

MANDATORY MINIMUM PENALTIES FOR FIREARM OFFENSES

A. INTRODUCTION

This chapter analyzes the application of two mandatory minimum sentencing provisions relating to firearm offenses. After a brief overview of the applicable statutes and related guidelines, this chapter first provides data and analyses concerning the application of the offenses and accompanying mandatory minimum penalties established at 18 U.S.C. § 924(c) for certain conduct involving firearms. Second, this chapter provides data and analyses concerning the application of the 15-year mandatory minimum penalty established in the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), for recidivist offenders who commit certain firearm offenses.

Section 924(c) establishes mandatory minimum penalties for conduct involving a firearm in relation to an underlying offense, as discussed in more detail below. As a result, many offenders who were convicted of an offense under section 924(c) may also have been convicted of an underlying offense that resulted in a sentence imposed pursuant to a primary guideline other than §2K2.4(b) (Use of a Firearm, Armor-Piercing Ammunition, or Explosive During or in Relation to Certain Crimes), or convicted of an underlying offense that also carried a mandatory minimum penalty, or both. For this reason, an offender convicted of an offense under section 924(c) may also be included in the analysis of other offense types in other chapters, most notably drug offenses.

B. THE STATUTES AND RELATED GUIDELINES

1. 18 U.S.C. § 924(c)

Section 924(c) of title 18, United States Code, establishes the offense of using or carrying a firearm during and in relation to, or possessing a firearm in furtherance of, a crime of violence or a drug trafficking crime.⁷⁰² The statute prescribes a mandatory minimum penalty of at least five years of imprisonment for committing the offense, with increasingly longer mandatory minimum penalties based on how the firearm was used (seven years if the firearm was brandished and ten years if the firearm was discharged) and the type of firearm involved (ten years if the firearm was a short-barreled rifle, a short-barreled shotgun, or a semiautomatic assault weapon and 30 years if the firearm was a machinegun, a destructive device, or was

⁷⁰² 18 U.S.C. § 924(c). The statute defines a “crime of violence” as any felony that “has as an element the use, attempted use, or threatened use of physical force against the person or property of another,” or “that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.” A “drug trafficking crime” includes any felony that is punishable under the Controlled Substances Act, codified at 21 U.S.C. § 801 *et seq.*, or the Controlled Substances Import and Export Act, codified at 21 U.S.C. §§ 951, *et seq.* See 18 U.S.C. § 924(c)(2)–(3).

equipped with a silencer or muffler).⁷⁰³ Section 924(c) further provides that these mandatory minimum penalties are to be imposed in addition to, and also must run consecutively to, “any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the [underlying] crime of violence or drug trafficking crime”⁷⁰⁴

Some provisions in section 924(c) that impose longer mandatory minimum penalties are elements of the offense that must be proven to a jury beyond a reasonable doubt, while others are sentencing factors that may be determined by the court at sentencing. For example, in *Harris v. United States*,⁷⁰⁵ the Supreme Court held that the determination of whether the offender “brandished” a firearm so as to trigger the seven-year mandatory minimum penalty of section 924(c) was a sentencing factor properly found by the court.⁷⁰⁶ However, in *United States v. O’Brien*,⁷⁰⁷ the Supreme Court held that the determination of whether the offense involved a “machinegun” so as to trigger the statute’s 30-year mandatory minimum penalty is an element of the offense that must be submitted to a jury or admitted by the defendant.⁷⁰⁸ Accordingly, offenders convicted of an offense under section 924(c) may be subject to varying procedural and proof requirements depending on which portion of the statute applies.

Section 924(c) also establishes longer mandatory minimum penalties, generally requiring 25 years of imprisonment, for each “second or subsequent conviction” of a section 924(c) offense.⁷⁰⁹ The Supreme Court has held that when multiple section 924(c) counts are charged in the same proceeding, the longer mandatory minimum penalty applies because any additional convictions of an offense under section 924(c) are “second or subsequent” to the first such conviction.⁷¹⁰ Thus, the longer recidivist mandatory minimum penalty must be served consecutively to any sentences imposed for the underlying offenses *and* other section 924(c) offenses, even when all of the offenses were charged in a single indictment. This practice of

⁷⁰³ See 18 U.S.C. § 924(c)(1)(A)–(C).

⁷⁰⁴ *Id.* § 924(c)(1)(A), (c)(1)(D).

⁷⁰⁵ 536 U.S. 545 (2002).

⁷⁰⁶ *Id.* at 554.

⁷⁰⁷ 130 S. Ct. 2169 (2010).

⁷⁰⁸ See *id.* at 2174–80. For additional discussion of *Harris*, *O’Brien*, and the constitutional principles underlying the Court’s decisions in those cases, see *supra* Chapter 3 and *infra* Appendix E(A)(1).

⁷⁰⁹ The mandatory minimum penalty for a second or subsequent violation of section 924(c) is 25 years of imprisonment. See 18 U.S.C. § 924(c)(1)(C)(i). The mandatory minimum penalty for a second or subsequent violation becomes life imprisonment if the firearm involved was a machinegun, a destructive device, or was equipped with a silencer or muffler. See *id.* § 924(c)(1)(C)(ii).

⁷¹⁰ See *Deal v. United States*, 508 U.S. 129 (1993). For additional discussion of *Deal* and second or subsequent violations of section 924(c), see *infra* Appendix E(B)(2).

charging multiple violations of section 924(c) within the same indictment is commonly known as “stacking” mandatory minimum penalties.

USSG §2K2.4(b) provides that the guideline sentence for an offender convicted of an offense under section 924(c) “is the minimum term of imprisonment required by statute.”⁷¹¹ When the offender is convicted of offenses in addition to an offense under section 924(c), the applicable guideline range for the additional offenses is determined using the guideline provisions and grouping rules applicable to those crimes.⁷¹² The resulting range guides the sentence for the additional offenses, to which the court must add a consecutive sentence for the 924(c) offense.⁷¹³ The guidelines establish a separate sentencing table with higher penalties for offenders who are convicted of an offense under section 924(c) and qualify as a “career offender.”⁷¹⁴

2. *The Armed Career Criminal Act, 18 U.S.C. § 924(e)*

ACCA requires at least 15 years of imprisonment if the defendant violates 18 U.S.C. § 922(g) and has at least three previous convictions for a violent felony or a serious drug offense.⁷¹⁵ Section 922(g) makes it unlawful for certain prohibited persons, including convicted felons, fugitives from justice, persons dishonorably discharged from the armed forces, and aliens who are illegally or unlawfully in the United States, to possess a firearm or ammunition that is in or affecting commerce, to ship or transport a firearm or ammunition in interstate or foreign commerce, or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.⁷¹⁶

⁷¹¹ USSG §2K2.4(b).

⁷¹² See USSG §5G1.2(b) (Sentencing on Multiple Counts of Conviction).

⁷¹³ See USSG §5G1.2(a) & (b); see also USSG §3D1.1(b)(1) (Procedure for Determining Offense Level on Multiple Counts).

⁷¹⁴ Under §4B1.1, a defendant qualifies as a career offender if the defendant was at least 18 years old at the time he or she committed the instant offense, the instant offense of conviction is a felony that is either a crime of violence or a controlled substance offense, and the defendant has at least two such prior convictions. See USSG §4B1.1(a). Offenders convicted of an offense under section 924(c) and who qualify as career criminals receive a guideline range of 360 months to life imprisonment, with lower ranges for offenders who also receive a reduction for acceptance (262–327 months for a 3-level reduction, and 292–365 months for a 2-level reduction). See USSG §4B1.1(c). For career offenders convicted of multiple counts of an offense under section 924(c), §4B1.1 provides that the guideline range is the greater of the range determined by the separate career offender sentencing table, or the range that results by adding the mandatory minimum penalties “to the minimum and the maximum of the otherwise applicable guideline range determined” for the non-section 924(c) counts. See USSG §4B1.1(c)(2).

⁷¹⁵ See 18 U.S.C. § 924(e)(1). The definitions of “violent felony” and “serious drug offense” require only that the prior offense be “punishable” by a term of more than one year of imprisonment, or a term of at least ten years of imprisonment, respectively. See 18 U.S.C. § 924(e)(2). ACCA does not contain limitation on the date of the predicate offense conviction, meaning that an offender may be subject to the mandatory minimum penalty on account of offenses committed many years or even decades earlier. See *id.*

⁷¹⁶ 18 U.S.C. § 922(g).

Section 924(e) is a sentencing enhancement for committing an offense under section 922(g). Section 924(e) therefore does not establish a separate criminal offense,⁷¹⁷ and its application does not infringe on the defendant’s Sixth Amendment rights because the fact of a prior conviction need not be proven to a jury beyond a reasonable doubt.⁷¹⁸ The statute does not prescribe a formal procedure the government must follow when it intends to seek an enhancement pursuant to section 924(e), though due process requires that the defendant be afforded some notice that the enhancement may apply.⁷¹⁹ All other determinations necessary to apply the enhancement, including whether the predicate conviction was a “crime of violence” or “drug trafficking offense,” are questions of law.⁷²⁰ If a defendant qualifies as an armed career criminal, the court must impose the 15-year mandatory minimum penalty.⁷²¹

The guideline applicable to offenders who qualify as armed career criminals, §4B1.4, assigns a base offense level of 33, or a base offense level of 34 if the defendant used or possessed a firearm in connection with a crime of violence or a controlled substance offense, or if the firearm was of a particularly dangerous type. Alternatively, §4B1.4 uses the offender’s otherwise applicable offense level if it is higher than level 33 or 34. Section 4B1.4 further assigns a criminal history category that is the greatest of: Category IV; Category VI if the defendant used or possessed a firearm in connection with a crime of violence or a controlled substance offense, or if the firearm was of a particularly dangerous type; or the offender’s otherwise applicable criminal history category.

3. *The Categorical Approach*

Section 924(c) and ACCA require that the offender have committed certain underlying or predicate offenses, specifically a “crime of violence” or a “drug trafficking crime” (for section 924(c) to apply), or a “violent felony” or a “serious drug offense” (for ACCA to apply). The statutes further define those terms, or reference other statutes that define them. To determine whether the offender’s underlying or predicate offense meets the statutory definitions, the court uses the “categorical approach” articulated by the Supreme Court in *Taylor v. United States*.⁷²²

⁷¹⁷ See *Custis v. United States*, 511 U.S. 485, 490 (1994); *United States v. Stone*, 306 F.3d 241, 243 & n.2 (5th Cir. 2002) (collecting cases).

⁷¹⁸ See *Apprendi v. New Jersey*, 530 U.S. 466, 490 (2000) (“Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.”); *United States v. Greer*, 440 F.3d 1267, 1273 (11th Cir. 2006).

⁷¹⁹ See *United States v. Mack*, 229 F.3d 226, 231 (3d Cir. 2000) (“[T]he ACCA does not require formal, pretrial notice. Thus, only notice necessary to satisfy constitutional due process requirements need be given.” (citations omitted)).

⁷²⁰ See, e.g., *United States v. Dancy*, 640 F.3d 455, 464-65 (1st Cir. 2011); *United States v. Canty*, 570 F.3d 1251, 1254-55 (11th Cir. 2009).

⁷²¹ *United States v. Johnson*, 973 F.2d 857, 860 (10th Cir. 1992) (“Once the sentencing court was aware that the requirements of § 924(e)(1) were satisfied, the enhancement was mandatory.”); *United States v. Anderson*, 921 F.2d 335, 337 (1st Cir. 1990) (“If the requisite preconditions [of section 924(e)] are present, the district court must impose a sentence at or above the congressionally mandated minimum.”).

⁷²² 495 U.S. 575, 602 (1990).

Under the categorical approach, the court looks only to the fact of the conviction and statutory elements of the offense, without regard to particular facts underlying the conviction.⁷²³ When the statutory elements establish alternative modes of committing an offense, only some of which qualify as an underlying or predicate offense for purposes of section 924(c) or ACCA, the court may also look to the charging documents, jury instructions, and documents related to the guilty plea in the prior case.⁷²⁴ There has been extensive litigation over whether particular state and federal crimes qualify as underlying and predicate offenses, producing criticisms of both the statutory definitions and the categorical approach itself.⁷²⁵

C. MANDATORY MINIMUM PENALTIES FOR SECTION 924(c) OFFENSES

Of the 73,239 offenders included in this analysis, 2,294 (3.1%) were convicted of an offense under section 924(c). Of the 2,294 offenders convicted of an offense under section 924(c), 2,147 (93.6%) were convicted of a single count of an offense under section 924(c) and 147 (6.4%) were convicted of multiple counts of an offense under section 924(c).

The sentences imposed on a majority of offenders convicted of a single count of an offense under section 924(c) were governed by the statute's five-year mandatory minimum for using or carrying a firearm during, or possessing a firearm in furtherance of, the predicate offense. Of the 2,147 offenders convicted of a single count of an offense under section 924(c) in fiscal year 2010, the five-year mandatory minimum penalty applied in 1,391 (64.8%) cases; the seven-year mandatory minimum penalty for brandishing a firearm applied in 488 (22.7%) cases; and the ten-year mandatory minimum penalty applied in another 188 (8.8%) cases because the offender either discharged the firearm or because the offense involved a short-barreled rifle, short-barreled shotgun, or a semiautomatic assault weapon. In 71 cases (3.3%) a mandatory minimum penalty of more than ten years applied either because it was the second or subsequent conviction of that offender for an offense under 924(c), or the instant offense involved a machinegun, destructive device, or firearm equipped with a silencer or muffler. Finally, in nine cases (0.4%), the life mandatory minimum penalty applied because it was the second or subsequent conviction of that offender and the offense involved a machinegun, destructive device, or firearm equipped with a silencer or muffler.

Most offenders convicted of multiple counts of an offense under section 924(c) were convicted of two such counts. Of the 147 offenders convicted of multiple counts of an offense under section 924(c) in fiscal year 2010, 110 (74.8%) were convicted of two counts of an

⁷²³ *See id.*

⁷²⁴ *See id.*; *see also* *Shepard v. United States*, 544 U.S. 13, 26 (2005).

⁷²⁵ *See, e.g., Chambers v. United States*, 555 U.S. 122, 133-34 (2009) (Alito, J., concurring) (“After almost two decades with *Taylor*’s “categorical approach,” only one thing is clear: ACCA’s residual clause is nearly impossible to apply consistently. Indeed, the “categorical approach” to predicate offenses has created numerous splits among the lower federal courts, the resolution of which could occupy this Court for years.”); *James v. United States*, 550 U.S. 192, 216 (2007) (Scalia, J., dissenting) (“Years of prison hinge on the scope of ACCA’s residual provision, yet its boundaries are ill defined.”).

offense under section 924(c), 12 (8.2%) were convicted of three counts, nine (6.1%) were convicted of four counts, and 16 (10.9%) were convicted of five or more counts.

1. *Demographic Characteristics*

Table 9-1 compares the demographic characteristics of all offenders convicted of an offense under section 924(c) with the demographic characteristics of offenders subject to the mandatory minimum penalties under section 924(c) at sentencing because they did not receive relief for rendering substantial assistance to authorities, and the demographic characteristics of offenders convicted of multiple counts of an offense under section 924(c). Table 9-1 shows that Black, male, and United States citizen offenders were convicted of an offense under section 924(c), were subject to the mandatory minimum penalty at sentencing, and were convicted of multiple counts of an offense under section 924(c), at higher rates than offenders with other demographic characteristics.

Table 9-2 presents information about the criminal histories of those groups of offenders. In fiscal year 2010, 12.2 percent (n=280) of offenders convicted of an offense under section 924(c) were sentenced as career offenders pursuant to §4B1.1(c).

Table 9-1
Demographic Characteristics of Offenders Convicted of 18 U.S.C. § 924(c)
Fiscal Year 2010

Demographics	Convicted of 18 U.S.C. § 924(c)	Subject to 18 U.S.C. § 924(c) at Sentencing	Convicted of Multiple Counts of 18 U.S.C. § 924(c)
Total (# of offenders)	2,294	1,733	147
Race of Offender (Percent)			
White	20.1	20.0	15.1
Black	55.9	55.7	61.0
Hispanic	21.0	21.0	21.2
Other	3.1	3.2	2.7
Citizenship of Offender (Percent)			
United States Citizen	86.7	87.3	84.4
Non-Citizen	13.3	12.7	15.6
Gender of Offender (Percent)			
Male	97.1	97.9	99.3
Female	2.9	2.1	0.7

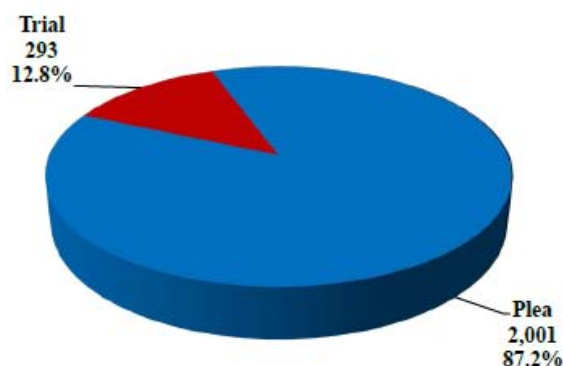
**Table 9-2
Criminal History of Offenders Convicted of 18 U.S.C. § 924(c)
Fiscal Year 2010**

Criminal History Category	Convicted of 18 U.S.C. § 924(c)	Subject to 18 U.S.C. § 924(c) at Sentencing	Convicted of Multiple Counts of 18 U.S.C. § 924(c)
Total (# of offenders)	2,294	1,733	147
Criminal History Category (Percent)			
I	29.9	27.9	22.1
II	12.9	12.4	11.0
III	18.4	19.1	20.0
IV	12.2	13.2	17.9
V	6.4	6.8	8.3
VI	20.1	20.6	20.7

2. *Guilty Pleas and Trials*

Offenders convicted of an offense under section 924(c) were more likely to proceed to trial than offenders convicted of an offense carrying a mandatory minimum penalty generally. In fiscal year 2010, 12.8 percent (n=293) of offenders convicted of an offense under section 924(c) proceeded to trial, compared to only 5.9 percent (n=1,181) of all offenders convicted of an offense carrying a mandatory minimum penalty. See Figure 9-1.

**Figure 9-1
Plea and Trial Rate for Firearm Offenders Convicted of an Offense Under
18 U.S.C. § 924(c)
Fiscal Year 2010**



SOURCE: U.S. Sentencing Commission, 2010 Datafile, USSCFY10.

Offenders convicted of multiple counts of an offense under section 924(c) were much more likely to proceed to trial than offenders convicted of a single count of an offense under section 924(c). Of the 147 offenders convicted of multiple counts of an offense under section 924(c) in fiscal year 2010, 34.7 percent (n=51) proceeded to trial. In contrast, of the 2,147 offenders convicted of a single count of an offense under section 924(c), 11.3 percent (n=242) proceeded to trial. Thus, the trial rate for offenders convicted of multiple counts of an offense under section 924(c) was three times higher than the trial rate for offenders convicted of only a single count of an offense under section 924(c), and nearly six times higher than the trial rate for all offenders convicted of an offense carrying a mandatory minimum penalty.

3. *Geographic Variations*

Cases involving a conviction of an offense under section 924(c) were primarily concentrated in three circuits. Of the 2,294 cases in fiscal year 2010 that involved a conviction of an offense under section 924(c), 520 (22.7%) were from the district courts in the Fourth Circuit, 338 (14.7%) were from the district courts in the Eleventh Circuit, and 263 (11.5%) were from the district courts in the Sixth Circuit. Thus, nearly half (48.9%, n=1,121) of the 2,294 cases involving a conviction of an offense under section 924(c) came from the district courts in those three circuits.⁷²⁶ By way of comparison, 23.8 percent of all federal criminal cases reported to the Commission for fiscal year 2010 came from the district courts in those three circuits.⁷²⁷

Cases involving a conviction of an offense under section 924(c) were similarly geographically concentrated when viewed at the district level. In fiscal year 2010, 12 districts reported 43.8 percent of the cases involving a conviction of an offense under section 924(c) (and only five of those districts reported having at least 100 such cases). Those districts were: Eastern Pennsylvania (5.8% of all 924(c) cases, n=134); Eastern North Carolina (5.5%, n=126); Middle Florida (5.4%, n=123), Eastern Virginia (4.6%, n=105); South Carolina (4.5%, n=104); Eastern Tennessee (3.0%, n=69); Southern Florida (2.9%, n=66); Southern New York (2.7%, n=62); Middle North Carolina (2.6%, n=60); Central California (2.3%, n=53); Eastern New York (2.2%, n=51); and Western Texas (2.2%, n=51).⁷²⁸ See Figure 9-2. By comparison, those districts reported 28.6 percent of all federal criminal cases heard in fiscal year 2010.⁷²⁹ Thirty-eight districts reported having ten or fewer cases involving a conviction of an offense under section 924(c).⁷³⁰

⁷²⁶ See Table D-14 (Mandatory Minimum Status for 18 U.S.C. § 924(c) Offenders in Each Circuit and District (Fiscal Year 2010)) in Appendix D of this Report.

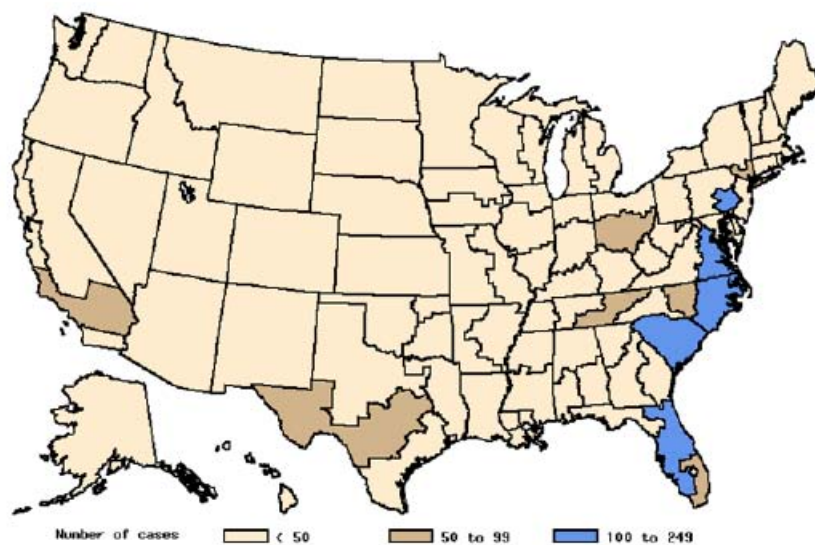
⁷²⁷ See Table D-1 (Mandatory Minimum Status of Cases in Each Circuit and District (Fiscal Year 2010)) in Appendix D of this Report.

⁷²⁸ See Table D-14 in Appendix D of this Report.

⁷²⁹ See Table D-1 in Appendix D of this Report.

⁷³⁰ See Table D-14 in Appendix D of this Report.

Figure 9-2
Number of Offenders Convicted of an Offense Under 18 U.S.C. § 924(c)
By District
Fiscal Year 2010



SOURCE: U.S. Sentencing Commission, 2010 Datafile, USSCFY10.

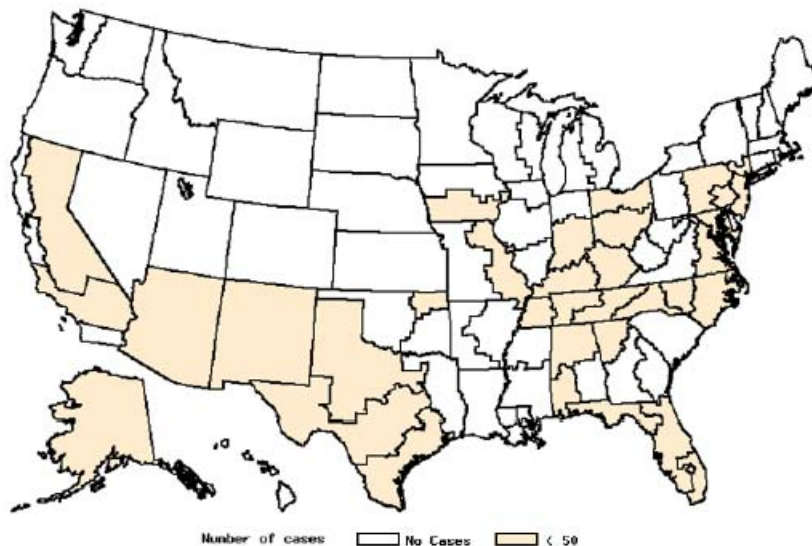
Cases involving a conviction of an offense under section 924(c) constituted varying percentages of the districts' criminal case docket. Three districts had over ten percent of their overall caseload involving a conviction of an offense under 924(c): Eastern North Carolina (18.1%, n=126), Eastern Pennsylvania (15.0%, n=134) and Middle North Carolina (11.0%, n=60). Conversely, ten districts had less than one percent of their overall caseload involving a conviction of an offense under section 924(c): Northern Mariana Islands (0.0%, n=0), Southern California (0.1%, n=3), Southern Texas (0.2%, n=16), Northern Iowa (0.3%, n=1), Northern West Virginia (0.4%, n=1), Massachusetts (0.5%, n=2), Arizona (0.7%, n=35), New Mexico (0.7%, n=24), Western Texas (0.8%, n=51), and Western Arkansas (0.8%, n=2).

The Commission further analyzed the geographic distribution of cases involving convictions of multiple section 924(c) counts. This analysis shows that cases involving convictions of multiple section 924(c) counts were more geographically concentrated than cases involving a conviction of an offense under section 924(c) as a whole, particularly when viewed at the district level. In fiscal year 2010, the ten districts that reported the highest number of the 147 cases involving multiple convictions of section 924(c) accounted for 62.7 percent of all such cases. Those districts were: Eastern Pennsylvania (13.6%, n=20); Southern New York (10.2%, n=15); Middle Florida (6.8%, n=10); Eastern Virginia (6.1%, n=9); Eastern Tennessee (4.8%, n=7); Northern Georgia (4.8%, n=7); Eastern North Carolina (4.1%, n=6); Northern Texas (4.1%, n=6); Eastern Kentucky (4.1%, n=6); Southern Florida (4.1%, n=6).⁷³¹ By contrast, 59

⁷³¹ The remaining districts that reported at least one case involving convictions of multiple section 924(c) counts were: Arizona (5), Northern Florida (5), Eastern California (4), Southern Ohio (4), Northern Alabama (3), Central California (3), Southern Indiana (3), Maryland (3), Middle Tennessee (3), Western Tennessee (3), New Jersey (2), Eastern New York (2), Middle Pennsylvania (2), Eastern Oklahoma (2), Southern Alabama (1), Alaska (1), Southern

districts each reported no cases involving multiple convictions of an offense under section 924(c), and 11 districts each reported only one such case.⁷³² See Figure 9-3.

Figure 9-3
Number of Offenders Convicted of Multiple Offenses Under 18 U.S.C. § 924(c)
By District
Fiscal Year 2010



SOURCE: U.S. Sentencing Commission, 2010 Datafile, USSCFY10.

4. *Other Counts of Conviction*

Of the 2,294 offenders convicted of an offense under section 924(c) in fiscal year 2010, 2,025 (88.2%) were convicted of at least one additional felony offense. The type of additional felony offense in these cases can be determined by reference to the primary guideline provision applicable at sentencing. Of the 2,025 offenders convicted of a least one additional felony offense, 54.9% (n=1,112) were sentenced pursuant to §2D1.1, 29.9% (n=605) were sentenced pursuant to §2B3.1; 6.4% (n=129) were sentenced pursuant to §2K2.1; and 2.3% (n=46) were sentenced pursuant to §2A1.1 (First Degree Murder). The remaining 133 offenders were sentenced pursuant to various other guideline provisions. Of the 2,025 section 924(c) offenders convicted of additional offenses, 40.6 percent (n=823) were convicted of an additional offense that carried a mandatory minimum penalty.

The Commission further analyzed the other counts of conviction of offenders convicted of multiple counts of an offense under section 924(c). Of the 147 offenders convicted of multiple counts of an offense under section 924(c) in fiscal year 2010, 128 were convicted of at least one additional felony offense. Of those 128 offenders, 60.9% (n=78) were sentenced

Iowa (1), Western Kentucky (1), Eastern Missouri (1), New Mexico (1), Middle North Carolina (1), Western North Carolina (1), Northern Ohio (1), Southern Texas (1), and Western Texas (1).

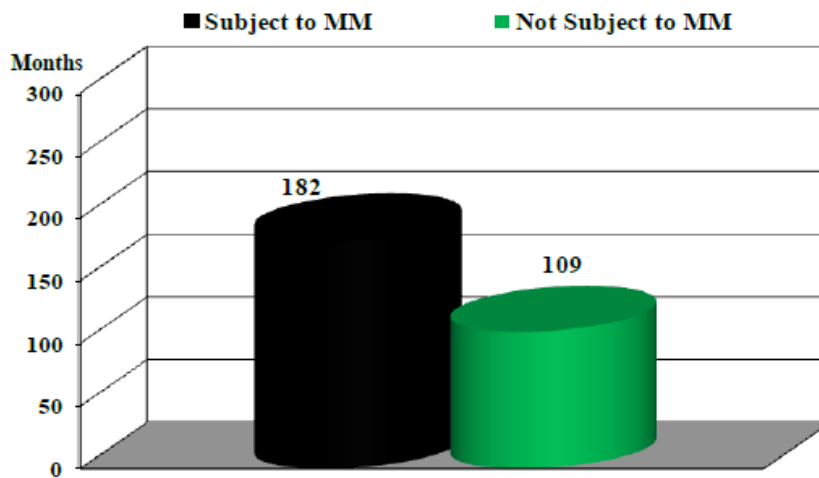
⁷³² *Id.*

pursuant to §2B3.1; 17.2% (n=22) were sentenced pursuant to §2D1.1; 6.2% (n=8) were sentenced pursuant to §2A1.1; 7.8% (n=10) were sentenced pursuant to other Chapter 2, Part A (Offenses Against the Person) guidelines; and 2.3% (n=3) were sentenced pursuant to §2S1.1 (Laundering of Monetary Instruments; Engaging in Monetary Transactions in Property Derived from Unlawful Activity).

5. *Sentence Length*

In fiscal year 2010, the average sentence for offenders convicted of an offense under section 924(c) who were subject to the mandatory minimum penalty was 182 months. The average sentence for offenders convicted of an offense under section 924(c) but who were relieved of the mandatory minimum penalty was 109 months. See Figure 9-4. The length of the sentence necessarily includes both the consecutive penalty imposed for conviction of an offense under section 924(c), as well as other counts of conviction (including offenses that served as underlying crimes for the section 924(c) offense).

Figure 9-4
Average Sentence Length for Firearm Offenders Convicted of an Offense Under
18 U.S.C. § 924(c)
Fiscal Year 2010



SOURCE: U.S. Sentencing Commission, 2010 Datafile, USSCFY10.

Offenders convicted of multiple counts of an offense under section 924(c) received sentences that were approximately twice as long as the sentences received by offenders convicted of a single count of an offense under section 924(c). In fiscal year 2010, the average sentence for offenders convicted of multiple counts of an offense under section 924(c) was 351 months, which was more than twice the average sentence of 151 months that offenders convicted of a single count of an offense under section 924(c) received. The average sentence for offenders convicted of multiple counts of an offense under section 924(c) who were relieved of the mandatory minimum penalties was 198 months, which was nearly twice the average sentence of 100 months received by offenders convicted of a single count of an offense under section 924(c) who were relieved of the mandatory minimum penalty.

Table 9-3 compares the position of sentences relative to the guideline range for all offenders convicted of an offense under section 924(c), offenders subject to the mandatory minimum penalties for an offense under section 924(c) at sentencing, and offenders convicted of multiple counts of an offense under section 924(c).

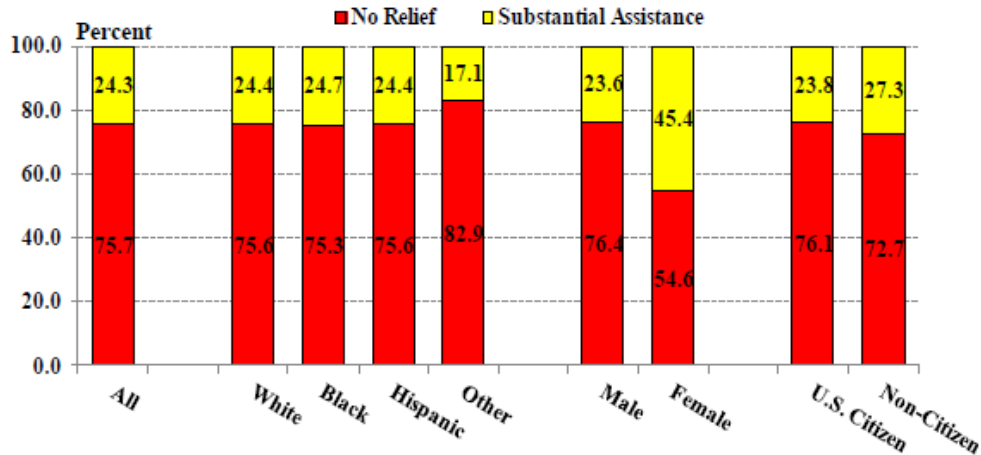
Table 9-3
Position Relative to the Guideline Range of Offenders Convicted of 18 U.S.C. § 924(c)
Fiscal Year 2010

Position Relative to the Guidelines	Convicted of 18 U.S.C. § 924(c)	Subject to 18 U.S.C. § 924(c) at Sentencing	Convicted of Multiple Counts of 18 U.S.C. § 924(c)
Total (# of offenders)	2,294	1,733	147
Sentence Relative to the Guideline Range (Percent)			
Within Range	48.2	63.8	41.5
Above Range	4.8	6.3	1.4
Substantial Assistance §5K1.1	24.3	0.0	36.7
Other Government Sponsored (no §5K1.1)	3.9	5.1	2.8
Other Below Range	18.8	24.8	17.7

6. *Relief from the Mandatory Minimum Penalty*

In fiscal year 2010, 24.3 percent of offenders convicted of an offense under section 924(c) were relieved of the mandatory minimum penalty at sentencing pursuant to 18 U.S.C. § 3553(e) because they rendered substantial assistance to the government. *See* Figure 9-5. Offenders convicted of multiple counts of an offense under section 924(c) were relieved of the mandatory minimum penalty at a higher rate (36.7%). Figure 9-5 presents the demographic characteristics of offenders convicted of an offense under section 924(c) and the rates of relief from the mandatory minimum penalty. Although there are generally only minimal differences in the rates of relief by demographic characteristic among offenders, female offenders convicted of an offense under section 924(c) obtained relief from the mandatory minimum penalty nearly twice as often as male offenders (45.4% compared to 23.6%).

Figure 9-5
Percent of Firearm Offenders Convicted of an Offense Under 18 U.S.C. § 924(c)
Who Were Relieved of the Penalty
Fiscal Year 2010



SOURCE: U.S. Sentencing Commission, 2010 Datafile, USSCFY10.

7. Guidelines Compared

To assess the effect of section 924(c)'s mandatory minimum penalties on sentencing outcomes relative to the guidelines, the Commission undertook additional analyses comparing the 1,112 offenders convicted of an offense under section 924(c) who were also sentenced under §2D1.1,⁷³³ with offenders sentenced pursuant to §2D1.1 who received a 2-level enhancement under the guidelines for possessing a dangerous weapon.⁷³⁴ These analyses compared the trial rates and average sentence length for those groups of offenders.

Section 924(c) offenders who were also sentenced under §2D1.1 proceeded to trial more often and received longer sentences than offenders who were sentenced pursuant to §2D1.1 and received the 2-level dangerous weapon enhancement. In fiscal year 2010, 10.2 percent of section 924(c) offenders who were also sentenced under §2D1.1 proceeded to trial, compared to 5.4 percent of offenders who received the §2D1.1 dangerous weapon enhancement. Section 924(c) offenders who were also sentenced under section §2D1.1 received an average sentence of 147 months, which was 27.8 percent longer than the average sentence of 115 months given to offenders who received the §2D1.1 dangerous weapon enhancement.

⁷³³ Fifteen of the 1,112 offenders (1.4%) also received a 2-level enhancement under §2D1.1(b)(1). There are some circumstances in which an offender may be convicted of an offense under section 924(c) and also receive the 2-level enhancement under §2D1.1(b)(1), such as when the offender is also held responsible for the possession of a dangerous weapon for an offense that was not an "underlying offense" for purposes of section 924(c). See USSG §2K2.4, comment. (n.4) (explaining that if a sentence is imposed for conviction of an offense under section 924(c), the court should "not apply any specific offense characteristics for possession . . . of an explosive or firearm when determining the sentence for the underlying offense.").

⁷³⁴ For additional discussion of the §2D1.1(b)(1) 2-level dangerous weapon enhancement, and for further comparison of the enhancement to section 924(c), see *supra* Chapter 3.

Both groups of offenders, however, received sentences below the applicable guideline range at comparable rates. Offenders convicted of an offense under section 924(c) received below range substantial assistance sentences in 28.3 percent of cases; other government sponsored below range sentences in 4.7 percent of cases; and other below range sentences in 21.7 percent of cases. Similarly, offenders who received the 2-level dangerous weapon enhancement obtained below range substantial assistance sentences in 28.1 percent of cases; other government sponsored below range sentences in 6.1 percent of cases, and other below range sentences in 19.4 percent of cases.

The Commission further compared the racial characteristics of offenders in each group. Of the offenders convicted of an offense under section 924(c) who were also sentenced under §2D1.1, 607 (54.7%) were Black, 266 (24.0%) were Hispanic, 212 (19.1%) were White, and 25 (2.2%) were Other Race offenders. Of the offenders sentenced pursuant to §2D1.1 who received a 2-level enhancement under the guidelines for possessing a dangerous weapon, 1,068 (40.8%) were Black, 880 (33.6%) were Hispanic, 613 (23.4%) were White, and 58 (2.2%) were Other Race offenders.

D. MANDATORY MINIMUM PENALTIES UNDER THE ARMED CAREER CRIMINAL ACT

Of the 73,239 offenders included in this analysis, 592 (0.8%) qualified as an armed career criminal under ACCA.⁷³⁵ Of those 592 offenders, 369 (62.3%) were convicted only of an offense under 18 U.S.C. § 922(g). An additional 53 offenders who qualified as armed career criminals under ACCA were also convicted of an offense under section 924(c).

1. Demographic Characteristics

Table 9-4 provides the demographic characteristics of offenders who qualified as armed career criminals under ACCA and of those offenders who were subject to ACCA's 15-year mandatory minimum penalty at sentencing. Table 9-5 displays information about the criminal history categories for these groups of offenders.

⁷³⁵ For purposes of this chapter, the term “qualified as an armed career criminal under ACCA” means that the court found that the 15-year mandatory minimum penalty established at 18 U.S.C. § 924(e) applied to the offender, but does not denote whether the offender obtained relief from the mandatory minimum penalty for rendering substantial assistance pursuant to 18 U.S.C. § 3553(e). Offenders who qualified as armed career criminals under ACCA but did not obtain relief are “subject to” the mandatory minimum penalty. *See supra* Chapter 3.

**Table 9-4
Demographic Characteristics of Offenders Subject to Armed Career Criminal Act
Fiscal Year 2010**

	All Offenders Qualifying for Armed Career Criminal Mandatory Minimum Penalty	Subject to Armed Career Criminal Mandatory Minimum Penalty
Total (# of offenders)	592	489
Race of Offender (Percent)		
White	29.5	29.1
Black	63.7	63.9
Hispanic	5.2	5.5
Other	1.5	1.4
Citizenship of Offender (Percent)		
United States Citizen	98.6	98.6
Non-Citizen	1.4	1.4
Gender of Offender (Percent)		
Male	99.3	99.2
Female	0.7	0.8

**Table 9-5
Criminal History of Offenders Subject to Armed Career Criminal Act
Fiscal Year 2010**

	All Offenders Qualifying for Armed Career Criminal Mandatory Minimum Penalty	Subject to Armed Career Criminal Mandatory Minimum Penalty
Total (# of offenders)	592	489
Criminal History Category (Percent)		
I	0.0	0.0
II	0.0	0.0
III	0.0	0.0
IV	16.7	15.1
V	11.0	11.2
VI	72.3	73.6

2. *Guilty Pleas and Trials*

Offenders who qualified as armed career criminals under ACCA were much more likely to proceed to trial than offenders convicted of an offense carrying a mandatory minimum penalty as a whole. Of the 592 offenders who qualified as armed career criminals under ACCA in fiscal year 2010, 103 (17.4%) proceeded to trial, compared to 5.9 percent of all offenders convicted of an offense carrying a mandatory minimum penalty.

3. *Geographic Variations*

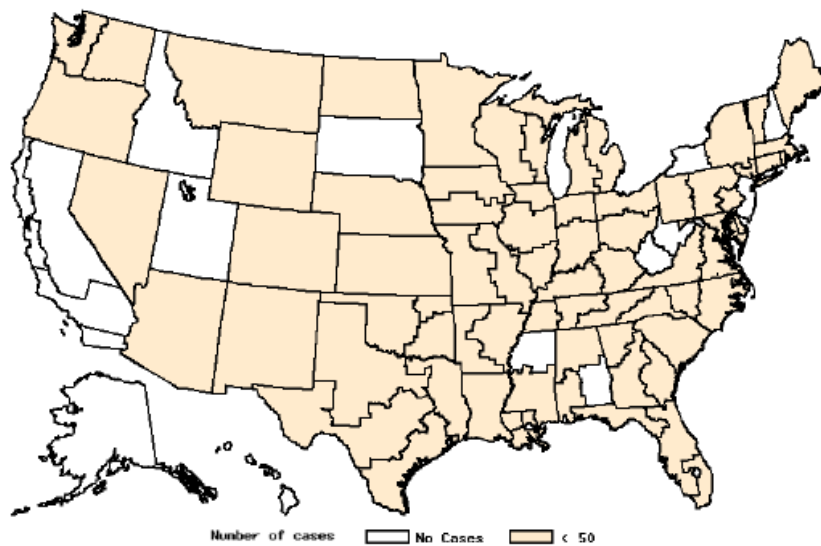
Cases involving offenders who qualified as armed career criminals under ACCA were geographically concentrated in a few circuits. Of the 592 cases in fiscal year 2010 that involved an offender who qualified as an armed career criminal under ACCA, 191 (32.3%) were from the district courts in the Fourth Circuit and 124 (20.9%) were from the district courts in the Eleventh Circuit. Thus, district courts in two circuits accounted for more than half of the cases that involved an offender who qualified as an armed career criminal under ACCA.⁷³⁶ By way of comparison, 16.7 percent of all federal criminal cases reported to the Commission for fiscal year 2010 came from the district courts in those two circuits.⁷³⁷

⁷³⁶ See Table D-15 (Mandatory Minimum Status for Armed Career Criminal Offenders in Each Circuit and District (Fiscal Year 2010)) in Appendix D of this Report.

⁷³⁷ See Table D-1 in Appendix D of this Report.

Cases involving offenders who qualified as armed career criminals under ACCA were also geographically concentrated when viewed at the district level. In fiscal year 2010, the ten districts with the highest number of cases involving offenders who qualified as armed career criminals under ACCA reported 47.9 percent of all such cases. Those districts were: Middle North Carolina (6.8%, n=40); Middle Florida (5.9%, n=35); South Carolina (5.7%, n=34); Southern Florida (5.1%, n=30); Eastern Pennsylvania (4.6%, n=27); Maryland (4.4%, n=26); Western Tennessee (4.2%, n=25); Eastern Tennessee (3.9%, n=23); Eastern Missouri (3.7%, n=22); and Northern Georgia (3.6%, n=21).⁷³⁸ By way of comparison, those districts reported 14.1 percent of all federal criminal cases heard in fiscal year 2010.⁷³⁹ Fourteen districts each reported having no cases involving an offender who qualified as an armed career criminal under ACCA in fiscal year 2010.⁷⁴⁰ See Figure 9-6.

Figure 9-6
Number of Offenders Subject to Armed Career Criminal Provision
By District
Fiscal Year 2010



SOURCE: U.S. Sentencing Commission, 2010 Datafile, USSCFY10.

Cases involving offenders who qualified as armed career criminals under ACCA constituted only a small percentage of any district’s criminal case docket. In fiscal year 2010, only six of the 94 districts reported that more than 3.5 percent of the total criminal case docket involved offenders who qualified as armed career criminals under ACCA: Middle North Carolina (7.3%, n=40), Western Virginia (4.2%, n=15), Maryland (3.9%, n=26), Western Tennessee (4.0%, n=25), Middle Tennessee (3.9%, n=11), and Massachusetts (3.8%, n=16).

⁷³⁸ See Table D-15 in Appendix D of this Report.

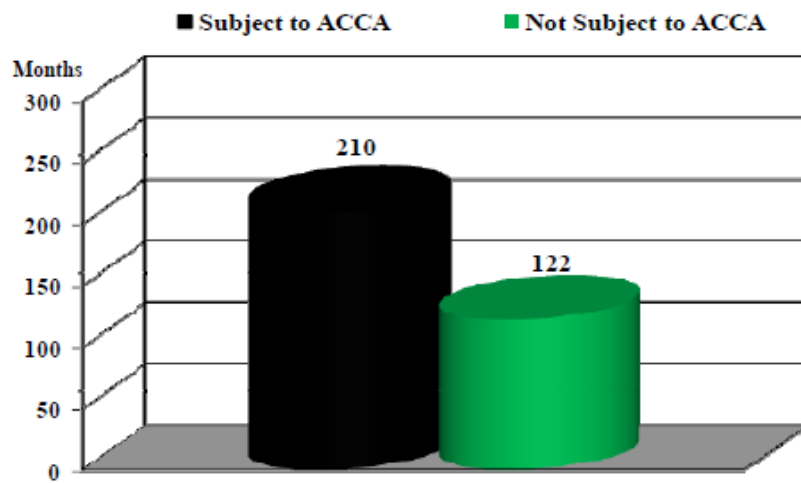
⁷³⁹ See Table D-1 in Appendix D of this Report.

⁷⁴⁰ See Table D-15 in Appendix D of this Report.

4. *Sentence Information*

In fiscal year 2010, the average sentence for offenders who qualified as armed career criminals under ACCA and who remained subject to the mandatory minimum penalty was 210 months. The average sentence for offenders who qualified as armed career criminals under ACCA but who were relieved of the mandatory minimum penalty for rendering substantial assistance to authorities was 122 months. See Figure 9-7.

Figure 9-7
Average Sentence Length for Offenders Subject to Armed Career Criminal Provision
Fiscal Year 2010



SOURCE: U.S. Sentencing Commission, 2010 Datafile, USSCFY10.

Table 9-6 provides the position of sentences relative to the guideline range for all offenders who qualified as armed career criminals under ACCA and for those offenders still subject to the mandatory minimum penalty at sentencing.

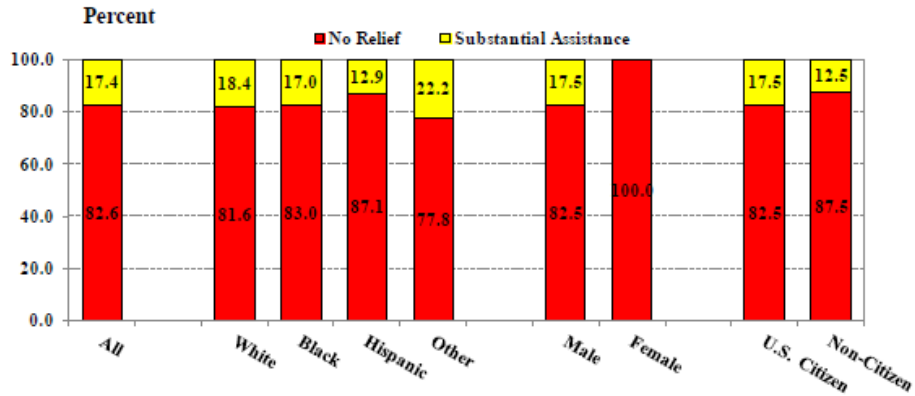
Table 9-6
Position Relative to the Guideline Range of Offenders
Subject to Armed Career Criminal Provisions
Fiscal Year 2010

	All Offenders Qualifying for Armed Career Criminal Mandatory Minimum Penalty	Subject to Armed Career Criminal Mandatory Minimum Penalty
Total (# of offenders)	592	489
Sentence Relative to the Guideline Range (Percent)		
Within Range	62.8	76.1
Above Range	1.5	1.8
Substantial Assistance §5K1.1	17.4	0.0
Other Government Sponsored (no §5K1.1)	5.2	6.3
Other Below Range	13.0	15.8

5. *Relief from the Mandatory Minimum Penalty*

In fiscal year 2010, 17.4 percent of offenders who qualified as an armed career criminal under ACCA were relieved of the mandatory minimum penalty at sentencing pursuant to 18 U.S.C. § 3553(e) because they rendered substantial assistance to the government. *See* Figure 9-8. There were generally only minimal demographic differences in the rates of relief for those offenders, although Hispanic offenders and non-citizen offenders received relief at slightly lower rates than offenders in other demographic groups and United States citizen offenders, respectively. *See* Figure 9-8.

Figure 9-8
Percent of Firearm Offenders Subject to Armed Career Criminal Provision
Who Were Relieved of the Penalty
Fiscal Year 2010



SOURCE: U.S. Sentencing Commission, 2010 Datafile, USSCFY10.

E. PRISON IMPACT

The percentage of prisoners convicted of an offense under section 924(c) has remained relatively steady over time. On September 30, 2010, of the 191,757 offenders in prison, 20,109 (10.5%) were convicted of an offense under section 924(c). Similarly, of the 71,972 offenders in prison on September 30, 1995, 7,425 (10.3%) were convicted of an offense under section 924(c).

The percentage of prisoners qualifying as armed career criminals under ACCA has slowly increased over time. Of the 71,972 offenders in prison on September 30, 1995, 989 (1.4%) qualified as armed career criminals under ACCA. By contrast, of the 191,757 offenders in prison on September 30, 2010, 5,605 (2.9%) qualified as armed career criminals under ACCA.

F. SUMMARY

With respect to mandatory minimum penalties for firearm offenses, Commission analyses demonstrate the following:

Offenses and Offenders

- In fiscal year 2010, 2,294 (3.1%) offenders were convicted of an offense under section 924(c). Of the 2,294 offenders convicted of an offense under section 924(c), 2,147 (93.6%) were convicted of a single count of an offense under section 924(c) and 147 (6.4%) were convicted of multiple counts of an offense under section 924(c).
 - o Over two-thirds of offenders convicted of a single count of an offense under section 924(c) were convicted of offenses carrying a five- or seven-year mandatory minimum penalty (64.8% and 22.7%, respectively). Only 3.7% of

offenders convicted of a single count of an offense under section 924(c) were convicted of offenses carrying a mandatory minimum penalty of more than ten years of imprisonment.

- o More than half of all offenders convicted of an offense under section 924(c) were Black (55.9%). Less than one-quarter (21.0%) were Hispanic, followed by White (20.1%) and Other Race (3.1%) offenders. Among offenders convicted of multiple counts of an offense under section 924(c), 61.0 percent were Black, 21.2 percent were Hispanic, 15.1 percent were White, and 2.7 percent were Other Race.
- o The overwhelming majority of all offenders convicted of an offense under section 924(c) (97.1%) and those offenders convicted of multiple counts of an offense under section 924(c) (99.3%) were male.
- o United States citizens accounted for over 80 percent of all offenders convicted of an offense under section 924(c) (86.7%) and those offenders convicted of multiple counts of an offense under section 924(c) (84.4%).
- In fiscal year 2010, 592 (0.8%) offenders qualified as an armed career criminal under ACCA.
 - o More than 60 percent of the offenders who qualified as an armed career criminal under ACCA were Black (63.7%), followed by White (29.5%), Hispanic (5.2%), and Other Race (1.5%) offenders.
 - o The overwhelming majority of offenders who qualified as an armed career criminal under ACCA were male (99.3%).
 - o United States citizens accounted for 98.6 percent of offenders who qualified as an armed career criminal under ACCA.
- Cases involving a conviction of an offense under section 924(c) or involving offenders who qualified as armed career criminal under ACCA were geographically concentrated.
 - o In fiscal year 2010, 12 districts reported 43.7 percent of the cases involving a conviction of an offense under section 924(c) (and only five of those districts reported having at least 100 such cases).
 - o Cases involving convictions of multiple section 924(c) counts were more geographically concentrated than cases involving a conviction of an offense under section 924(c) as a whole. In fiscal year 2010, the ten districts that reported the highest number of cases involving multiple convictions of section 924(c) accounted for 62.7 percent of all such cases.

- o In fiscal year 2010, the ten districts with the highest number of cases involving offenders who qualified as armed career criminals under ACCA reported 47.9 percent of all such cases.

Application and Relief

- In fiscal year 2010, offenders convicted of an offense under section 924(c) and offenders who qualified as armed career criminals under ACCA proceeded to trial at a higher rate than all offenders convicted of an offense carrying a mandatory minimum penalty (5.9%).
 - o Of the 2,294 offenders convicted of an offense under section 924(c), 12.8 percent (n=293) proceeded to trial.
 - o Of the 147 offenders convicted of multiple counts of an offense under section 924(c) in fiscal year 2010, 34.7 percent (n=51) proceeded to trial. Of the 2,147 offenders convicted of a single count of an offense under section 924(c), 11.3 percent (n=242) proceeded to trial.
 - o Of the 592 offenders who qualified as armed career criminals under ACCA, 17.4 percent (n=103) proceeded to trial.
- In fiscal year 2010, 24.3 percent of offenders convicted of an offense under section 924(c) were relieved of the mandatory minimum penalty at sentencing pursuant to 18 U.S.C. § 3553(e) because they rendered substantial assistance to the government.
 - o Black, White, and Hispanic offenders convicted of an offense under section 924(c) obtained relief at comparable rates (24.7%, 24.4%, and 24.4%, respectively), followed by Other Race offenders (17.1%).
 - o Female offenders constituted only a small percentage of offenders convicted of an offense under section 924(c), but obtained relief from the mandatory minimum penalty at a higher rate (45.4%) than male offenders convicted of such an offense (23.6%).
 - o Non-citizen offenders convicted of an offense under section 924(c) obtained relief from the mandatory minimum penalty at a higher rate (27.3%) than United States citizens convicted of such an offense (23.8%).
 - o Offenders convicted of multiple counts of an offense under section 924(c) were relieved of the mandatory minimum penalty in 36.7% of the cases.
- In fiscal year 2010, 17.4 percent of offenders who qualified as an armed career criminal under ACCA were relieved of the mandatory minimum penalty at sentencing pursuant to 18 U.S.C. § 3553(e) because they rendered substantial assistance to the government.

- In fiscal year 2010, the rate at which offenders received substantial assistance relief varied by race, gender and citizenship.
 - Other Race offenders who qualified as armed career criminals under ACCA obtained relief at the highest rate of any racial group (22.2%), followed by White (18.4%), Black (17.0%), and Hispanic (12.9%) offenders.
 - Male offenders who qualified as armed career criminals under ACCA obtained relief from the mandatory minimum penalty at a higher rate (17.5%) than qualifying female offenders (0.0%).
 - United States citizen offenders who qualified as armed career criminals under ACCA obtained relief from the mandatory minimum penalty at a higher rate (17.5%) than qualifying non-citizen offenders (12.5%).
- Less than half (48.2%) of all offenders convicted of an offense under section 924(c) were sentenced within the applicable guideline range.
 - More than one-quarter (28.2%) of offenders convicted of an offense under section 924(c) received a government sponsored below range sentence, and 18.8 percent received a non-government sponsored below range sentence.
- Over 60 percent (62.8%) of offenders who qualified as armed career criminals under ACCA were sentenced within the applicable guideline range.
 - Nearly one-quarter (22.6%) of offenders who qualified as armed career criminals under ACCA received a government sponsored below range sentence, and 13.0 percent received a non-government sponsored below range sentence.

Sentencing

- In fiscal year 2010, 75.5 percent of offenders convicted of an offense under section 924(c) were subject to the mandatory minimum penalty at sentencing.
- In fiscal year 2010, the rate at which offenders convicted of an offense under section 924(c) were subject to the mandatory minimum penalty at sentencing varied by race, gender and citizenship.
 - Other Race offenders were subject to the mandatory minimum penalty at sentencing most often, in 82.9 percent of their offenses carrying such a penalty, followed by Hispanic (75.6%) and White (75.6%) offenders. Black offenders were subject to the mandatory minimum penalty at sentencing the least often, in 75.3 percent of their cases.

- o Male offenders were subject to the mandatory minimum penalty at sentencing more often than female offenders (76.4% of their cases, compared to 54.6% of cases involving female offenders).
 - o United States citizens were subject to the mandatory minimum penalty at sentencing more often than non-citizens offenders (76.1% of their cases, compared to 72.7% of cases involving non-citizen offenders).
- The average sentence for offenders convicted of an offense under section 924(c) who remained subject to the mandatory minimum penalty (*i.e.*, who did not receive relief for rendering substantial assistance) was 182 months. The average sentence for offenders convicted of an offense under section 924(c) but who were relieved of the mandatory minimum penalty was 109 months. These sentences include the sentence imposed on the underlying offenses and other counts of conviction, if any, in addition to the mandatory minimum penalty under section 924(c).
 - o The average sentence for offenders convicted of a single count of an offense under section 924(c) was 151 months. The average sentence for offenders convicted of a single count of an offense under section 924(c) who were relieved of the mandatory minimum penalty was 100 months.
 - o The average sentence for offenders convicted of multiple counts of an offense under section 924(c) was 351 months. The average sentence for offenders convicted of multiple counts of an offense under section 924(c) who were relieved for the mandatory minimum penalties was 198 months.
- In fiscal year 2010, 82.6 percent of offenders who qualified as armed career criminals under ACCA were subject to the mandatory minimum penalty at sentencing.
- In fiscal year 2010, the rate at which offenders who qualified as armed career criminals under ACCA were subject to the mandatory minimum penalty at sentencing varied by race, gender and citizenship.
 - o Hispanic offenders were subject to the mandatory minimum penalty at sentencing most often, in 87.1 percent of their offenses carrying such a penalty, followed by Black (83.0%) and White (81.6%) offenders. Other Race offenders were subject to the mandatory minimum penalty at sentencing the least often, in 77.8 percent of their cases.
 - o Female offenders were subject to the mandatory minimum penalty at sentencing more often than male offenders (100.0% of their cases, compared to 82.5% of cases involving male offenders).
 - o Non-citizens were subject to the mandatory minimum penalty at sentencing more often than United States citizen offenders (87.5% of their cases, compared to 82.5% of cases involving United States citizen offenders).

- The average sentence for offenders who qualified as armed career criminals under ACCA and who were subject to the mandatory minimum penalty (*i.e.*, who did not receive relief for rendering substantial assistance) was 210 months. The average sentence for offenders who qualified as armed career criminals under ACCA but who were relieved of the mandatory minimum penalty was 122 months.

Prison Impact

- At the end of fiscal year 2010, 10.5 percent of the offenders in the custody of the Bureau of Prisons were convicted of an offense under section 924(c). The percentage of prisoners convicted of an offense under section 924(c) has remained relatively steady over time, constituting 10.3 percent of the federal prison population at the end of fiscal year 1995.
- At the end of fiscal year 2010, 2.9 percent of the offenders in the custody of the Bureau of Prisons qualified as armed career criminals under ACCA. The percentage of prisoners who so qualified has slowly increased over time, rising from 1.4 percent of the federal prison population at the end of fiscal year 1995.

