



Federal Gun Mandatory Minimum Penalties

Mandatory Minimum Penalties for Firearms Offenses in the Federal Criminal Justice System

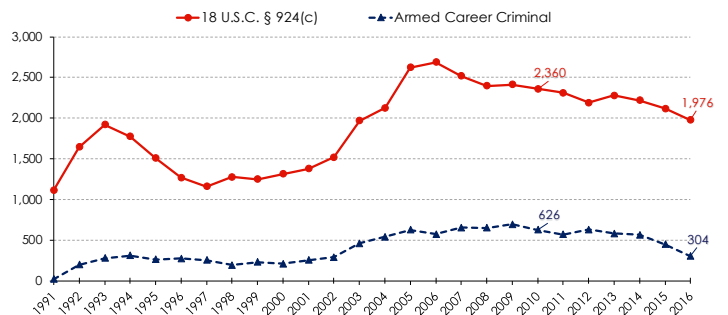
Overview

In March 2018, the Commission issued a new report, *Mandatory Minimum Penalties for Firearms Offenses in the Federal Criminal Justice System*, providing updated sentencing data regarding the use and impact of two firearms statutes carrying mandatory minimum penalties (18 U.S.C. § 924(c), Possessing/Using a Firearm in Furtherance of Drug Trafficking or a Crime of Violence¹ and 18 U.S.C. § 924(e), the Armed Career Criminal Act (ACCA)²). This publication is the third in a series of new reports building on the Commission's *2011 Mandatory Minimum Report*.³ Below are some key findings of the report.

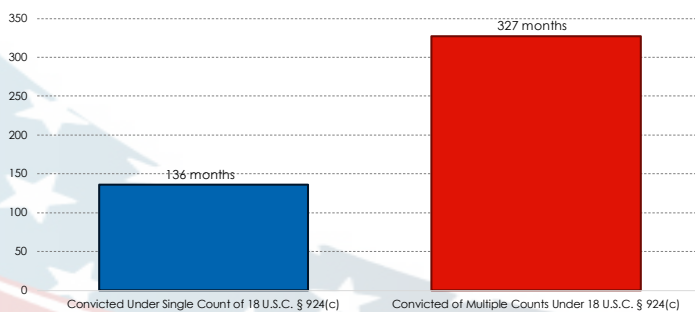
Highlights

- Firearms offenses accounted for 16.8% of all offenses carrying a mandatory minimum penalty in fiscal year 2016.
- While the rate at which firearms offenders were convicted of an offense carrying a mandatory minimum remained relatively stable (30.8% vs. 30.6%), the number of offenders convicted under section 924(c) and ACCA decreased significantly since fiscal year 2010, falling 16.2% and 51.4%.
- Firearms mandatory minimum penalties continued to have a significant impact on the size and composition of the federal prison population. About 15% of all federal inmates⁴ (N=24,905) were convicted of a firearms offense carrying a mandatory minimum penalty.

Number of Firearms Offenders Convicted of an Offense Carrying a Mandatory Minimum Penalty Fiscal Years 1991 - 2016

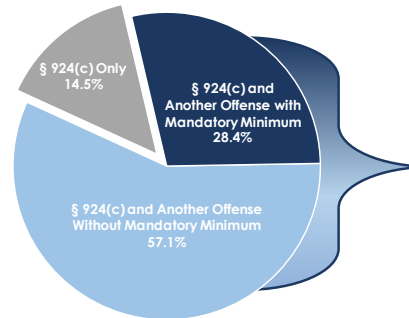


Average Sentence Length for Offenders Convicted of Single and Multiple Counts Under 18 U.S.C. § 924(c) Fiscal Year 2016



- Offenders convicted under a single count of section 924(c) received average sentences of more than 11 years (136 months) of imprisonment.
- Offenders convicted of multiple counts under section 924(c) faced average sentences exceeding 27 years (327 months) of imprisonment—more than twice as long as all offenders convicted of an offense carrying a mandatory minimum penalty.

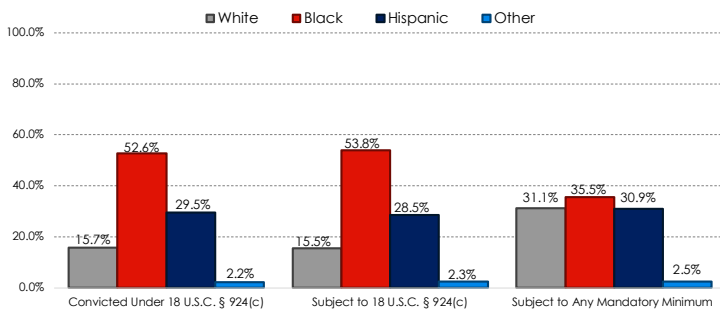
Section 924(c) Offenders By Additional Offenses of Conviction Fiscal Year 2016



Offense	Percent
Drug Trafficking	45.7%
Robbery	31.6%
Another Firearms Offense	8.2%

- Consistent with the statutory requirements of section 924(c), the majority of offenders (85.5%) convicted under this statute were also convicted of another offense (the offense that the firearm was used or possessed in relation to, or in furtherance of).
- However, as a result of charging and plea decisions, 14.5% of offenders who were convicted under section 924(c) only, resulting in an average sentence that was five years shorter than offenders convicted under section 924(c) and another offense.

Race of Offenders Convicted Under & Subject to Section 924(c) at Sentencing Fiscal Year 2016



- In fiscal year 2016, Black offenders were convicted of a firearms offense carrying a mandatory minimum and subject to that penalty more often than any other racial group (52.6% and 53.8%, respectively). Hispanic offenders comprised the next largest group at 29.5% and 28.5%, respectively.
- Black offenders accounted for approximately 70% of offenders convicted of multiple section 924(c) counts and ACCA, which carry the longest average sentences (327 months and 182 months, respectively).

U.S. Sentencing Commission's 2011 Recommendations

The Commission's recent reports build on the Commission's previous reports and publications—particularly, its 2011 report. In the 2011 report, the Commission explained that it “stands ready to work with Congress on measures that can be taken to enhance the strength and effectiveness of the current guidelines system and address the problems with certain mandatory minimum penalties.”

The Commission also made the following recommendations:

- A strong and effective federal sentencing guidelines system best serves the purposes of the Sentencing Reform Act.⁵
- If Congress decides to exercise its power to direct federal sentencing policy by enacting mandatory minimum penalties, such penalties should (1) not be excessively severe, (2) be narrowly tailored to apply only to those offenders who warrant such punishment, and (3) be applied consistently.
- Congress should request prison impact analyses from the Commission as early as possible in its legislative process whenever it considers enacting or amending mandatory minimum penalties.

Endnotes

1. Section 924(c) carries a minimum penalty of five years, seven years, ten years, or 30 years depending on the type of weapon and how it was used. The minimum penalty is 25 years for each subsequent section 924(c) conviction. Section 924(c) penalties run consecutively to any other term of imprisonment imposed.
2. The Armed Career Criminal Act (ACCA) requires a minimum penalty of 15 years if the defendant violates 18 U.S.C. § 922(g) and has three or more convictions for offenses that qualify as either a “violent felony” or “serious drug offense”.
3. See U.S. SENTENCING COMM’N, REPORT TO THE CONGRESS: MANDATORY MINIMUM PENALTIES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM, (Oct. 2011) and U.S. SENTENCING COMM’N, SPECIAL REPORT TO THE CONGRESS: MANDATORY MINIMUM PENALTIES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM (AS DIRECTED BY SECTION 1703 OF PUBLIC LAW 101–647) (Aug. 1991).
4. In custody as of Sept. 30, 2016.
5. Title II, Comprehensive Crime Control Act of 1984, Pub. L. No. 98–473 (1984).

SOURCE: U.S. Sentencing Commission 1991 through 2016 Datafiles, and Bureau of Prisons Combined 1995 through 2016 Datafiles, USSCFY91 – USSCFY16 and USSCBOP.

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