



# Federal Mandatory Minimum Penalties

2017 Overview of Mandatory Minimum Penalties in the Federal Criminal Justice System

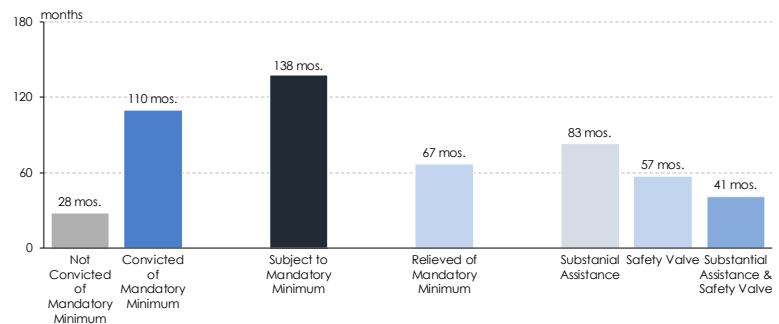
## Overview

In July 2017, the Commission issued an *Overview of Mandatory Minimum Penalties in the Federal Criminal Justice System (2017 Overview)*, which highlights recent developments regarding the charging of offenses carrying a statutory mandatory minimum penalty, and provides updated sentencing data regarding the use and impact of mandatory minimum penalties. This publication builds on the Commission's previous reports and publications—particularly, its *2011 Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System*.<sup>1</sup> The 2017 Overview is the first in a series, with future publications focusing on mandatory minimum penalties for specific offense types. Below are some key findings of the 2017 Overview.

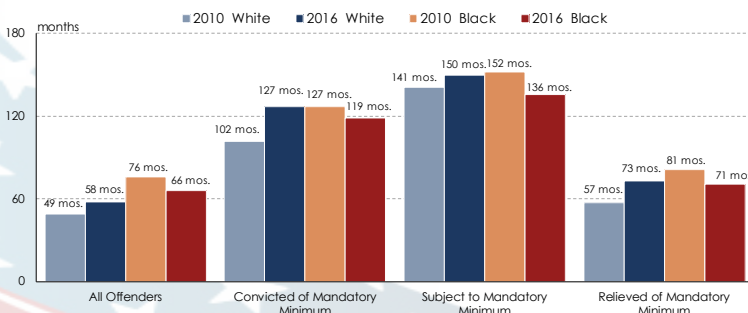
## Highlights

- More than one-fifth of federal offenders sentenced in fiscal year 2016 (21.9%) were convicted of an offense carrying a mandatory minimum penalty. Their average sentence was 110 months of imprisonment, nearly four times the average sentence for offenders whose offense did not carry a mandatory minimum (see chart to the right).
- Mandatory minimum penalties continue to significantly impact the size and composition of the federal prison population. Slightly more than half (55.7%; N=92,870) of federal inmates in custody<sup>2</sup> were convicted of an offense carrying a mandatory minimum penalty.

**Average Sentence Length  
Fiscal Year 2016**



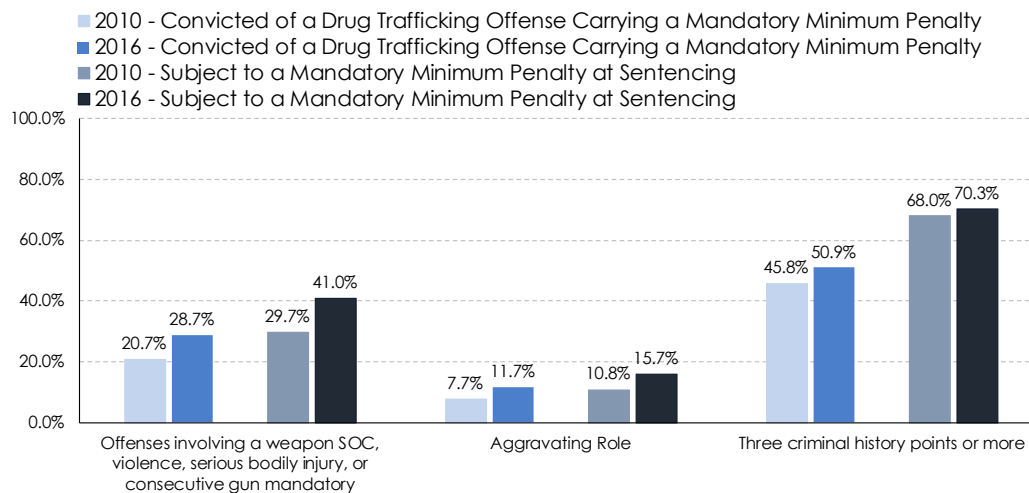
**Average Sentence Length  
By Race**



- While Hispanic offenders continued to represent the largest group of federal offenders convicted of an offense carrying a mandatory minimum penalty (40.4%), White offenders received the longest average sentence (127 months) among those offenders (see chart to the left). This represents a change from fiscal year 2010 when Black offenders convicted of an offense carrying a mandatory minimum penalty had the longest average sentence (127 months).
- In fiscal year 2016, Black offenders and White offenders remained subject to the mandatory minimum penalty at similar rates (73.2% vs. 70.0%). This difference of 3.2 percent compares to a difference of 11.6 percent in fiscal year 2010 (65.1% vs. 53.5%).

- The Commission found that fewer offenders were convicted of an offense carrying a mandatory minimum penalty in fiscal year 2016 than in fiscal year 2010;<sup>3</sup> however, the 2016 offenders appeared to be more serious, as demonstrated by an increase in drug offenses involving the aggravating factors highlighted in the chart below.
- In fiscal year 2016, offenders were less likely to receive relief from a mandatory minimum penalty at sentencing (38.7% compared to 46.7% in fiscal year 2010). This decrease is primarily the result of fewer offenders qualifying for the statutory safety valve because of their criminal history and the presence of other disqualifying aggravating factors in their case.

### Comparison of Selected Sentencing Data Related to the Department of Justice's "Smart on Crime Initiative"<sup>4</sup>



## U.S. Sentencing Commission's 2011 Recommendations

The 2017 *Overview* builds 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 sentencing guidelines system best serves the purposes of the Sentencing Reform Act.<sup>5</sup>
- If Congress decides to exercise its power to direct 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. 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).
2. In custody as of Sept. 30, 2016.
3. The percentage of offenders convicted of an offense carrying a mandatory minimum penalty declined 5.3 percentage points (27.2% in 2010 to 21.9% in 2016).
4. See U.S. DEPT. OF JUSTICE, SMART ON CRIME: REFORMING THE CRIMINAL JUSTICE SYSTEM FOR THE 21ST CENTURY (Aug. 2013).
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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