



Individuals Sentenced Under §4B1.1

Proposed Amendment Data Background

Proposed Amendment

1

Controlled Substance Offenses Definition

2

Crime of Violence Definition

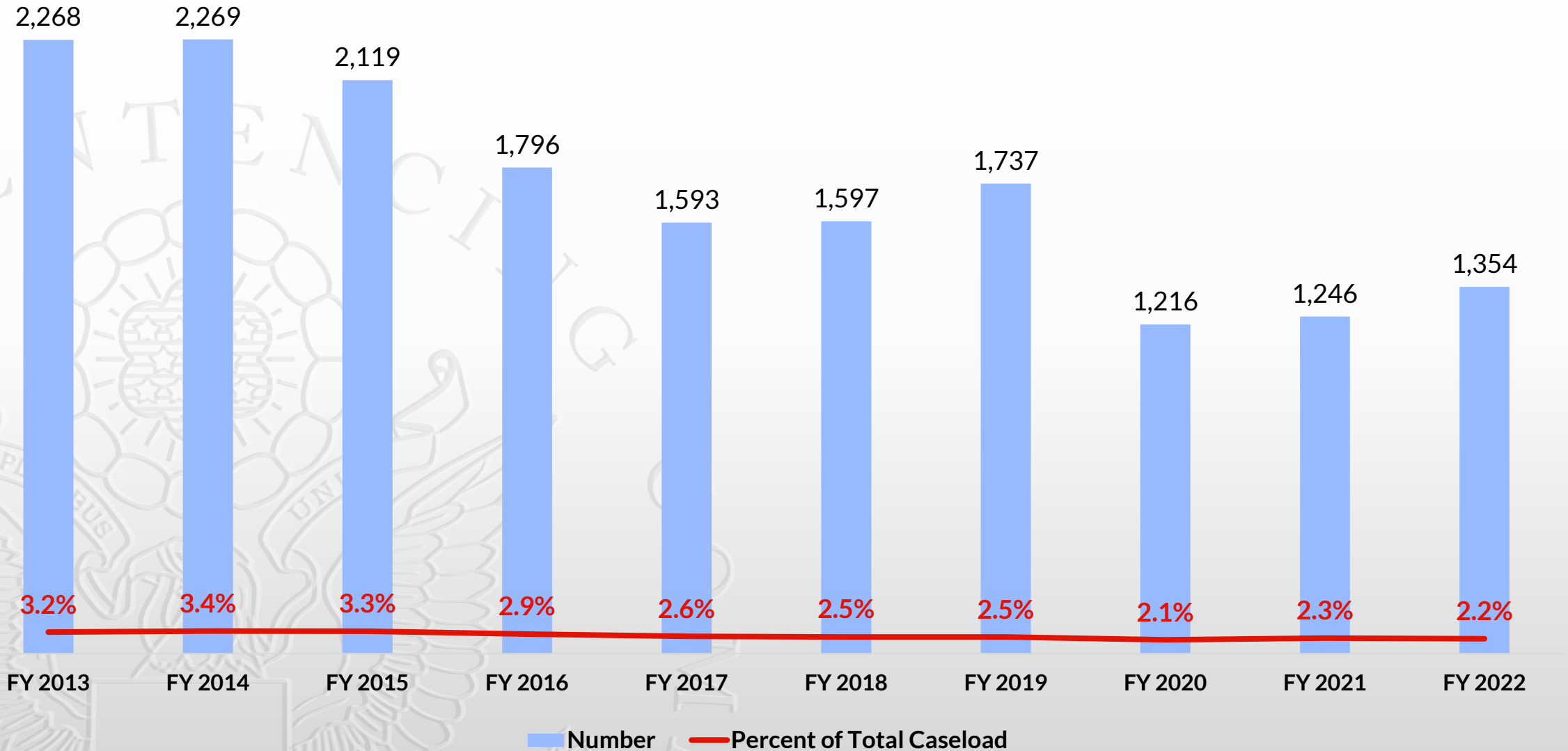
3

Prior Sentence Length Requirement

Background Data – Fiscal Year 2022



Individuals Sentenced Under §4B1.1



SOURCE: U.S. Sentencing Commission, 2013 – 2022 Datafiles, USSCFY13 – USSCFY22.

Individual Characteristics

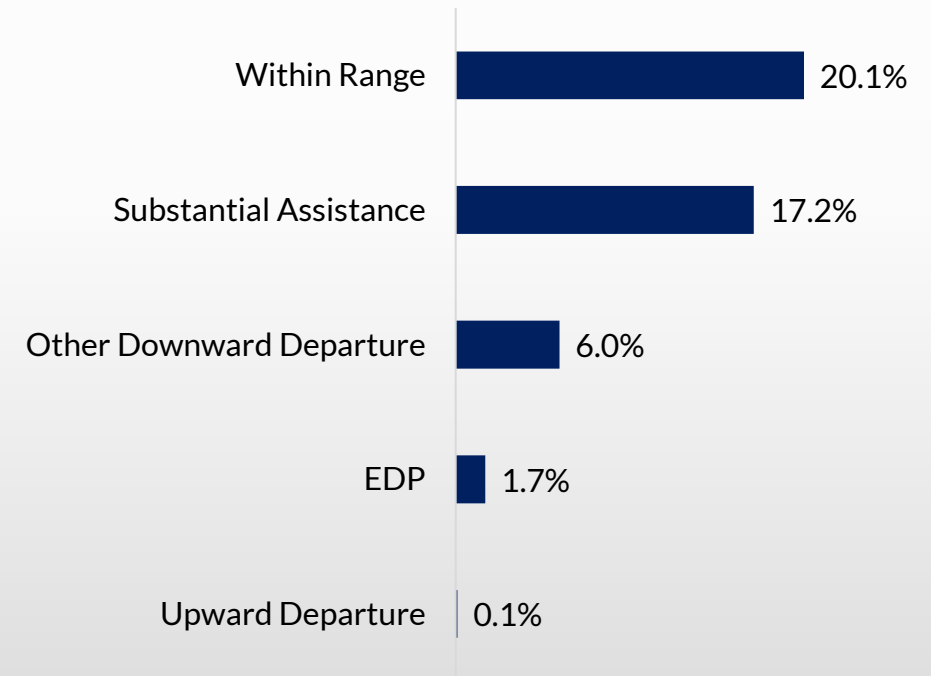
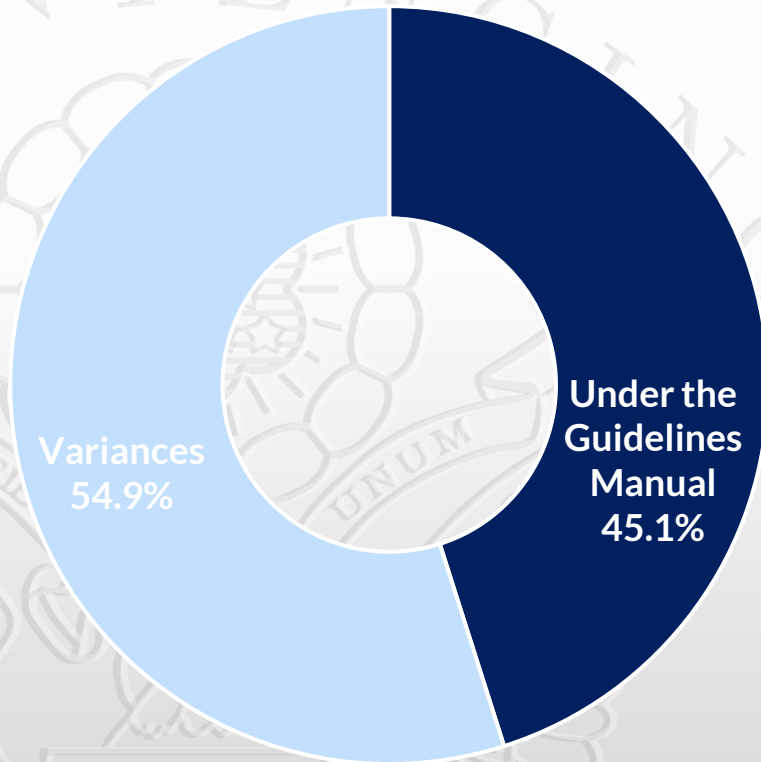
Fiscal Year 2022

Individual Characteristics	§4B1.1 Enhancement	All Cases
Race/Ethnicity		
White	23.5%	23.0%
Black	57.7%	25.2%
Hispanic	16.8%	47.4%
Other	1.9%	4.4%
Gender		
Male	95.7%	86.5%
Citizenship		
U.S. Citizen	97.6%	68.8%

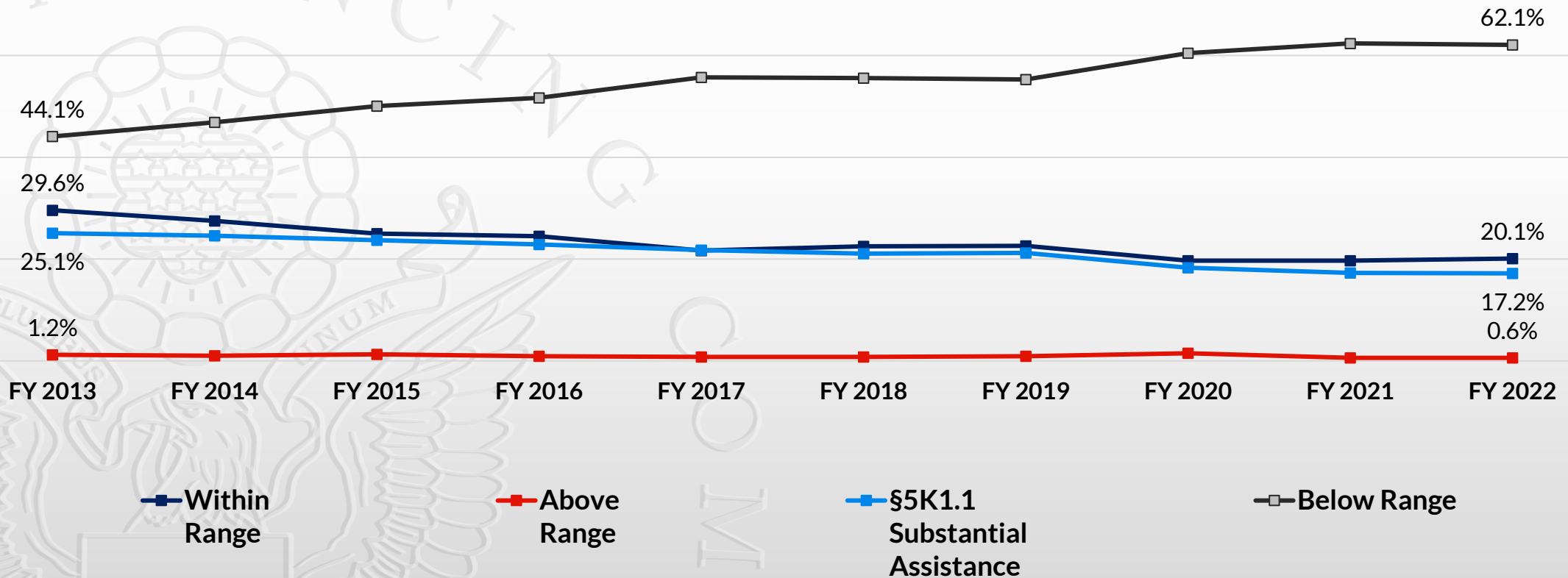


Sentence Relative to the Guideline Range

Individuals Sentenced Under §4B1.1 – FY2022

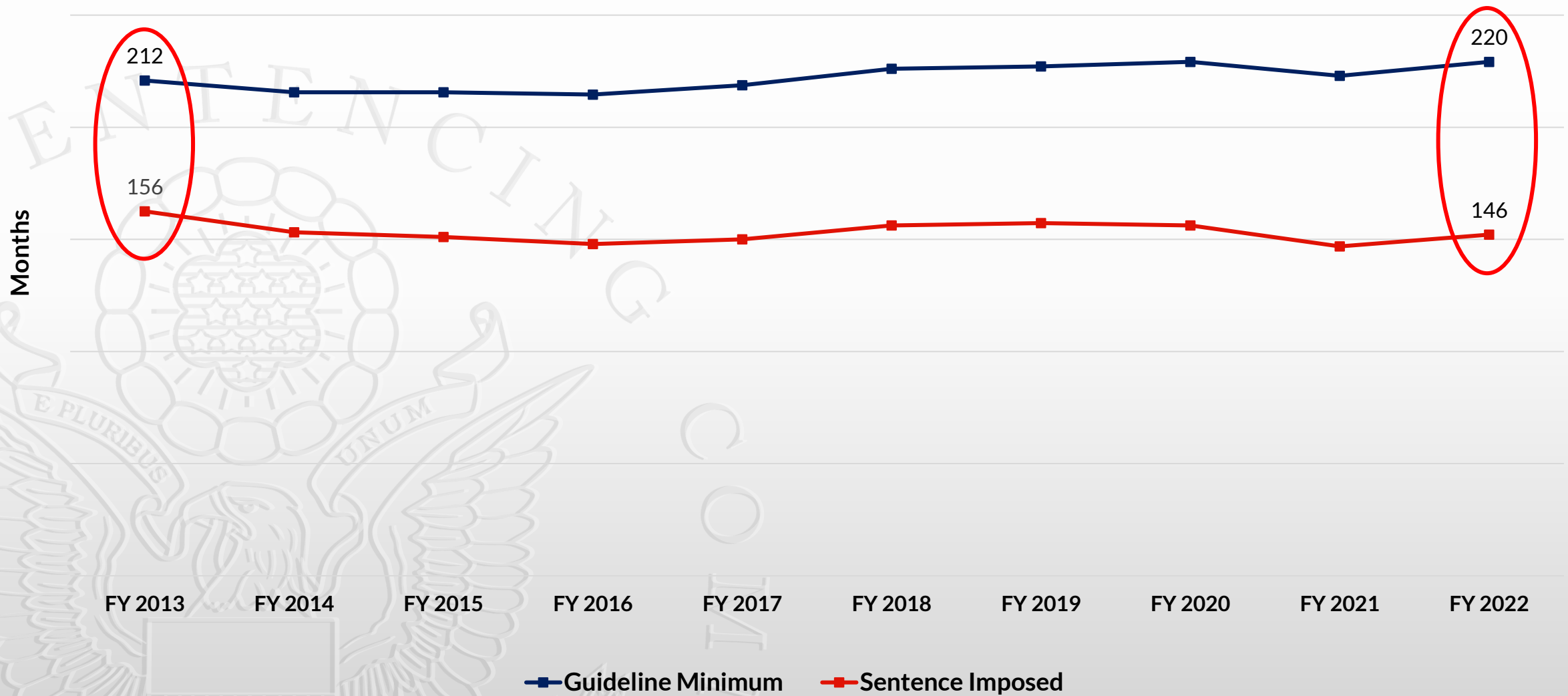


Sentence Relative to the Guideline Range for Individuals Sentenced Under §4B1.1



SOURCE: U.S. Sentencing Commission, 2013 – 2022 Datafiles, USSCFY13 – USSCFY22.

Average Guideline Minimum and Sentence Imposed for Individuals Sentenced Under §4B1.1



SOURCE: U.S. Sentencing Commission, 2013 – 2022 Datafiles, USSCFY13 – USSCFY22.

Pathway to §4B1.1 Enhancement Fiscal Year 2022

Received Enhancement – Fiscal Year 2022 (n=1,354)

Drug (n=711) 52.6%

Mixed (n=549) 40.5%

**COV
(n=94)
6.9%**

Recidivism Analysis



Updated Recidivism Analysis Individuals Released in 2015

	Rearrest Rate	Time to Rearrest	Most Common and Serious Substantive Offense
§4B1.1 Pathway			
Controlled Substance (n=465)	48.8%	20 months	Drug Trafficking
Violent (n=88)	56.8%	10 months	Robbery
Mixed (n=479)	52.8%	22 months	Assault

Updated Recidivism Analysis

Individuals Released in 2015

	Rearrest Rate	Time to Rearrest	Most Common and Serious Substantive Offense
§4B1.1 Pathway			
Controlled Substance (n=465)	48.8%	20 months	Drug Trafficking
Federal Drug Offenses Only (n=25)	52.0%	16 months	Drug Trafficking

Updated Recidivism Analysis Individuals Released in 2015

	Rearrest Rate	Time to Rearrest	Most Common and Serious Substantive Offense
§4B1.1 Pathway			
Controlled Substance	48.8%	20 months	Drug Trafficking
Violent	56.8%	10 months	Robbery
Mixed	52.8%	22 months	Assault
Mixed (Drug Instant)	49.5%	23 months	Assault
Mixed (Violent Instant)	69.1%	21 months	Assault



Option One – Criminal History Point Limitation

Eliminate State Controlled Substance Offenses

Individuals Sentenced under §4B1.1

Fiscal Year 2022

Option One (Suboption A)

Applying Point Limitation to All Predicate Offenses	Total
Individuals Sentenced Under §4B1.1	1,354
After Excluding Prior State Drug Offenses	392
After Excluding Prior State Drug Offenses AND One Point Offenses	347
After Excluding Prior State Drug Offenses, One Point Offenses, AND Two Point Offenses	305

Individuals Sentenced under §4B1.1

Fiscal Year 2022

Option One (Suboption B)

Applying Point Limitation to Crime of Violence Prior Offenses	Total
Individuals Sentenced Under §4B1.1	1,354
Exclude State Drug Offenses	392
Exclude State Drug Offenses AND One Point Crime of Violence Prior Offenses	351
Exclude State Drug Offenses, One Point Crime of Violence Prior Offenses, AND Two Point Crime of Violence Prior Offenses	311

Crime of Violence Definition



Individuals Sentenced for Drug Trafficking or Violent Offense §4B1.1 Enhancement Not Applied

Fiscal Year 2022 – Option One (Suboption A)

	Total
Number of Individuals Sentenced	24,703
Number of Individuals with Two Presumptive Qualifying Prior Offenses	3,613
After Excluding Prior State Drug Offenses	2,050
After Excluding Prior State Drug Offenses AND One Point Offenses	1,173
After Excluding Prior State Drug Offenses, One Point Offenses, AND Two Point Offenses	654



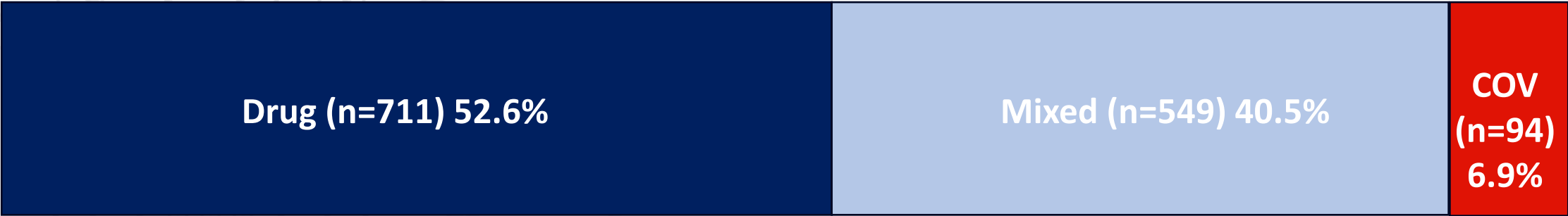
Estimated Impact

Individuals Sentenced under §4B1.1 or Individuals with Qualifying Presumptive Predicates under an Actual Conduct Approach Fiscal Year 2022 – Option One (Suboption A)

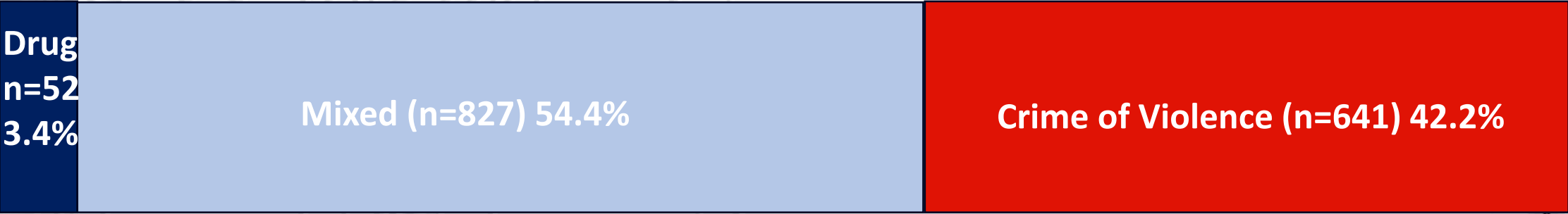
	Sentenced under §4B1.1	Qualifying Predicates with Actual Conduct
	1,354	3,613
After Excluding State Drug Predicates	392	2,050
After Excluding State Drug Predicates AND One Point Events	347	1,173
After Excluding Prior State Drug Offenses, One Point Offenses, AND Two Point Offenses	305	654
TOTAL	959	

Pathway to §4B1.1 Enhancement Fiscal Year 2022

Received Enhancement – Fiscal Year 2022 (n=1,354)

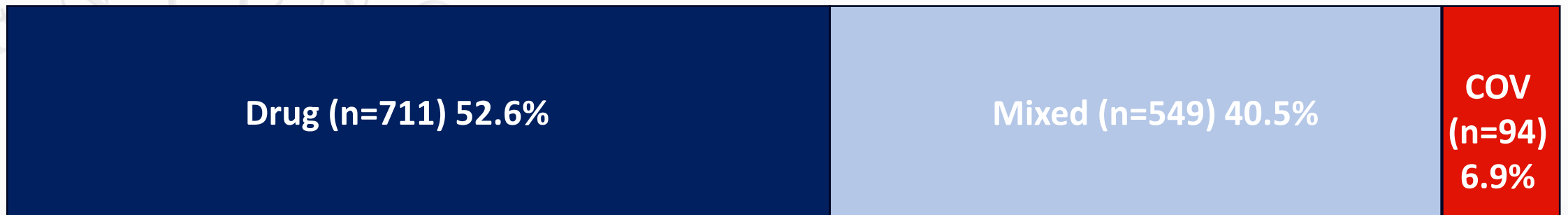


Proposed Amendment – Actual Conduct; State Drug Priors AND One Point Events Excluded (n=1,520)

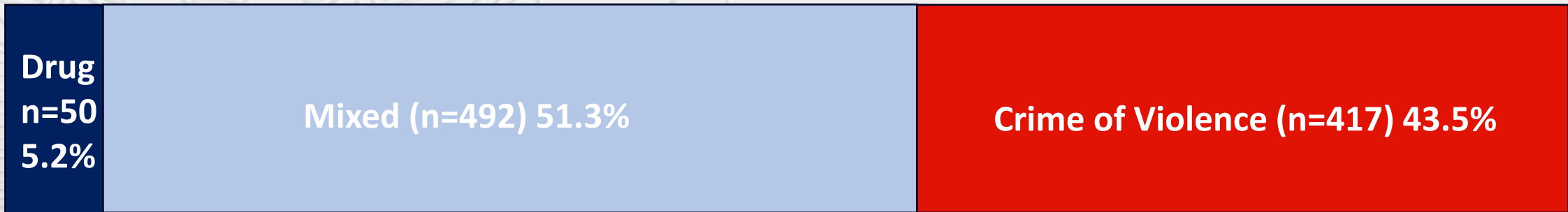


Pathway to §4B1.1 Enhancement Fiscal Year 2022

Received Enhancement – Fiscal Year 2022 (n=1,354)



Proposed Amendment – Actual Conduct; State Drug Priors, One AND Two Point Events Excluded (n=959)



Individual Characteristics

Fiscal Year 2022

		Proposed Amendment Actual Conduct with State Drug Priors Excluded	
Characteristics	Received §4B1.1 Enhancement	One Point Prior Offenses Excluded	One AND Two Point Prior Offenses Excluded
Race/Ethnicity			
White	23.5%	25.6%	23.1%
Black	57.7%	47.7%	49.5%
Hispanic	16.8%	20.5%	21.1%
Other	1.9%	6.2%	6.3%
Gender			
Male	95.7%	97.7%	98.4%
Citizenship			
United States	97.6%	98.1%	98.1%





Option Two – Length of Sentence Imposed

Individuals Sentenced under 4B1.1 Fiscal Year 2022

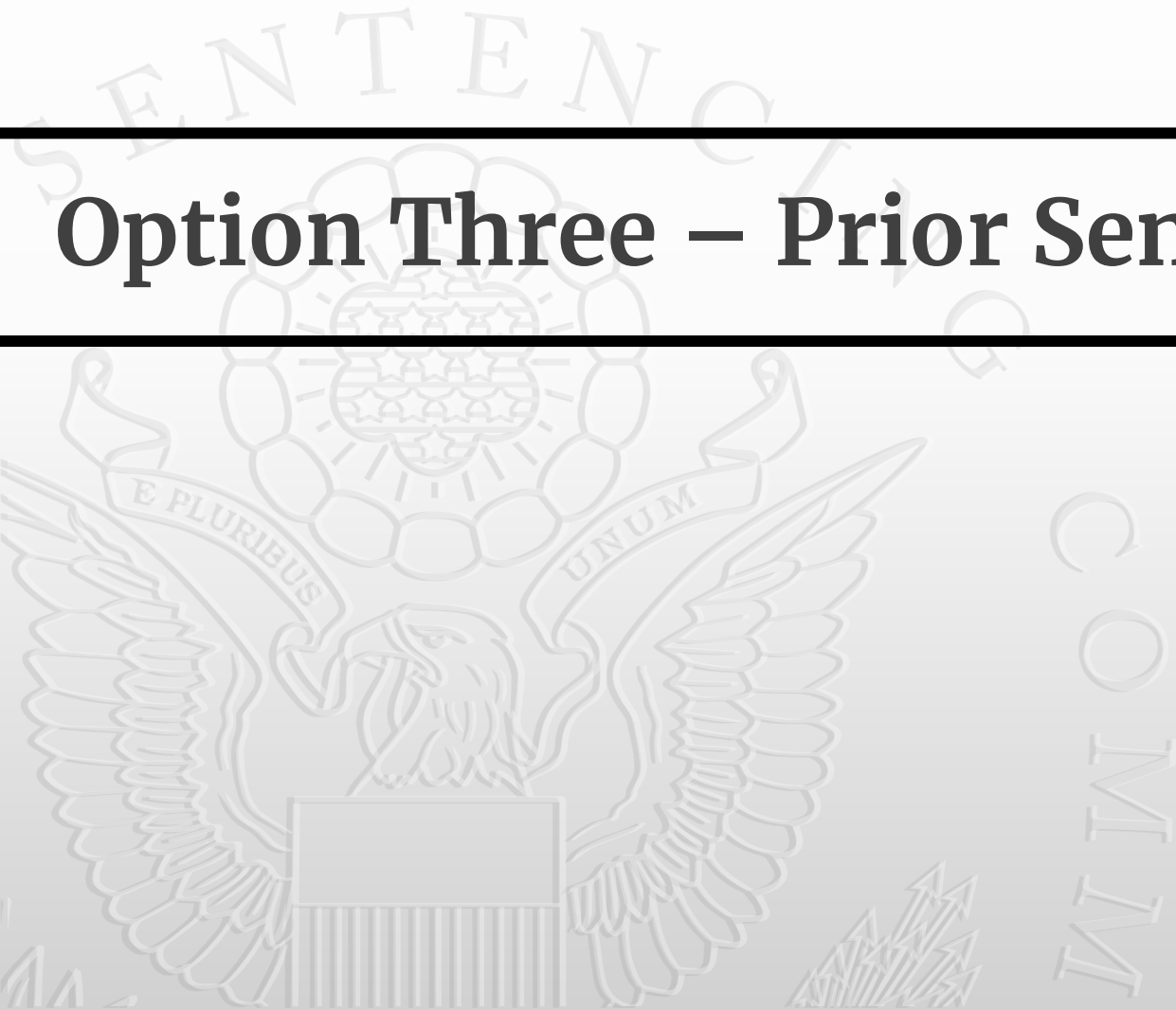
Prior Offense Type	Average Sentence Imposed For Prior Offense (months)
Robbery (n = 564)	78
Aggravated Assault (n = 412)	46
Other Violent Offense (n = 107)	36
Murder (n = 66)	206
Child Abuse (n = 48)	20
Forcible Sex Offense (n = 27)	50
Drug Trafficking (n = 3,221)	47

Individuals Sentenced under 4B1.1

Fiscal Year 2022

Prior Offense Type	Sentence Imposed for Prior Offense				
	< 6 Months	< 1 Year	< 2 Years	< 3 Years	< 5 Years
Robbery	12%	14%	24%	30%	46%
Aggravated Assault	30%	36%	48%	59%	72%
Other Violent Offense	29%	37%	58%	61%	70%
Murder	6%	6%	12%	13%	16%
Child Abuse	46%	50%	63%	75%	83%
Forcible Sex Offense	14%	21%	29%	32%	71%
Drug Trafficking	22%	28%	42%	52%	66%

Option Three – Prior Sentence Served



Bureau of Justice Statistics (BJS) Report

Average Time Served as Share of Sentence Imposed

Individuals Released from State Custody in 2018

	Average Time Served as Share of Sentence Imposed
Violent Offenses	
Murder	58%
Rape	68%
Other Sexual Assault	58%
Robbery	57%
Other Violent	45%
Assault	47%
Drug Offenses	
Trafficking	38%

Bureau of Justice Statistics (BJS) Report

Average Time Served

Individuals Released from State Custody in 2018

	Average Time Served
Violent Offenses	(years)
Murder	17.8
Rape	9.6
Other Sexual Assault	5.0
Robbery	4.8
Other Violent	3.5
Assault	2.5
Drug Offenses	(months)
Trafficking	26

Bureau of Justice Statistics (BJS) Report

Average Time Served

Individuals Released from State Custody in 2018

Prior Offense Type	< 6 Months	< 1 year	<2 years	<3 years	<5 years
Robbery	7%	16%	34%	48%	66%
Assault	16%	37%	63%	76%	88%
Other Violent Offense	18%	36%	60%	72%	83%
Murder	2%	3%	6%	9%	15%
Rape	4%	9%	17%	24%	38%
Other Sexual Assault	7%	15%	31%	44%	64%
Drug Trafficking	16%	37%	64%	79%	91%

Other Resources



ussc.gov

1

Report to Congress (2016)

2

Quick Facts

3

Categorical Approach Primer



The Commission is accepting original public comment on this proposal through February 3, 2025, with a reply comment period closing February 18, 2025.

comment.ussc.gov

United States Sentencing Commission
Attention: Public Affairs
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 2002-8002