Divisibility in the Categorical Approach:
2017 Annual National Seminar

National Seminar *2017*

When Can I Look at *Shepard* Documents?

Does the statute outline multiple ways to commit one crime or multiple crimes? (Elements v. Means)

The statute outlines multiple crimes / different elements and is *divisible*.

The statute outlines one crime (or multiple ways to commit one crime) and is *indivisible*.

Do all the versions of the offense make up a crime of violence or violent felony?

SOME DO & SOME DON'T

YES

NO

Some sections of the statute make up Crime of Violence or Violent Felony. Some do not.

All the sections of the offense make up a Crime of Violence or Violent Felony and the statute can count as a predicate.

None of the sections of the offense make up a Crime of Violence or Violent Felony and the statute can never count as a predicate.

You may look at the *Shepard* documents only to determine which section of the statute the defendant was convicted of.

You may NOT look at the *Shepard* Documents