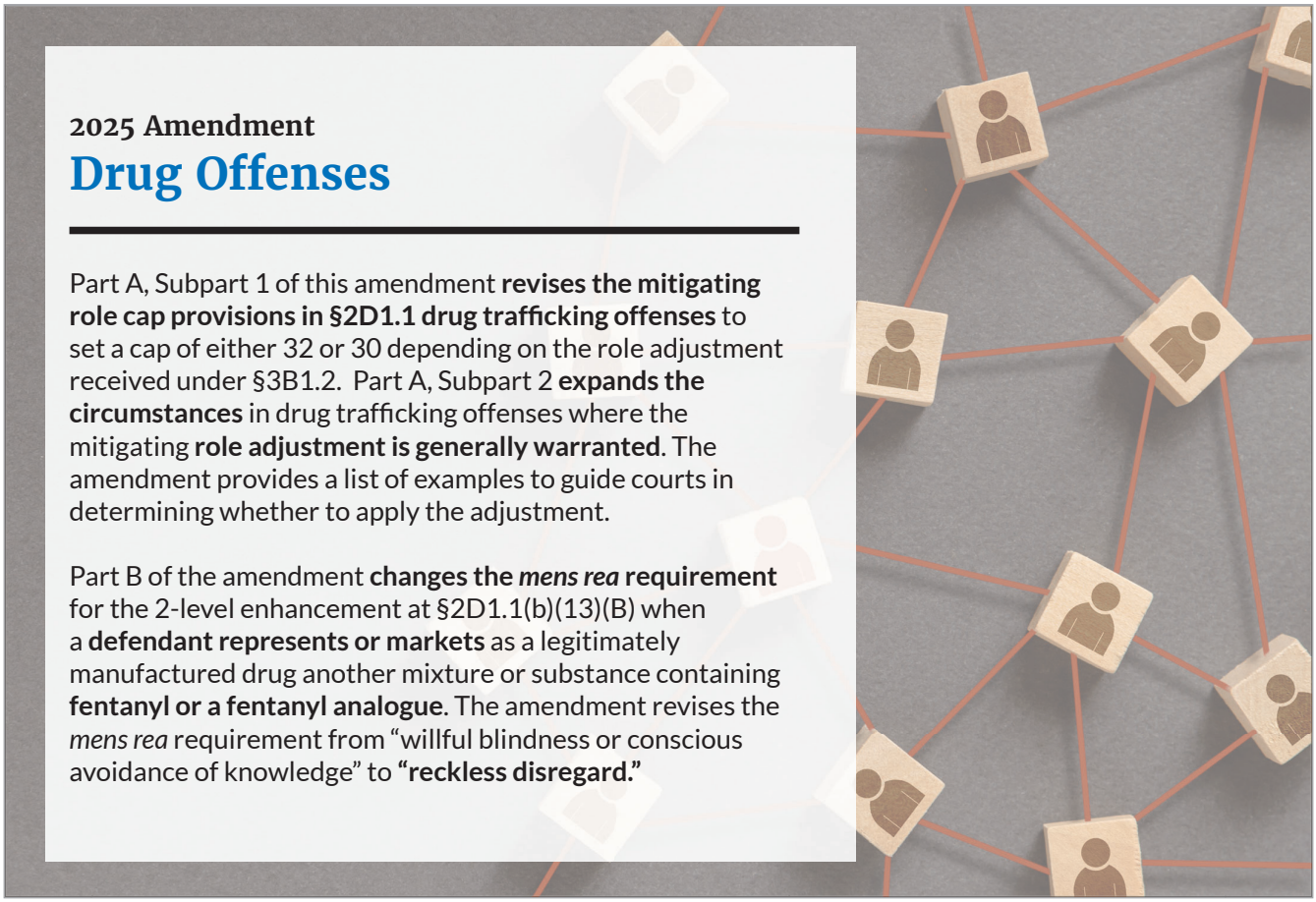
2025 AMENDMENTS IN BRIEF

In April 2025, the U.S. Sentencing Commission approved amendments to the federal sentencing guidelines. For a more detailed discussion of the policy determinations made by the Commission, please refer to the *Reason for Amendment* in the "Reader-Friendly" and Official Text (link in QR code).



2025 Amendment

Drug Offenses

Part A, Subpart 1 of this amendment **revises the mitigating role cap provisions in §2D1.1 drug trafficking offenses** to set a cap of either 32 or 30 depending on the role adjustment received under §3B1.2. Part A, Subpart 2 **expands the circumstances** in drug trafficking offenses where the mitigating **role adjustment is generally warranted**. The amendment provides a list of examples to guide courts in determining whether to apply the adjustment.

Part B of the amendment **changes the *mens rea* requirement** for the 2-level enhancement at §2D1.1(b)(13)(B) when a **defendant represents or markets** as a legitimately manufactured drug another mixture or substance containing **fentanyl or a fentanyl analogue**. The amendment revises the *mens rea* requirement from "willful blindness or conscious avoidance of knowledge" to **"reckless disregard."**

THE ISSUES

Accounting for Low-Level Drug Trafficking Functions and Changing the §2D1.1(b)(13)(B) *Mens Rea* Requirement

Part A of the amendment addresses concerns that §2D1.1 and §3B1.2 as they currently apply in tandem do not adequately account for the lower culpability of individuals performing low-level functions in a drug trafficking offense. Part B of the amendment addresses concerns that the *mens rea* requirement in §2D1.1(b)(13)(B) was vague and difficult to apply.

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TIMELINE

2002 & 2015 Mitigating Role Amendments

The Commission added the mitigating role cap in 2002 to "somewhat limit[] the sentencing impact of drug quantity for offenders who perform relatively low level trafficking functions." (Amend. 640) In 2015, the Commission amended the Commentary to §3B1.2 to increase the usage of the mitigating role adjustment because it found that the adjustment was "applied inconsistently and more sparingly than the Commission intended." (Amend. 794)

2018 & 2023 Fentanyl Amendments

In 2018, the Commission added a 4-level increase when the defendant knowingly misrepresented or knowingly marketed as another substance a mixture or substance containing fentanyl or a fentanyl analogue.
In 2023, the Commission added a 2-level increase for similar conduct with a *mens rea* requirement of "willful blindness or conscious avoidance of knowledge." (Amend. 818)

2024–25 Roundtable, Testimony, Comment

After receiving public comment calling for amendments to §2D1.1, the Commission held a roundtable on drug sentencing. In light of this feedback, the Commission published an amendment proposing changes to the mitigating role provisions in §2D1.1 and §3B1.2 and the *mens rea* requirement in §2D1.1(b)(13)(B). Experts and stakeholders provided testimony at a public hearing and submitted extensive public comment on the proposed amendment.

2025 Amendment

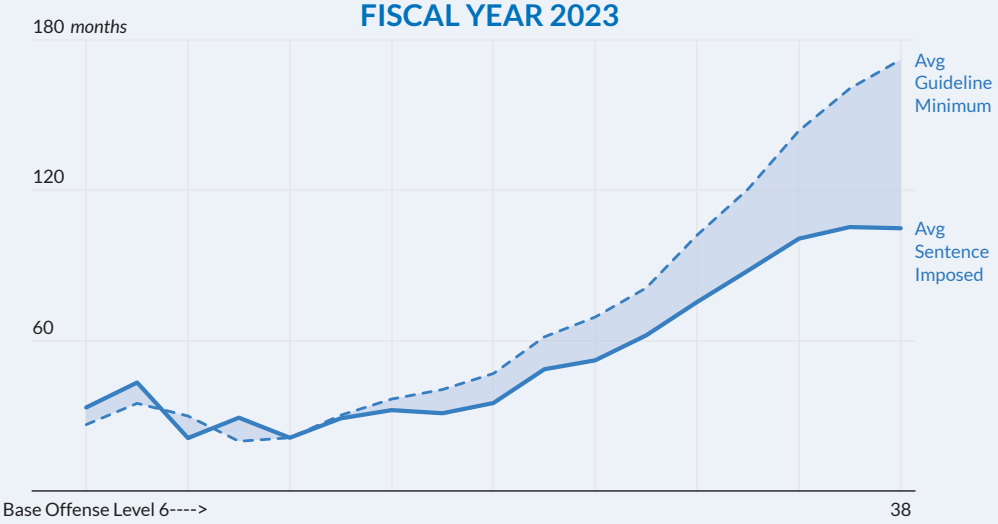
The Commission determined that targeted changes were warranted to ensure appropriate penalties commensurate with an individual's function in a drug trafficking offense and to better address the harms of representing or marketing fentanyl or a fentanyl analogue as a legitimately manufactured drug.

FACTS & FIGURES

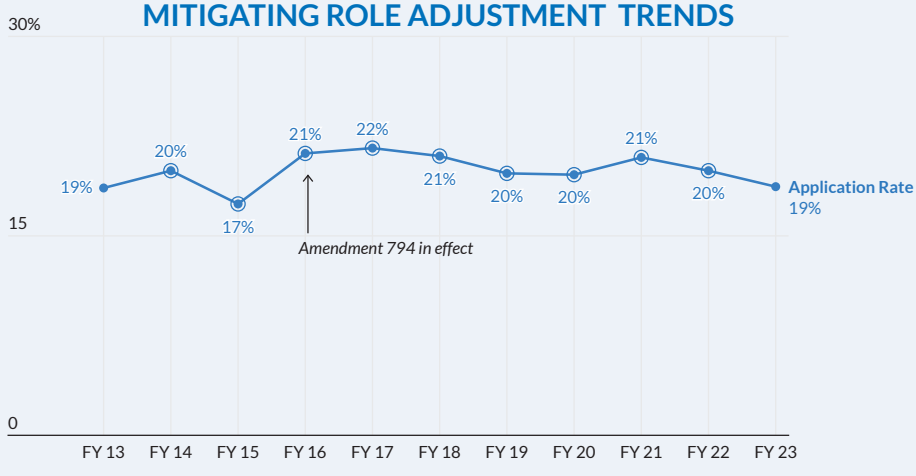
Drug Quantity

The Commission analyzed a range of sentencing data during the amendment cycle and noted that in fiscal year 2023, as drug trafficking offenses reached the higher base offense levels for drug quantity, the difference between the average guideline minimum and average sentence imposed increased.

FISCAL YEAR 2023



MITIGATING ROLE ADJUSTMENT TRENDS



Mitigating Role

The Commission examined the application of §3B1.2 over time and found that the prior 2015 amendment to the Commentary to §3B1.2 did not result in a sustained increase in application of the mitigating role adjustment in §2D1.1 cases.