retroactivity, resulting in significant prison cost savings over time.

All of the 2023 Guideline Amendments that went into effect on November 1, 2023, can be found on the Commission’s website: <https://www.ussc.gov>.

Budget and Expenditures

The Commission’s FY 2024 assumed annual budget appropriation is \$22,072,000, which enables the Commission to continue to fulfill statutory duties envisioned by the Sentencing Reform Act of 1984. The Commission did not request program increases for FY 2024 or FY 2025. The Commission continues to maximize its existing resources by prioritizing cost-containment and efficiency.

FY 2023 Activity Overview

In FY 2023, the Commission took a leading role in providing data and analysis relating to the fairness and effectiveness of sentencing and improving recidivism outcomes, with the goal of using federal resources efficiently and appropriately. The subsequent sections of this report demonstrate the Commission’s commitment to these principles and to meeting its statutory requirements:

- Sentencing Policy Development
- Conducting Research
- Collecting and Reporting Sentencing Data
- Training and Outreach

The Commission prioritized implementation of important criminal justice legislation, chief among them the First Step Act (FSA) of 2018.

Among other provisions, the FSA expanded availability of reductions in sentences under 18 U.S.C. § 3582(c)(1) as well as the statutory safety valve under 18 U.S.C. § 3553(f). In addition, the Bipartisan Safer Communities Act, increased penalties for certain firearms offenders.

Public interest in the Commission's work remains at historic highs. As such, the Commission has prioritized making its work accessible and user-friendly, while enabling the criminal justice community and members of the public to more easily engage with the Commission.

To that end, during the guidelines amendment cycle ending May 1, 2023, the Commission created a new and intuitive portal on its website through which users could submit comment on the Commission's proposed guideline amendments and other matters under the purview of the Commission. In addition, the Commission worked with BOP to enable incarcerated individuals to submit formal public comment via email. Prior to 2023, incarcerated individuals could submit only written comment by postal mail.

As a result of the Commission's efforts, it received more than 8,000 comments from Members of Congress, the Department of Justice, judges, federal public defenders, probation officers, academics, advocacy groups, federal inmates and their family members, as well as concerned members of the public.

The Commission continues to expand and strengthen its public outreach efforts in a cost-efficient manner. In 2023, the Commission's website served nearly 1 million users with overall sessions on the website increasing for the fifth consecutive year.

The Commission's strategic investment in information technology, automation, and cybersecurity enables it to meet the ever-increasing demand for its work product, information, and services. User metrics related to the many website resources the Commission offers are reflective of this demand.

The Commission's 2021 launch of JSIN provides users with an online, comparative sentencing data tool providing newly available information to the public. In FY 2023, JSIN served nearly 35,000 users and averaged more than 3,400 visits per month. Use of this resource increased by one-third between 2022 and 2023.

In FY 2023, JSIN was accessed by nearly 3,000 judges, prosecutors, defense attorneys, and others per month on average, and provides the data for a current two-year pilot program authorized by the Judicial Conference of the United States to include comparative sentencing data in presentence reports.

JSIN follows the Commission's 2020 launch of the Interactive Data Analyzer ("IDA") that enables users to easily and independently analyze federal sentencing data by district, circuit, or state. IDA also provides data by specific crime type and is updated regularly to provide users the most recent and reliable data possible.

Other widely utilized resources on the Commission’s website include:

- “Problem-Solving Courts” resource, which provides users with information about court-sponsored programs, including diversion, alternatives-to-incarceration, and reentry programs throughout the nation. This webpage is a compilation of information the Commission updates periodically on relevant programs throughout the nation.
- The Commission began work on the “First Step Act” page on its website in 2023. On this page, the Commission compiles data from other government agencies to assist users in understanding how incarcerated individuals may earn time credits for participating in recidivism reduction programs or other pertinent activities.
- “Amendments in Brief” was unveiled in 2023 to provide users with an accessible overview and summaries of guideline amendments that have gone into effect.
- “Quick Facts” provide users with basic, easy-to-read information about specific areas of federal sentencing.
- “Interactive Case Law Update” provided brief summaries of select Supreme Court and appellate court decisions that involve the guidelines or other aspects of federal sentencing.

- providing certainty and fairness in meeting the purposes of sentencing by avoiding unwarranted disparity among individuals with similar characteristics convicted of similar criminal conduct, while permitting sufficient judicial flexibility to consider relevant aggravating and mitigating factors; and
- reflecting, to the extent practicable, advancement in the knowledge of human behavior as it relates to the criminal justice process.

By statute, the Commission must submit guideline amendments to Congress for its review no later than May 1 of any given year. The Commission’s policy priorities during its initial abbreviated amendment cycle ending May 1, 2023, focused on sentencing legislation signed into law during the four years that the Commission did not have a voting quorum.

The FY 2023 Amendment Cycle resulted in 11 amendments that went into effect on November 1, 2023, the largest number in recent Commission history. Many of these amendments addressed Congressional directives.

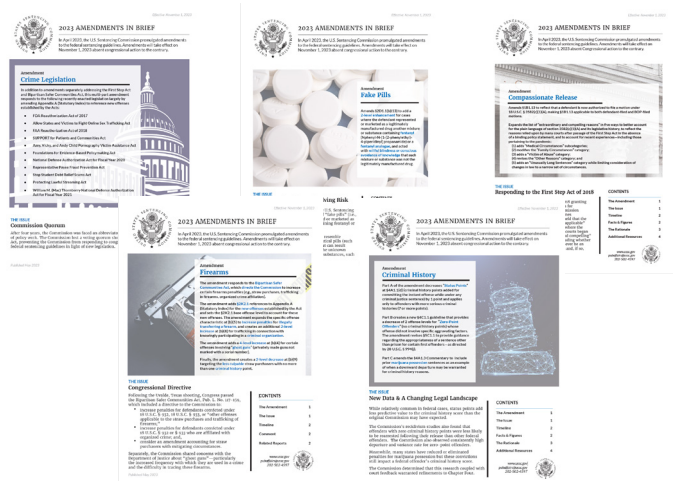
Guideline amendments and Amendments in Brief can be found on the Commission’s website: <https://www.ussc.gov>.

Sentencing Policy Development

The sentencing guidelines established by the Commission are core to the agency’s mission. They provide federal judges with fair and consistent sentencing ranges to consult at sentencing by:

- incorporating the purposes of sentencing (*i.e.*, just punishment, deterrence, incapacitation, and rehabilitation);

Amendments in Brief



2024 Sentencing Policy Priorities

In late 2023, the Commission published its 2024 policy priorities, proposed amendments and voted to seek public comment on these proposals. Among other things, the Commission's proposed guideline amendments address:

- whether **acquitted conduct** can be used for sentencing purposes, and if so, to what extent. The U.S. Supreme Court, Members of Congress, judges, and other members of the criminal justice community have called for the Commission to examine this issue.
- how **youthful offenders** are treated under the *Guidelines Manual*. The Commission seeks to consider advancements in brain development research, demographic disparities, difficulties in obtaining supporting documentation for juvenile adjudications, rearrest rates for younger individuals, and protection of the public, among other relevant issues.
- **simplification** of the current "three-step process" followed by judges at sentencing by removing step two, consideration of departures under the *Guidelines Manual*. This proposal would also more closely align Commission guidance regarding consideration of individual characteristics with the factors set forth by Congress in section 3553(a).

As part of its 2024 policy priorities, the Commission also continues to:

- examine and publish on its website information on court-sponsored programs related to **diversion, alternatives-to-incarceration, and reentry**. Many Commissioners have

The Commission's Annual Amendment Cycle



In the summer, the Commission solicits comment on a list of proposed policy priorities for the amendment year.



Commission publishes public comment, policy priorities are finalized at a public meeting.



Staff policy teams are formed to research prioritized issues, and develop recommendations.

Commission publishes, seeks comment on proposed amendments responding to its priorities.



Commission publishes public comment and holds public hearings to receive expert testimony on proposed amendments.



Commission votes at a public meeting on whether to adopt amendments. No later than May 1, amendments are submitted to Congress for a 180-day review period. If Congress takes no action during this period, adopted amendments become effective November 1.

toured alternatives-to-incarceration programs in several court districts to gain a more thorough understanding of how these programs are administered in different jurisdictions.

- engage with the **Federal Bureau of Prisons** about how First Step Act earned time credits are applied.
- examine case law concerning the validity and enforceability of **guideline commentary**, an issue about which there is an increasing number of circuit conflicts.

Conducting Research

Research is a critical part of the Commission's mission and provides a valuable resource to policymakers and the Commission's stakeholders. The Commission regularly analyzes data to monitor how courts sentence individuals and use the guidelines, and the agency routinely uses these analyses to inform its proposed changes to the guidelines. The Commission publishes many of its analyses as a resource for Congress, the Executive Branch, and the criminal justice community.

For example, in FY 2023, the Commission continued its examination of *Demographic Differences in Federal Sentencing*, a topic of high interest and studied by the Commission throughout its history. Building upon five previous reports studying different time periods, the Commission released a report in late 2023 examining federal sentencing practices in the five fiscal years after 2017. In the 2023 report, the Commission re-examined and refined the analytical methods used in its previous reports to better understand sentencing disparity in federal courts.

In addition, in late 2023, the Commission released a report examining *Education Levels of Federally Sentenced Individuals*. While the Commission has previously published reports on the relationship between demographic factors and sentencing, none have focused before on the educational attainment of federally sentenced individuals.

The Commission also released a report on *Federal Escape Offenses*, which also expands upon previous research work. In this report, the Commission combined data it regularly collects with data from a special coding project to provide a deeper understanding of escape offenses and the characteristics of individuals who commit these offenses.

In 2022, the Commission released *Compassionate Release: The Impact of the First Step Act and COVID-19 Pandemic*, which describes trends in compassionate release decisions during FY 2020, focusing on the impact of the First Step Act and the dramatic impact of the COVID-19 Pandemic. In 2023, the Commission released updated data, which provided information on Compassionate Release motions decided by the courts during the first two quarters of FY 2023.

The Commission also released a report in early 2023 entitled *Weighing the Impact of Simple Possession of Marijuana*, which examines trends in federal sentencing for simple possession of marijuana, as well as how prior sentences for simple possession affect criminal history calculations under the *Guidelines Manual*.

The Commission plans to continue its robust research agenda on timely and relevant topics throughout FY 2024 and beyond.

Collecting and Reporting Sentencing Data

The Commission maintains a comprehensive, computerized data collection system which forms the basis for its clearinghouse of federal sentencing information and which contributes to the agency's research mission.

Pursuant to 28 U.S.C. § 994(w), the chief judge of each district is required to ensure that, within 30 days of entry of judgment in a criminal case, the sentencing court submits a report of sentence to the Commission that includes:

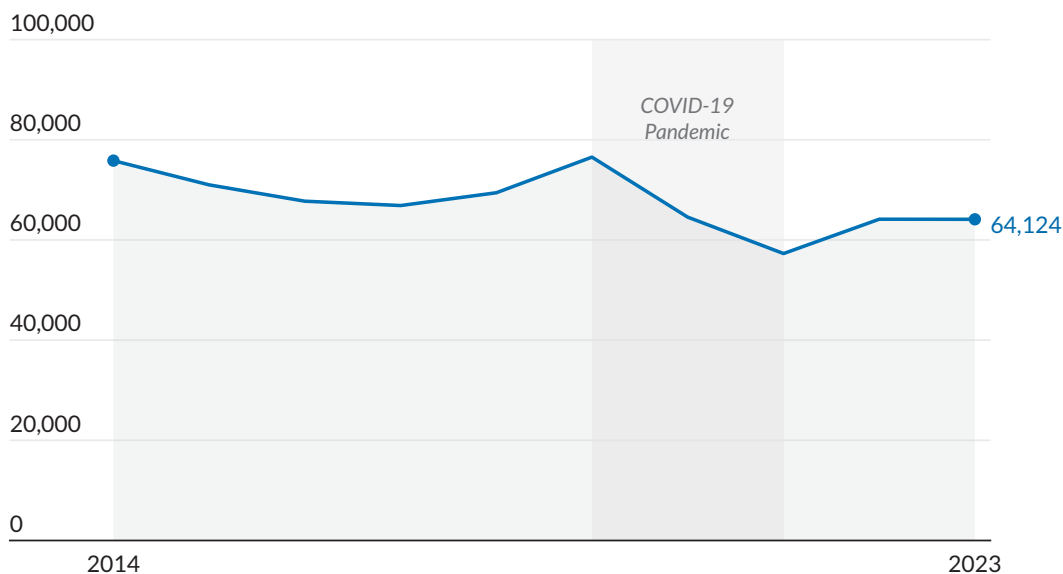
- (1) the charging document,
- (2) the plea agreement,
- (3) the presentence investigation report,
- (4) the judgment and commitment order,
- (5) and the statement of reasons form.

Data from these documents are extracted and coded for input into various databases. Information routinely collected include case identifiers, sentencing data, demographic variables, statutory information, the complete range of court guideline decisions, and departure and variance information. When research questions arise, the Commission analyzes its existing data or, when necessary, adds information to its data collection system.

The FY 2023 Caseload at a Glance

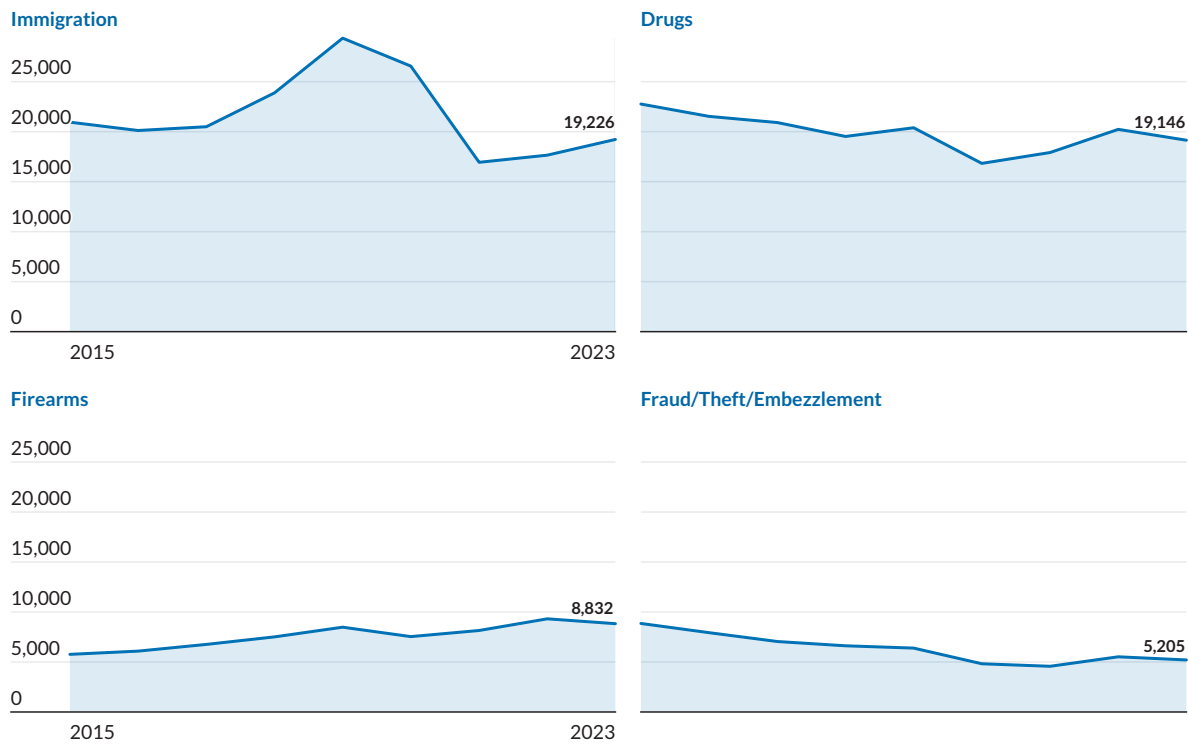
The 64,124 individual original cases reported to the Commission in FY 2023 represent a decrease of 18 cases from FY 2022. However, the caseload remains below the level before the COVID-19 Pandemic, of 76,538 in FY 2019.¹

Trend in Federal Sentencing Caseload



A comprehensive compilation of annual sentencing data is released online in the *Sourcebook of Federal Sentencing Statistics* and Interactive Data Analyzer (IDA). Quarterly updates to federal sentencing data, and analyses of annual data in each federal judicial district, circuit, and state are also published on the Commission's website.

Trend in Federal Sentencing Caseload by Crime Type



Although the overall number of cases was virtually unchanged from the prior year, three of four largest case types decreased in number in FY 2023. These decreases were largely offset by the increase in immigration cases, where the courts reported 1,574 more cases than the year before. The next largest increase occurred in money laundering cases, which increased by 120 cases. The number of cases in the next three largest crime types—drug trafficking, firearms, and fraud—all decreased in FY 2023.

The five judicial districts with the largest caseloads accounted for 37.4 percent of all individuals sentenced in FY 2023. The Western District of Texas reported 11.8 percent of all cases, followed by the Southern District of Texas (10.0%), the District of Arizona (7.5%), the Southern District of California (5.0%), and the District of New Mexico (3.1%).

Federally Sentenced Individuals by Crime Type

For more than 25 years, four crime types have comprised the majority of federal felonies and Class A misdemeanors: drugs, immigration, firearms, and fraud, theft, or embezzlement. This trend continued in FY 2023 as these crimes accounted for 81.8 percent of all cases reported to the Commission. Felony offenses were 97.1 percent of all the cases reported.

In FY 2023, immigration offenses were most common, accounting for 30.0 percent of the total sentencing caseload. The 19,226 individuals sentenced for an immigration offense represent an increase of 8.9 percent (1,574 cases) from FY 2022. However, even with this increase from the previous year, there were 34.5 percent fewer individuals sentenced for an immigration offense than in FY 2019.²

Most Common Crime Types in FY 2023

Crime Type	Percent ▼
Immigration	30.0%
Drugs	29.9%
Firearms	13.8%
Fraud/Theft/Embezzlement	8.1%
Robbery	2.3%
Child Pornography	2.2%
Sexual Abuse	2.2%
Money Laundering	2.0%
Other	9.5%

Drug offenses were second most common, accounting for 29.9 percent of the total sentencing caseload. The 19,146 individuals sentenced for a drug offense represent a decrease of 5.4 percent from FY 2022. Drug cases have decreased by 6.1 percent since FY 2019.³

Firearms offenses were third most common, accounting for 13.8 percent of the total sentencing caseload. The 8,832 individuals sentenced for a firearms offense represent a decrease of 5.2 percent (486 cases) from FY 2022. Firearms cases have increased by 4.1 percent since FY 2019.⁴

Fraud, theft, and embezzlement offenses were fourth most common, accounting for 8.1 percent of the total sentencing caseload. The 5,205 individuals sentenced for fraud, theft, and embezzlement represent a decrease of 5.7 percent (315 cases) from FY 2022 and 18.5 percent fewer than in FY 2019.⁵

Personal Characteristics

Males accounted for 87.1 percent of the individuals sentenced in FY 2023. Males were sentenced federally most often for an immigration offense (31.4%), while females were most often sentenced for a drug trafficking offense (37.8%).

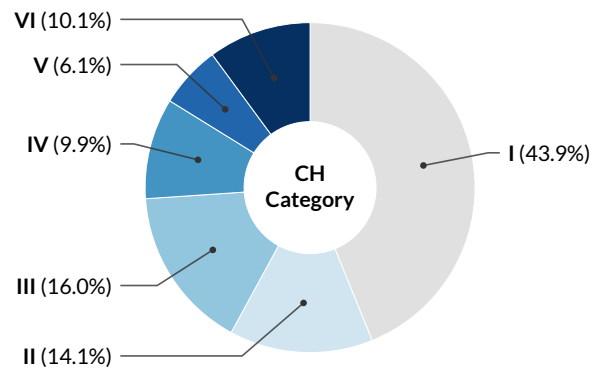
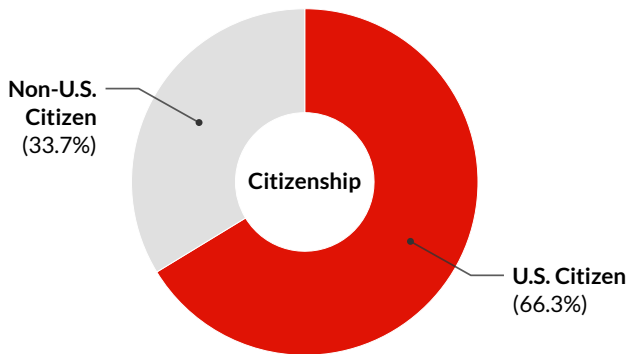
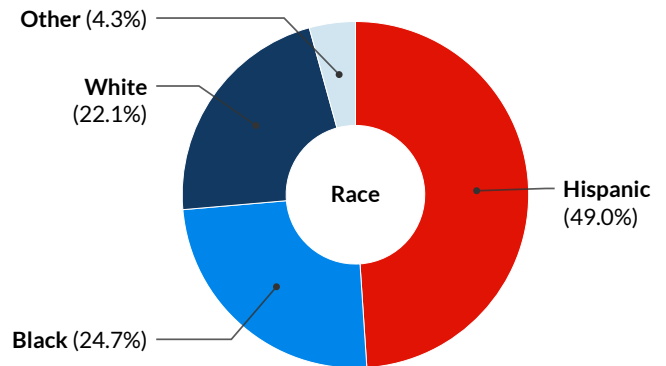
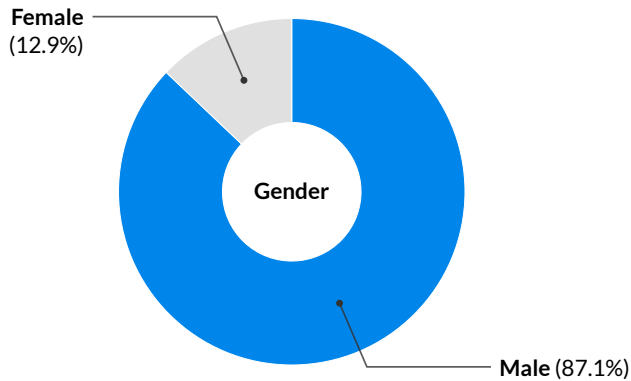
About half (49.0%) of all individuals sentenced in FY 2023 were Hispanic, one-quarter (24.7%) were Black,⁶ and 22.1% were White. The racial distribution of sentenced individuals varied greatly across offense types. For example, Hispanic individuals were 93.3 percent of all individuals sentenced for an immigration offense, while 77.3 percent of individuals sentenced for a child pornography offense were White.

Hispanic individuals were most often federally sentenced for an immigration offense (57.3% of all Hispanic individuals sentenced), while White and Black individuals were most often sentenced for drug trafficking (34.6% and 33.5%, respectively).

In FY 2023, two-thirds (66.3%) of all persons sentenced were United States citizens. U.S. citizens were most often sentenced for a drug trafficking offense (36.8% of all U.S. Citizens sentenced) while non-citizens (73.1%) were most often sentenced for an immigration offense.

The average age of individuals sentenced in FY 2023 was 38. At sentencing, 13.3 percent of individuals were over the age of 50, while just 2.5 percent were under the age of 21. Individuals in all age groups, except those over 60, were most often sentenced for a drug trafficking or immigration offense. Individuals over the age of 60 were most often sentenced for a fraud, theft, or embezzlement

Characteristics of Individuals Sentenced in FY 2023



offense, with drug trafficking as the next most common offense. About two in five individuals sentenced in FY 2023 (41.8%) had not completed high school, while 6.1 percent were college graduates.

The largest group of sentenced individuals (43.9%) were assigned to Criminal History Category (CHC) I, the lowest category. About one-third of sentenced individuals were assigned to CHC II (14.1%) or CHC III (16.0%). The remaining quarter (26.1%) fell into the highest three categories: CHC IV (9.9%), CHC V (6.1%), and CHC VI (10.1%). In FY 2023, 1,351 individuals were sentenced under the “career offender”⁷ guideline and 189 were sentenced under the “armed career criminal”⁸ guideline.

Case Disposition and Sentence Imposed

In FY 2023, the overwhelming majority of sentenced individuals pleaded guilty (97.2%); however, plea rates varied by crime type. Trials occurred most often in murder cases (24.3%) but also occurred in more than ten percent of cases involving kidnapping, administration of justice, individual rights, and sexual abuse offenses.

An incarceration sentence was imposed in the overwhelming majority of federal criminal cases. Courts imposed a prison-only sentence in 89.8 percent of all cases. Conversely, a sentence of probation-only (*i.e.*, where no type of confinement was imposed) was imposed in 5.9 percent of cases.

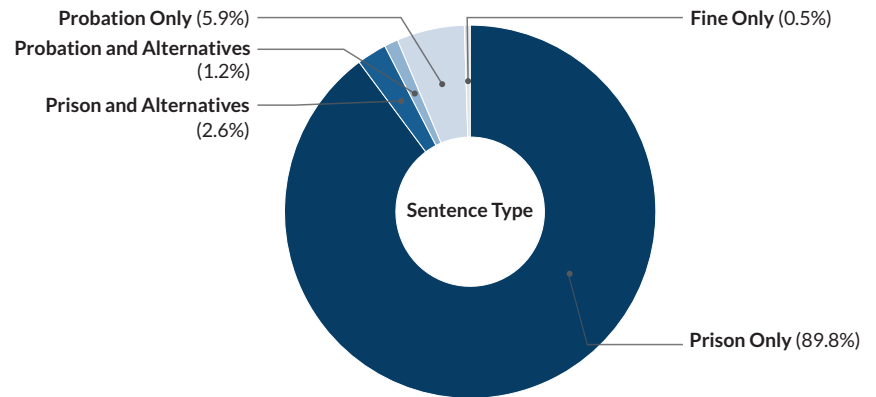
An additional 1.2 percent of sentences included a period of probation and some type of alternative confinement, and 2.6 percent included a combination of imprisonment and alternative confinement, such as in a halfway house or home confinement. Among all sentences, 0.5 percent included a fine only.

The average sentence imposed in FY 2023 was 52 months; however, the length of sentence varied greatly by the seriousness of the offense.⁹ For example, individuals sentenced for murder received the longest sentences (285 months, on average) while individuals sentenced for drug possession received the shortest sentences (2 months, on average).

Overall, two-third of all sentences were less than five years (66.8%), 17.4 percent involved a sentence of five years or longer but less than ten years, and 15.5 percent involved a sentence of ten years or longer (excluding life imprisonment). In FY 2023, 184 individuals were sentenced to life imprisonment. One death sentence was imposed last year.

Courts imposed fines in 7.7 percent of all cases in which an individual was sentenced in FY 2023, either as the sole punishment or combined with some other sanction; however, the imposition of a fine varied greatly based on crime type. Fines were most often imposed in antitrust (94.4%), environmental (58.1%), food and drug (43.6%), and drug possession (38.9%) cases. The total amount of fines imposed in individual cases was \$80.7 million. When an organization was sentenced, courts imposed a fine in nearly three-quarters of the cases (72.6%). In those cases, courts imposed fines totaling \$4.1 billion.

Sentence Types and Lengths in FY 2023



The average sentence imposed in FY 2023 was 52 months; however, sentence lengths varied greatly by offense.



Average sentence shown in months.

Courts ordered restitution to be paid to the victim of the crime in 13.9 percent of cases in FY 2023; however, orders of restitution varied based on crime type. Restitution was most often ordered in tax (86.6%), fraud, theft, or embezzlement (78.4%), burglary or trespassing (74.1%), and arson (68.9%) cases. The total amount of restitution ordered in individual cases was \$13.1 billion, the third highest amount in more than two decades. Courts ordered one-third (33.6%) of sentenced organizations to pay restitution. The total amount of restitution ordered in organizational cases was \$3.6 billion.

Most individuals sentenced in FY 2023 were ordered to serve a period of supervised release (82.5%); however, supervised release was imposed less often in immigration cases (68.0%), reflecting that many persons convicted of an immigration offense are ordered deported from the United States once they complete their incarceration sentence.¹⁰ Supervised release was imposed in 88.7 percent of all cases not involving immigration. The average length of all supervised release terms imposed was 47 months.

The Most Common Crimes

Immigration

In FY 2023, immigration crimes were sentenced most often in the federal system. The number of immigration sentencing increased by 8.9 percent from FY 2022, continuing an upward trend that began in FY 2021.¹¹

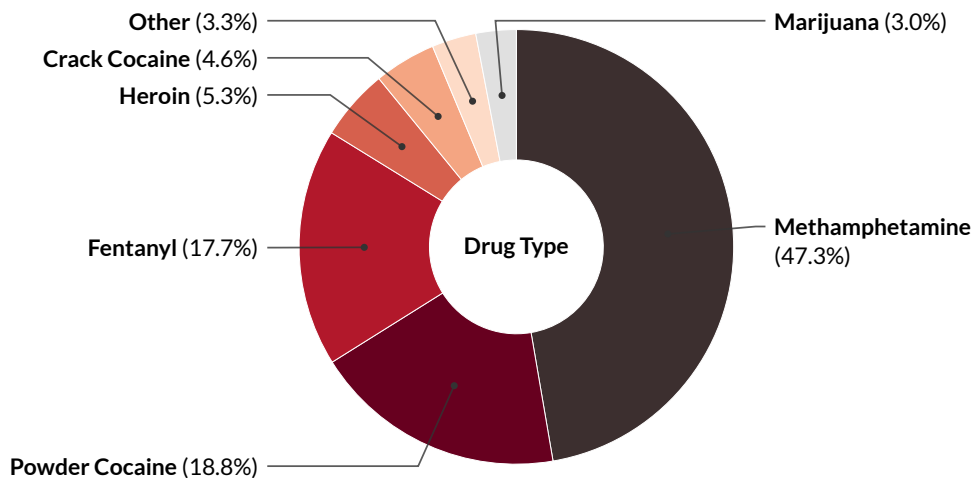
The predominant demographic characteristics of all individuals sentenced for an immigration offense were Hispanic (93.4%), male (91.2%) and non-citizen (81.3%).

Drugs

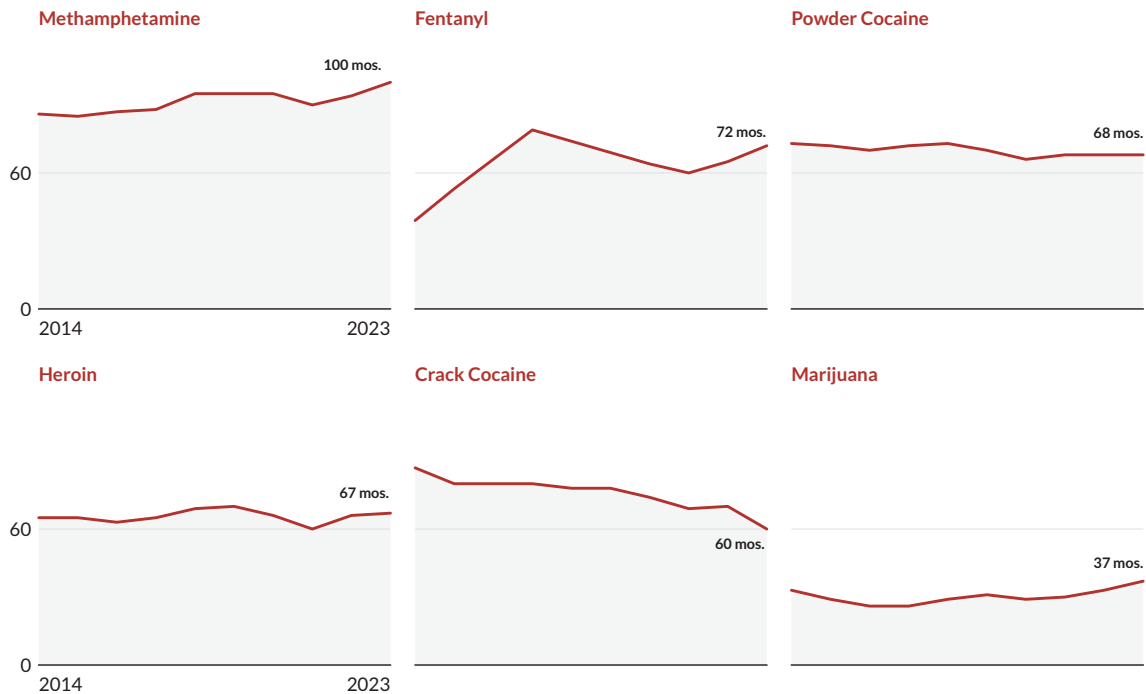
As discussed above, drug offenses were the second most common federal crime sentenced in FY 2023. Almost all of the 19,146 drug cases reported to the Commission involved the manufacture, sale, or transportation of a drug.¹²

Methamphetamine remained the most prevalent drug type in these cases. The 9,021 methamphetamine cases accounted for 47.3 percent of all drug crimes. The proportion of methamphetamine cases has increased steadily

Drug Types in FY 2023



Trend in Average Sentence Length by Drug Type



since FY 2009, when those cases accounted for 16.6 percent of all drug cases.¹³

Offenses involving powder cocaine were the second most common drug crimes. The 3,589 powder cocaine cases accounted for 18.8 percent of all drug cases. Cases involving fentanyl were the third most common, accounting for 17.7 percent of all drug cases. The number of fentanyl cases has increased by 238 percent over the last five fiscal years.¹⁴

The remaining drug cases accounted for 16.2 percent of the total number of those cases. Heroin cases were 5.3 percent of all drug cases, followed by crack cocaine (4.6%) and marijuana (3.0%). Cases involving all “other” drugs, mostly synthetic or semi-synthetic drugs such as oxycodone, accounted for the remaining 3.3 percent of all drug offenses.

Most individuals sentenced for drug offenses were United States citizens (82.0%), however, citizenship varied depending on the type of drug involved in the offense. For example, United States citizens accounted for 98.4 percent of drug trafficking offenses involving crack cocaine, but only 65.7 percent of those involving powder cocaine. Most individuals sentenced for drug trafficking offenses were male (83.6%).

The predominate race of individuals sentenced for drug trafficking was Hispanic (43.6%), followed by Black (27.7%) and White (25.7%); however, the racial composition of the drug trafficking caseload varied by the type of drug involved in the offense. The predominate race of individuals sentenced for offenses involving powder cocaine and heroin was Hispanic (71.2% and 45.7%, respectively), while

the predominate race of individuals sentenced for offenses involving crack cocaine was Black (79.0%).

Sentences were highest for trafficking offenses involving methamphetamine (100 months on average) and lowest for those involving marijuana (37 months on average). In FY 2023, the average length of drug trafficking sentences increased for four of the six major drug types. Only the average sentence for crack cocaine offenses decreased, while the average sentence for powder cocaine offenses was unchanged.

Firearms and Other Weapons

Crimes involving firearms were the third most common federal crime sentenced in FY 2023. The 8,832 firearms cases represented 13.8 percent of the cases reported to the Commission. The number of firearms cases decreased by 5.2 percent from FY 2022. Most firearm cases (98.8%) involved the unlawful receipt, possession, or transportation of firearms or ammunition, or were prohibited transactions involving firearms or ammunition. Two-thirds of firearms cases (66.2%) involved the illegal possession of a firearm, usually by a convicted felon.¹⁵

Individuals sentenced for firearms offenses were primarily U.S. citizens (96.4%) and male (95.6%). Just over half (57.0%) were Black, 21.7 percent were White, and 17.9 percent were Hispanic.

Economic Crimes

A total of 6,721 individuals were sentenced under one of the basic economic crime guidelines in FY 2023.¹⁶ Among those cases, 5,205 involved fraud, theft, or embezzlement, accounting for the fourth

most common crime sentenced in FY 2023 (8.1%). Individuals sentenced under a single guideline—applying to theft, property destruction, or fraud offenses¹⁷—were the largest group, accounting for 4,904 sentenced individuals. The number of such cases has decreased by 5.8 percent from FY 2022.

Approximately 40 percent (42.2%) of individuals sentenced for an economic crime were Black, 33.7 percent were White, and 17.7 percent were Hispanic. Most were United States citizens (89.2%), and three-quarters (75.3%) were male. These individuals were older and more educated than other sentenced individuals. Almost half of individuals sentenced for an economic crime were age 41 and older (45.4%) and half (50.1%) completed at least some college.

Loss amounts in these cases ranged from no loss (in 286 cases) to \$2.9 billion (in one case), with an average loss amount of \$3,321,161 but a median loss amount of \$109,900.

Organizational Cases

In FY 2023, 113 organizations were sentenced for a federal offense, a 14.1 percent increase from FY 2022. Among all organizations sentenced, more than half (55.5%) were corporations, 39.1 percent were limited liability companies, and 3.6 percent were sole proprietorships. Three-quarters of the organizations sentenced (75.7%) employed fewer than 50 people. One in five organizations sentenced (20.4%) were in the manufacturing, production, design, inspection, sales and distribution sector and 14.2 percent were in the retail trade sector.

Of the 113 organizations sentenced, most (95.6%) pleaded guilty in FY 2023. Organizations were most often sentenced for fraud (32 cases) and environmental (29 cases) crimes. In 58 cases, a fine was the sole financial component of the sentence imposed. In an additional 24 cases, the court ordered the organization to pay restitution to the victim of the crime as well as pay a fine. In 14 cases, the sole financial component of the sentence was the payment of restitution. In total, courts ordered sentenced organizations to pay \$4.1 billion in fines and \$3.6 billion in restitution. Additionally, of the 113 organizations sentenced, 90 were sentenced to a term of probation, and 29 were ordered to institute, or make improvements to, a compliance or ethics program.

Resentencings and Other Modifications of Sentence

In FY 2023, the Commission received documentation on 2,672 resentencings and other modifications of sentence, a 12.5 percent decrease from FY 2022. The most common reason for the resentencing was a sentence reduction for persons who provided substantial assistance to the government in its investigation or prosecution of another person after the person was first sentenced.¹⁸ Those 850 cases accounted for 31.8 percent of all resentencings and other modifications of sentence.

Modifications of restitution orders were the next most common. A resentencing after a case was remanded to the district court by a court of appeals was the third most common reason given.

Resentencing Types in FY 2023

Resentencing Type	Percent
TOTAL	100.0% ▼
Substantial Assistance Fed. R. Crim. P. 35(b)	31.8%
Restitution Order Modification 18 U.S.C. § 3664	20.8%
Remand by Circuit Court 18 U.S.C. § 3742(f)(1)/(2)	17.0%
Compelling Reasons Modification 18 U.S.C. § 3582(c)(1)(A)	16.2%
District Court Motion 28 U.S.C. § 2255	8.4%
First Step Act (Sec. 404)	3.5%
Unknown Type of Resentencing	1.7%
Retroactive Amendment Modification 18 U.S.C. § 3582(c)(2)	0.6%
District Court Motion 18 U.S.C. § 3559(c)(7)	0.1%



Commissioners kicked off the 2023 National Seminar in Los Angeles, CA with an introduction to the 2023 guideline amendments.

Training and Outreach

The Commission continues to provide specialized seminars, workshops, and training programs for judges, probation officers, law clerks, prosecutors, and defense attorneys on application of the guidelines and federal sentencing generally. In 2023, the Commission trained judges, attorneys, probation officers, law clerks, and others from nearly all 94 federal districts.

The Commission's ongoing investments in eLearning, remote training platforms, and other online resources continue to provide effective and efficient training. In FY 2023, the Commission conducted 33 virtual training sessions attended by more than 5,500 individuals.

The Commission's recorded courses were accessed over 1,200 times, and its eLearning courses were accessed more than 3,000 times.

In FY 2023, the Commission conducted 58 in-person training programs attended by more than 3,500 individuals. For the first time since the pandemic, the Commission held its Annual National Seminar, with almost 1,000 judges, probation officers, defense attorneys, and prosecutors participating, and its annual Judges Seminar was attended by more than 80 judges from twelve circuits.

In addition to leading several panels at the above-mentioned programs and seminars, Commissioners themselves provided training and interacted with judges and practitioners by visiting nearly every circuit conference, participating in various bench and bar conferences, as well as programs sponsored by the Federal Judicial Center and other public and private organizations.

In FY 2023, the Commission answered more than 2,800 HelpLine inquiries from judges, practitioners, and probation officers regarding proper guideline application. The HelpLine is accessible by phone and online.

Summary

The United States Sentencing Commission continues to fulfill its statutory responsibilities, including evaluating the fairness and effectiveness of the sentencing guidelines, advising Congress on federal sentencing policy, and serving as a clearinghouse of timely sentencing research and data. Furthermore, the Commission is committed to providing this current data and guidance to federal judges through training and online information resources.

The Commission is committed to preserving public safety and ensuring that the objectives of sentencing are achieved. Moving forward, the Commission will continue to prioritize efforts to improve the effectiveness of the guidelines, which would increase efficiency and reduce unnecessary litigation.

How We Can Help



Learn Guideline Application

The Commission's on-demand eLearning modules and live virtual training programs are available to a national audience. Staff will also customize training programs to meet specific preferences or expertise. The online HelpLine is also available to ask specific guideline application questions.



Explore Sentencing Data

The Commission's online data platforms primarily meet the needs of researchers (IDA) and judges (JSIN). IDA users can filter, customize, and visualize sentencing data. JSIN users can quickly and easily check average sentences for similarly situated defendants.



Participate in the Amendment Process

Public comment is vital to the amendment process. It helps the Commission gauge interest, select policy priorities, and shape how to amend the federal sentencing guidelines. The Commission accepts comment via the new Public Comment Submission Portal or regular mail.

Endnotes

- 1 U.S. SENT'G COMM'N, 2019 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS 8 (2020) [hereinafter 2019 SOURCEBOOK]. Commission materials cited herein are available on the Commission's website at <https://www.ussc.gov>.
- 2 *Id.* at 46 tbl.4.
- 3 *Id.*
- 4 *Id.*
- 5 *Id.*
- 6 Information on race is obtained from the Presentence Investigation Report and recorded in separate categories of race and ethnicity. Race data indicate whether the sentenced individual is White, Black, Native American or Alaskan Native, Asian or Pacific Islander, Multiracial, or "Other." Ethnicity data indicate whether a person is of Hispanic origin. Persons whose ethnic background is designated as Hispanic are represented as Hispanic in all analysis in this report regardless of racial background.
- 7 See USSG §4B1.1 (defining career offender).
- 8 See USSG §4B1.4 (defining armed career criminal).
- 9 Probation sentences are included in the calculation of average sentence as zero months. Over half of persons sentenced for environmental offenses (63.8%) and food and drug offenses (50.9%) received a sentence of probation with no type of confinement.
- 10 The sentencing guidelines recommend that courts "ordinarily should not impose a term of supervised release in a case in which supervised release is not required by statute and the defendant is a deportable alien who likely will be deported after imprisonment." USSG §5D1.1(c).
- 11 See U.S. SENT'G COMM'N, 2023 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS 111 fig.I-2 (2024).
- 12 This number also includes persons convicted of one or more crimes in addition to a drug offense.
- 13 U.S. SENT'G COMM'N, 2009 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS 100 tbl.33 (2010).
- 14 See 2019 SOURCEBOOK, *supra* note 2, at 108 n.2.
- 15 *I.e.*, a case in which 18 U.S.C. § 922(g)(1) was a statute of conviction.
- 16 See USSG Ch.2, Pt.B (Basic Economic Offenses).
- 17 USSG §2B1.1.
- 18 See FED. R. CRIM. P. 35(b).

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