



Research

NOTES

Issue #2

www.ussc.gov/research

Analyzing Federal Sentence Length & Type

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This edition of Research Notes explains how the Commission collects and reports information on the sentences imposed on individual offenders,¹ and describes analytical issues that may arise when using the Commission's sentencing data.² The key sentencing variables in the Commission's individual offender datafile are noted in all capital letters inside of brackets throughout the text.





The United States Sentencing Commission is an independent agency in the Judicial Branch of the federal government. The Commission's primary mission is to promulgate and amend the federal sentencing guidelines. The Commission has other responsibilities, including: (1) establishing a data collection, analysis, and research program to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on federal sentencing practices; (2) publishing data concerning the sentencing process; (3) collecting and disseminating information concerning sentences actually imposed and the relationship of such sentences to the factors set forth in 18 U.S.C. § 3553(a); and (4) collecting and disseminating information regarding the effectiveness of sentences imposed.³

To meet these responsibilities, the Commission receives and collects data from sentencing documents sent directly from the federal courts. Within 30 days of entry of judgment in a criminal case, the chief judge of each sentencing court is required to submit sentencing documents to the Commission that include: (1) the judgment and commitment order (J&C); (2) the Statement of Reasons (SOR); (3) any plea agreement; (4) the indictment

Office of Research and Data

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Research Notes give background information on the technical details of the Commission's data collection and analysis process. They are designed to help researchers use the Commission's datafiles by providing answers to common data analysis questions.

Data Collection Documents

Within 30 days of judgment, the chief judge is required to submit documents about the sentencing to the Commission.

1. INDICTMENT (OR OTHER CHARGING DOCUMENT)



An indictment is a written statement of the essential facts constituting the offenses charged by a grand jury.

2. PLEA AGREEMENT (PLEA)



A written agreement between the government and the defendant in which the defendant agrees to plead guilty to one or more of the charged offenses, often in return for the government's agreement to dismiss other charges or to support a specific sentence.

3. PRESENTENCE INVESTIGATION REPORT (PSR)



A PSR is prepared by a probation officer and contains information about the offense and offender, the statutory range of punishment, the guideline calculation, and any bases for imposing a sentence above or below the guideline range.

4. JUDGMENT AND COMMITMENT ORDER (J&C)



The J&C is a written record of the defendant's conviction(s) and the sentence the court imposes.

5. STATEMENT OF REASONS (SOR)



The SOR is a form on which judges explain the reasons for imposing a sentence outside the guidelines range.

or other charging document; (5) the Presentence Report (PSR); and (6) any other information the Commission finds appropriate.⁴

The J&C contains information about both the type and length of the offender's sentence (including probation and alternative confinement). If the offender received a term of imprisonment, the J&C also indicates whether the offender received a period of supervised release after incarceration and, if so, the length of supervision. Monetary aspects of the sentence such as fines, restitution, and special assessment fees are also set forth in the J&C. The Commission collects sentencing information from every J&C received.

The Commission also receives an SOR which details the final findings about the guideline application, including the Final Offense Level and Criminal History Category of the offender. The court notes any changes from the PSR and indicates whether the sentence is within the guideline range, or if not, details reasons why the offender has been sentenced outside the guideline range.

In the federal criminal justice system, the recommended length of an offender's sentence is determined by the sentencing table in the *Guidelines Manual*.⁵ The sentencing table is a grid with one axis based on the offender's final offense level (ranging from one to 43) and the other axis based on the offender's Criminal History Category (ranging from I to VI).

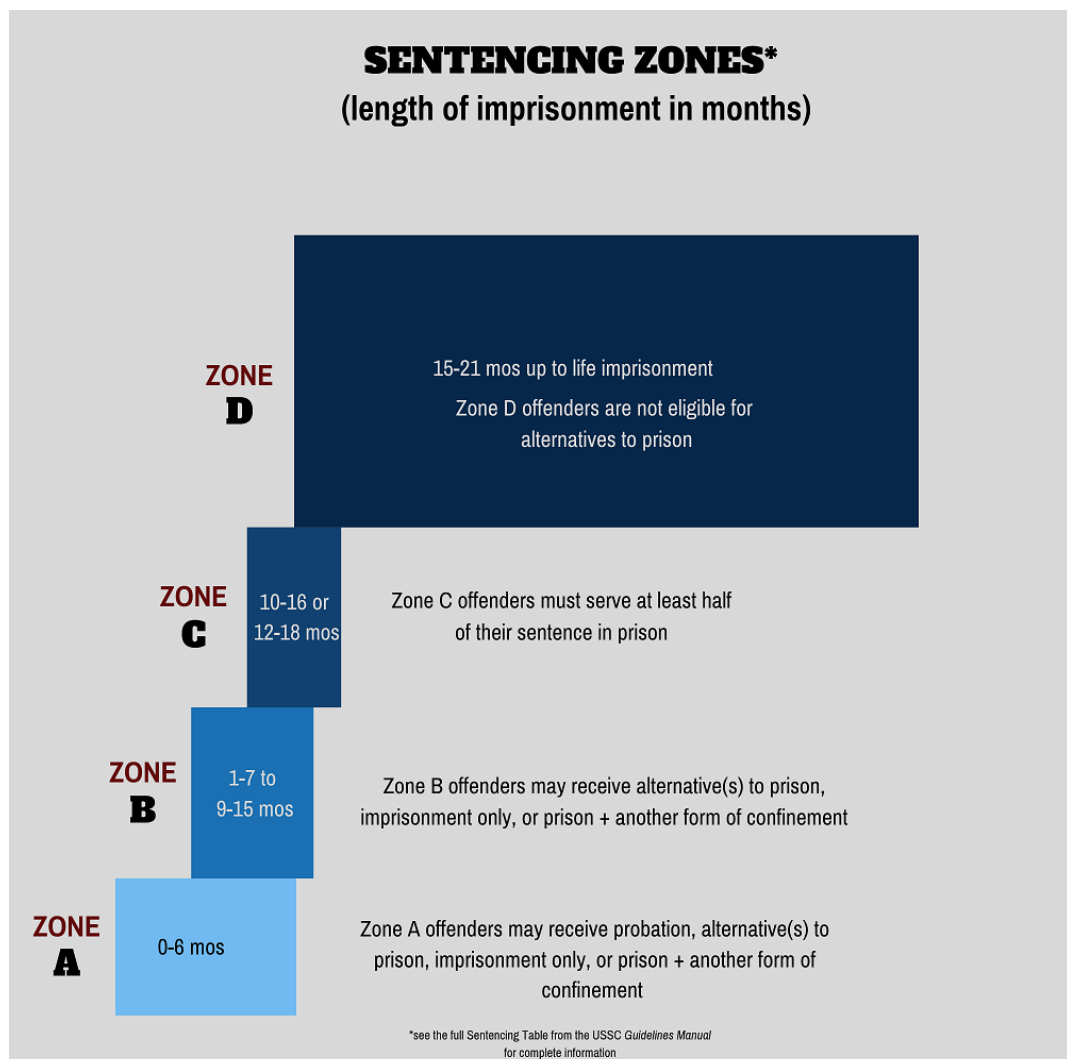
SENTENCING TABLE
(in months of imprisonment)

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

Once the offender's Final Offense Level (FOL) and Criminal History Category (CHC) have been determined, the intersection of those two axes on the sentencing table provides a recommended sentencing range.⁶ These intersections, or cells, in the sentencing table fall in one of four sentencing zones, designated A to D.⁷ Zone A represents the low end of the sentencing table and includes only sentencing ranges of zero to six months. The court may sentence offenders in Zone A to straight probation, one or more alternatives to prison, a split sentence (*i.e.*, sentence composed of prison and at least one alternative form of confinement), or a term of imprisonment only.⁸ Zone B, the next highest zone, includes sentencing ranges from one to seven months to nine to 15 months.⁹ The court may sentence offenders in Zone B to a sentence involving at least one alternative form of confinement, a split sentence, or a term of imprisonment only. Zone C is the third highest zone on the sentencing table. Zone C includes sentencing ranges of either ten to 16 months or 12 to 18 months. The court may sentence offenders in Zone C to a split sentence, provided at least half of the sentence is served as imprisonment.¹⁰ Otherwise, an offender in Zone C must receive a sentence of imprisonment only. Zone D represents the most severe (and largest) portion of the

sentencing table. It includes sentencing ranges from 15 to 21 months up to life sentences. Offenders in Zone D must serve a term of imprisonment only for the minimum of their sentence range to satisfy the zone requirements (*i.e.*, Zone D offenders are not eligible to have any portion of the minimum of the guideline range served as alternative confinement).

The Commission's individual offender datafile contains information about the sentencing zone of each offender. The data variable for sentencing zone [ZONE] is imputed from the information provided about the final guideline range on the SOR. If an offender's sentence does not meet the zone requirements, the Commission records that case as outside the applicable guideline range (*e.g.*, an offender is in Zone D and the court gives a sentence of 15 months of home detention instead of a sentence of imprisonment only).¹¹



Key Commission sentencing variables are noted in [ALLCAPITALLETTERS] throughout the text.

Sentence Length and Type

As described above, the Commission collects the length of the term of imprisonment imposed from the J&C and is captured in two data variables. The first is the months of imprisonment imposed [TOTPRISN], and the second is the days of imprisonment imposed [TOTDAYS].¹²

Some offenders receive a sentence of time (already) served in federal custody prior to the sentencing hearing.¹³ The Commission collects information on the months [TIMSERVM] and days [TIMSERVD] of time served sentences in data variables separate from the time imposed [TOTPRISN and TOTDAYS].¹⁴ Occasionally, the court will simply state “Time Served” on the J&C, but not specify a sentence length. In those instances, analysts at the Commission review the PSR to determine the amount of time already served. In some cases, the PSRs will report the number of days the offender spent in custody prior to the sentencing date. In other cases, the document may provide the original arrest date and report that the offender was in custody the entire time before sentencing. In such a case, the length of time already served is determined by Commission staff by comparing the difference between the arrest date and the sentence date. If the amount of time already served cannot be determined, then a specific value is used to denote that the amount is unknown.¹⁵

An offender may be sentenced for a federal offense while in state custody for another offense. Special rules may apply when the conduct underlying the state offense played a role in determining the sentence imposed for the federal offense. These rules are set forth in §5G1.3 of the *Guidelines Manual*.¹⁶ If the court determines that the §5G1.3 rules apply, the court may adjust the federal sentence for time already served on the undischarged state term of imprisonment. The Commission records the length of credit in months [CH5G13ST].

Occasionally, the J&C states that credit is being given to an offender under §5G1.3, but the exact amount of the credit is not specified. In such a case, a specific value is used to denote that the amount is unknown.¹⁷

For more on USSG §5G1.3 you can listen to the Commission’s Sentencing Practice Talk podcast for an overview.



<https://www.ussc.gov/education/training-resources/sentencing-practice-talk>.

The Commission also collects information about the months of alternative confinement sentences imposed.¹⁸ Months of home detention [MOHOMDET], community confinement [MOCOMCON], and intermittent confinement [MOINTCON] are recorded on the individual offender datafile. Information about an alternative sentence is recorded in the same variables whether the alternative was imposed as a condition of probation or supervised release.

In addition to the sentencing variables that are collected from the J&C, the Commission creates some research variables to facilitate analysis. One example is a variable that indicates the presence of an alternative sentence [ALTDUM].¹⁹ Additionally, more specific variables are created to indicate the specific type of alternative sentence, such as home detention [HOMDUM], community confinement [COMDUM], and intermittent confinement [INTDUM].

The Commission collects data on the length of probation sentences [PROBATN] or the amount of supervised release [SUPREL] imposed at sentencing from the J&C. These values are reported in months. Furthermore, research variables are created from the probation and supervised release variables to indicate the presence of probation [PROBDUM] or supervised release [SUPRDUM]. Any hours of community service [HRCOMSRV] specified on the J&C (generally imposed as a condition of probation or supervised release) are also recorded.

Researcher Impact: For simplicity in reporting purposes, the Commission creates four research sentencing variables that report the total sentence imposed on an offender. Generally, the Commission recommends that researchers use one of four variables, because they combine all the separate variables for prison imposed, time already served, the months of a concurrent state sentence (§5G1.3), alternative sentences, and probation together. Otherwise, the researcher risks reporting out an incomplete sentence length for an offender.

The first sentencing research variable [SENTTOT] combines imprisonment time imposed, the time already served amounts, and §5G1.3 months. This variable does not include any months of probation or months of alternative confinement.²⁰ This sentencing variable [SENTTOT] should be used only when total imprisonment sentences (imposed or already served) are of interest (e.g., when researching the question “What is the average length of imprisonment for drug trafficking offenders?”). In addition to adding together all the individual length of imprisonment variables,

certain values are transformed. Sentences of “life” are recorded as 470 months (39.16 years).²¹ Beginning in the FY2018 data, sentences of unknown time served are given a minimal value of one day.²²



470 months was originally derived from average life expectancy based on the average age of offenders in the Commission’s datafile.

The second sentencing research variable [SENTTCAP] is simply a capped version of the length of imprisonment variable [SENTTOT]. All sentence values are capped at 470 months to reduce the effect that outlier sentences will have on average lengths of imprisonment. Sentences longer than 470 months are capped at 469.99 months and sentences of life are given the value of 470 months. This sentencing variable is used in most Commission analyses that refer to “length of imprisonment.”

Researcher Impact: If uncapped values are included in an analysis, then these sentences will appear to be “longer” than the life sentences, which are recorded as 470 months in all four of the sentencing research variable variables. Additionally, these large values may skew the average sentence length upwards. Therefore, if the researcher does not choose to use the capped variable, he or she may wish to review and report both mean and median values. This capped variable [SENTTCAP] is new in FY2018, but researchers can easily create a capped version from the uncapped variable [SENTTOT] which is available on older datafiles.

The third sentencing research variable [SENSPLT0] combines the months and days of imprisonment imposed, time already served amounts, the §5G1.3 concurrent state sentence months, and months of alternative confinement. This variable [SENSPLT0] reports probation only sentences as zero months. This variable reports an offender’s total sentence, not just the length of imprisonment. For example, if an offender received

four months of home detention and four months of imprisonment, then the value for this variable [SENSPLT0] is reported as eight months. If an offender received 24 months of probation, then this variable [SENSPLT0] is reported as zero months, because there was no prison and no months of alternative confinement imposed.²³

Researcher Impact: This variable [SENSPLT0] should be used when a researcher wants to include all types of sentences (prison, alternative sentences, and sentences of probation). In addition to adding together all the individual sentence length variables, both “life” and time served amount unknown values are transformed in the same way that they are in the length of imprisonment variables [SENTTOT and SENTTCAP].

The fourth sentencing research variable [SENSPCAP] is simply a capped version of the length of sentence variable [SENSPLT0]. All sentence values are capped at 470 months to reduce the effect that outlier sentences will have on average lengths of imprisonment. Sentences longer than 470 months are capped at 469.99 months and sentences of life are given the value of 470 months. This sentencing variable is used in most Commission analyses that refer to “sentence length.” If uncapped values are included in an analysis, then these sentences will appear to be “longer” than the life sentences, which are recorded as 470 months in all four of the sentencing research variable variables. Additionally, these large values may skew the average sentence length upwards. Therefore, if the researcher does not choose to use the capped variables, he or she may wish to review and report both mean and median values. The capped variable [SENSPCAP] is new in FY2018, but researchers can easily create a capped version from the uncapped variable [SENSPLT0] which is available on older datafiles.

In FY1999, the Commission changed data entry software to its current ORACLE system. When this occurred, the time imposed, time served, and \$5G1.3 months variables were expanded to four digits, to allow sentences of 1,000 months or more to be accurately recorded.



In fiscal year 1999 the Commission changed data entry software to its current ORACLE system.

As an example, the court may impose a sentence of 1,200 months (perhaps due to multiple counts of conviction with consecutive statutory minimums). These values are not recoded in the Commission’s datafile for two of the sentencing research variables [SENTTOT and SENSPLT0] (*i.e.*, in the above example, the sentence would stay as 1,200 months).

Researcher Impact: The researcher must determine if no recoding is desirable or if using the capped variables [SENTTCAP and SENSPCAP] is the preferred methodology.

The Commission uses specific terminology in its tables, charts, and reports to refer to sentence types. This section explains how that terminology is used. When Commission publications refer to “average sentence,” usually both alternative months of confinement as well as sentences of probation are included (*i.e.*, [SENSPCAP or SENSPLT0] is used). However, when Commission documents refer to “average length of imprisonment,” usually only prison sentences are included [SENTTCAP or SENTTOT]. Commission documents generally explain in the footnotes which types of sentences were included in the tables, clearly delineating whether alternative sentences or probation sentences were included or excluded.

Researcher Impact: The Commission also created a research variable [SENTIMP] that categorizes offenders into the following groups: prison only, prison plus alternatives, probation plus alternatives, probation only, and fine only cases.²⁴ Reviewing variables such as the type of sentence imposed [SENTIMP] and sentencing zone [ZONE] for the population of interest may be helpful in making the decision.²⁵

If most of the cases of interest involve prison only sentences (e.g., in FY2018, 92.6% of drug trafficking cases were sentenced to imprisonment only), then using a prison only sentencing variable [SENTTCAP or SENTTOT] may be appropriate.²⁶ If the focus of the research is on offenders who are generally in sentencing zones that make them eligible for alternative sentences or sentences of probation (e.g., white collar offenders), then variables including that portion of the sentence in their calculation [SENSPCAP or SENSPLT0] may be appropriate. Using the more inclusive sentencing variables [SENSPCAP or SENSPLT0] allows the researcher to keep more of the offenders in the analysis in lieu of dropping offenders out of the analysis who were not sentenced to imprisonment. Additionally, because the Commission releases all the individual sentence-related variables, a researcher could create a customized “total sentence” variable to include different values (e.g., recode “life” values as something other than 470 months).

Other Sentence Issues

An additional consideration when using sentencing data is the issue of sentence imposed versus the length of time an offender will ultimately serve. The Sentencing Reform Act of 1984 eliminated the use of parole in the federal criminal justice system. Under the current determinate sentencing system, if an offender receives all the good-conduct credit available, then the offender will serve approximately 15 percent less time than the sentence imposed.²⁷ Offenders with sentences of 12 months or less are not eligible to earn good-conduct credit and must serve the entire length of the sentence imposed. In addition, the Federal Bureau of Prisons (BOP) has additional inmate programs which can reduce the amount of time an inmate must serve if the offender meets the eligibility requirements and successfully completes the program.

Researcher Impact: Because the Commission collects information only through the sentencing phase, the Commission does not have data on how much good-conduct credit an offender accrues while incarcerated or if an offender has completed any programs in BOP that might reduce the length of the sentence. All the sentence length variables discussed in this paper reflect time imposed or credited prior to sentencing only.²⁸

Any other type of sentence stated on the J&C is documented in the “other type of sentence” variable [TYPEOTHS]. Examples of these other sentences are denial of federal benefits, a suspended prison term, an order to pay the cost of prosecution, etc. When the court imposes an unusual type of sentence (other than those previously described), then a value of “other” is coded [in TYPEOTHS] and a brief descriptive text is added [TYPEOTTX]. As with all variables collected by the Commission, the documents submitted for an offender must contain information about a data variable for a value to be recorded. Cases with “other” types of sentences are rare. To impose certain types of “other” sentences, the court must attach extra pages to the J&C and submit those to the Commission to detail the punishment.

Researcher Impact: It is unclear how often these other types of penalties are imposed, and the documentation is not provided to the Commission. Therefore, analyses of and conclusions about these unusual sentences should be approached with caution.

Monetary Penalties

In addition to sentence length information, details about any monetary penalties are recorded on the Commission’s datafile.²⁹ The Commission collects information about imposed fine amounts [FINE], restitution [TOTREST], special assessment fees [SPECASSM], and supervision costs [COSTSUP]. Some of these variables are combined or the values associated with them are collapsed to form research variables. For example, an indicator variable is created for the cost of supervision [COSTSDUM] to more easily identify cases where the court requires the offender to pay the cost of supervision. The Commission’s datafile contains a summary variable to indicate which types of monetary punishments were imposed [TYPEMONEY].

Combinations of other monetary variables are also created. An example is the combined dollar amount of the fine and cost of supervision [AMTFINEC]. Another example is a version of restitution with values of “some restitution given but exact amount unknown” recoded from a specific value to missing [AMTREST]. The Commission also reports the combined dollar amount of fine, cost of supervision, and restitution [AMTTOTAL]. This allows researchers to easily analyze the total amount of monetary penalties the court imposed.

For any data related questions, please contact the Commission at askORD@ussc.gov. To keep current with new Commission news and publications, please follow the Commission on Twitter [@theusscgov](https://twitter.com/theusscgov).

Key Sentencing Research Variables

Sentence Length and Type

[ALTDUM]	[SENSPLT0]
[CH5G13ST]	[SENTIMP]
[COMDUM]	[SENTTCAP]
[HOMDUM]	[SENTTOT]
[HRCOMSRV]	[SUPRDUM]
[INTDUM]	[SUPREL]
[MOCOMCON]	[TIMSERVD]
[MOHOMDET]	[TIMSERVM]
[MOINTCON]	[TOTDAYS]
[PROBATN]	[TOTPRISN]
[PROBDUM]	[ZONE]
[SENSPCAP]	

Other Sentence Issues

[TYPEOTHS]
[TYPEOTTX]

Monetary Penalties

[AMTFINEC]	[FINE]
[AMTREST]	[SPECASSM]
[AMTTOTAL]	[TOTREST]
[COSTSDUM]	[TYPEMONY]
[COSTSUP]	

Endnotes

- 1 The United States Sentencing Commission is an independent agency in the judicial branch of government. Established by the Sentencing Reform Act of 1984, its principal purposes are (1) to establish sentencing policies and practices for the federal courts, including guidelines regarding the appropriate form and severity of punishment for offenders convicted of federal crimes; (2) to advise and assist Congress, the federal judiciary, and the executive branch in the development of effective and efficient crime policy; and (3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues. See 28 U.S.C. §§ 991-994.
- 2 The Commission releases its data on an annual basis to the public for research purposes. Persons interested in obtaining the Commission's publicly released datafiles may visit the Commission's website at <https://www.ussc.gov/research/datafiles/commission-datafiles>. The datafiles are made available for download in SAS or SPSS format along with a codebook describing the available fields and values.
- 3 The Commission's research and data duties are described in 28 U.S.C. § 995(a)(12) through (16).
- 4 28 U.S.C. § 994(w)(1).
- 5 U.S. SENTENCING COMM'N, *Guidelines Manual*, §4A1.1(a)-(e) (Nov. 1, 2018)[hereinafter USSG]. See Chapter Five of the *Guidelines Manual* for the sentencing table and for more detailed information about determining an offender's sentence under the federal sentencing guidelines.
- 6 The guideline range in the sentencing table does not account for any statutory mandatory minimum or maximum penalties that may "trump" the guideline range. For more information on how the guideline range and statutory ranges interact in determining the total sentence, please see Chapter Five, Part G of the *Guidelines Manual*.
- 7 See USSG §5C1.1 for more information about the type and length of alternative confinement options available under each sentencing zone.
- 8 The Commission collects information on the following types of alternative confinement for inclusion in the sentencing variables: home detention (with or without electronic monitoring), community confinement (generally time spent in a halfway house), and intermittent confinement (generally a specified number of weekends in jail).
- 9 Note that the ranges discussed in this paper reflect the current sentencing ranges within each zone. The ranges contained within the zones have changed over time, so using the relevant *Guidelines Manual* is critical.
- 10 To fulfill the zone requirements for sentencing Zone C, at least one half of the minimum of the guideline range must be a prison sentence. As an example, if the sentencing range is ten to 16 months, the judge can sentence the offender to a split sentence of five months of prison followed by supervised release with a condition that five months be served in community confinement or home detention. Additional prison time or months of alternative confinement can also be given (up to a maximum total of 16 months) in any combination as long as both the minimum prison term of five months and a minimum total punishment of ten months zone requirements are achieved.
- 11 For a sentence to be considered "within range", and offender's total sentence must be between the minimum and maximum of the sentencing guideline range (after taking any statutory constraints into account), and the zone requirements must be satisfied.
- 12 The Commission datafile has specific values that denote special instances such as sentences of "life" or unspecified length. The special values for [TOTPRISN] are 9996 for life sentences, and 9997 for cases in which prison was clearly ordered but the exact amount of time is unknown. Past data also has additional values for other specific instances (see the Commission's codebook at <https://www.ussc.gov/research/datafiles/commission-datafiles>).
- 13 Commission staff only record data for time served when the J&C specifically says that the offender has received a sentence of time served. Some offenders may receive time served credit that has not been specified on the J&C. For example, if the J&C specifies that the offender has been ordered to serve "46 months of imprisonment *with credit for time served*", then the Commission would record the 46 months of time imposed in [TOTPRISN], and the time served variables ([TIMSERVM] and [TIMSERVD]) would be reported as zero months because the judge is ordering the offender to serve a total time of 46 months, and it is up to the Bureau of Prisons to determine how much of that 46 months has already been served by the offender prior to sentencing.
- 14 Federal offenders will be granted credit for the time spent in "official detention" prior to sentencing according to 18 U.S.C. § 3585(b).
- 15 When the court notes on the J&C simply "Time Served" but the exact amount of that time the offender already served has not been specified, a code of "997" is entered in the time already served months [TIMSERVM] and days [TIMSERVD] variables.
- 16 For example, an offender who committed an assault or robbery with a firearm might be convicted of that conduct in state court. If police officers found a firearm when searching the offender and determined that he or she was a felon who was prohibited from possessing a firearm, that portion of the conduct from the state offense may result in a federal conviction. See USSG §5G1.3 for more information on credit for undischarged terms of imprisonment (available at <https://www.ussc.gov/guidelines/2018-guidelines-manual/2018-chapter-5#G13>).
- 17 When the court notes on the J&C simply "Time Served" credit for a related state offense, but the exact amount of that time the offender already served has not been specified, a code of "997" is entered in the USSG §5G1.3 amount variable [CH5G13ST]. Note that when the J&C does not specify the amount of §5G1.3 credit, Commission staff review the criminal history section of the PSR to determine the amount if possible.
- 18 See Chapter Five of the *Guidelines Manual* for further information about the definitions of alternative confinement and in what sentencing zones they are applicable.
- 19 [ALTDUM] is an indicator (yes/no) variable for whenever home detention [MOHOMDET], community confinement [MOCOMCON], and intermittent confinement [MOINTCON] are given by the court as part of or the entire sentence. Even if the exact value of these variables is unknown, the indicator variable [ALTDUM] will be "yes" if the documents indicate their presence.
- 20 In cases involving a split sentence, any non-prison portion of the sentence has a value of missing in the total length of imprisonment variable [SENTTOT]. Only the imprisonment portion is included. For example, if an offender was sentenced to six months of prison, plus 24 months of supervised release with a condition of four months of home detention, then the length of imprisonment variable [SENTTOT] would have a value

of six months. The four months of alternative confinement are not included in the value. Similarly, if an offender received a sentence of 36 months of probation with a condition of four months of home detention, then the value for the total length of imprisonment variable [SENTTOT] would be reported as blank or missing, because there was no prison imposed for that offender. When the mean or median length of imprisonment is calculated, then cases without any imprisonment sentence “drop out” of the calculation (because the value for [SENTTOT] is missing), and the denominator is only offenders with at least a portion of their sentence imposed as prison.

21 Because it is technically possible to receive a sentence of 470 months, if a researcher is looking for sentences of “life,” then the [TOTPRISN] value of 9996 should be selected for that analysis. The Commission has used 470 months as the value for life sentences in calculations for statistical analysis purposes. It was originally derived from average life expectancy based on the average age of offenders in the Commission’s datafiles.

22 Some J&Cs report the sentence only as “Time Served,” but do not specify an exact amount and the documents do not provide enough information for Commission staff to determine the amount of time served. Even if an offender is only arrested and then released prior to sentencing, that minimal time would be counted as one day of time served. In previous years, these cases were reported as missing for the variable [SENTTOT] and as zero months for the variable [SENSPLT0]. Reporting these cases as having at least one day of prison was determined to be more accurate than zero months. In addition, this retains these offenders in length of imprisonment analyses. One day is reported as 0.03 months. Note that the original time served months [TIMSERVM] and days [TIMSERVD] variables continue to have a value of 997. Only the combination/summary sentencing variables have the value changed.

23 Any time of confinement is included in the total sentence length variable [SENSPLT0]. For example, if an offender was sentenced to six months of prison, plus 24 months of supervised release with a condition of four months of home detention, then the sentence length variable [SENSPLT0] would have a value of ten months. The four months of alternative confinement are added to the six months of imprisonment, for a total time of ten months of confinement. Similarly, if an offender received a sentence of 36 months of probation with a condition of four months of home detention, then the value for the total sentence length variable [SENSPLT0] would be reported as four months. Months of probation or supervised release are not included (i.e., a sentence of 24 months of probation would be reported out as 0 for the total sentence length variable [SENSPLT0] because no time of confinement was imposed). When the mean or median length of imprisonment is calculated, then cases without any type of confinement are included in the denominator (as zero months) so that all offenders (unless the entire sentence is missing) would be included in an analysis using the total sentence length variable [SENSPLT0].

24 Prior to FY2018, the fine only category included a few offenders whose sentence did not conform to the requirements of the other four [SENTIMP] categories. For example, an offender sentenced only to an alternative with six months of home detention (no prison) and zero months of probation or supervised release, instead of being reported as “probation and alternatives,” the offender was classified under the “fine only” category which was also serving as a “catch all” for unusual sentence types. In FY2018, the methodology was changed such that the same offender would now be classified as “probation and alternatives.” These types of sentences are highly unusual, so this change in reporting affects only a very small number of cases each year.

25 See various tables and figures in the Sentencing Information section of the annual *Sourcebook of Federal Sentencing Statistics* for data on type of sentence, sentence and imprisonment length, and sentencing zone by type of crime.

26 See Table 13 in the *2018 Sourcebook of Federal Sentencing Statistics*.

27 See 18 U.S.C. § 3624(b).

28 Note that the time reduction programs available to inmates and the calculation formulas of time served have changed due to various legislation, so researcher created estimates of the amount of time served would need to account for these changes.

29 The Commission does not collect information on forfeitures. Although some courts sometimes include forfeiture statutes on the J&C, the Commission does not record them due to their monetary rather than confinement-oriented penalties.

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About the Office of Research and Data

ORD provides statistical and other social science research and analyses on specific sentencing issues and federal crime.

The office receives documents from the federal courts concerning the sentences imposed on individual offenders, analyzes and enters information from those documents into the Commission’s comprehensive computer database, and creates annual datafiles of sentencing information.