



Proposed Amendments on Drug Offenses

Public Data Briefing

Proposed Amendment

A

Recalibrating the Use of Drug Weight in §2D1.1

B

Methamphetamine

C

Misrepresentation of Fentanyl and Fentanyl Analogues

D

Machineguns

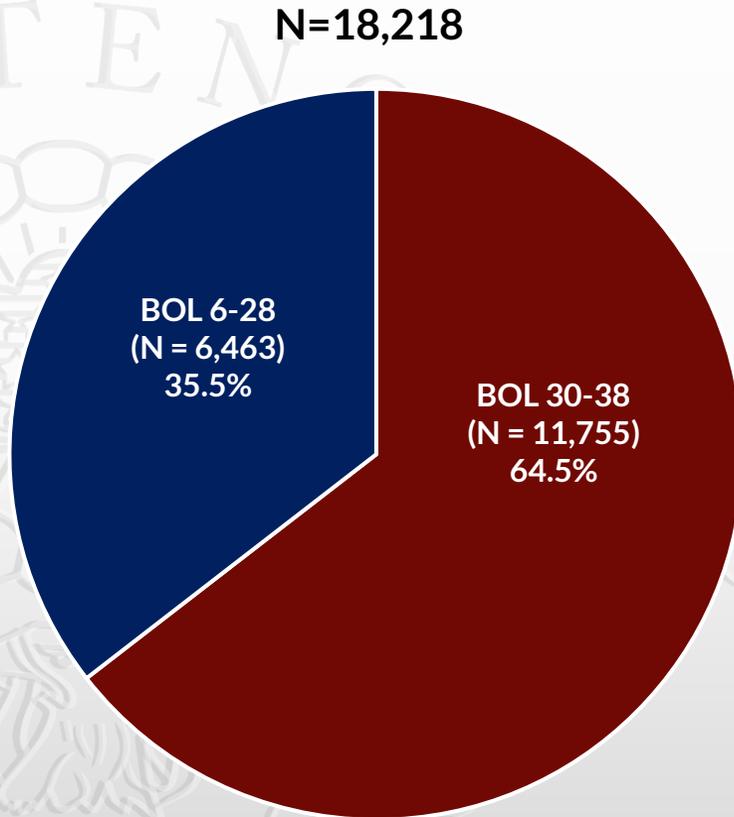
E

Safety Valve

Part A: Recalibrating the Use of Drug Weight in §2D1.1



Distribution of Base Offense Levels and Primary Drug Type for Individuals Sentenced Under the Drug Quantity Table Fiscal Year 2023

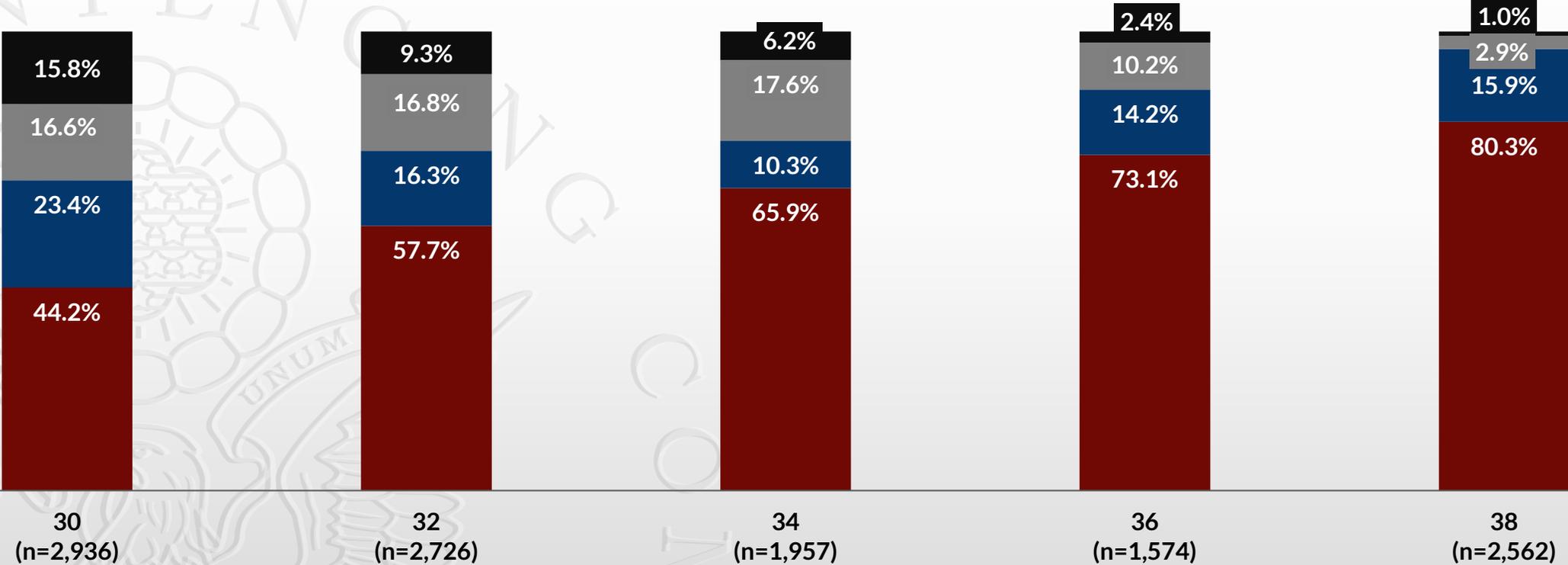


Primary Drug Type for BOLs 30-38	N	%
Methamphetamine	7,370	62.7%
Powder Cocaine	1,961	16.7%
Fentanyl	1,522	13.0%
Heroin	448	3.8%
Crack Cocaine	198	1.7%
Other	182	1.6%
Marijuana	74	0.6%

This analysis includes individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. The base offense levels reported represent the base offense level prior to the application of the mitigating role cap. The BOL Distribution analysis excludes four individuals whose base offense level prior to the application of the mitigating role cap could not be determined.

Distribution of Primary Drug Type for Selected Base Offense Levels Fiscal Year 2023

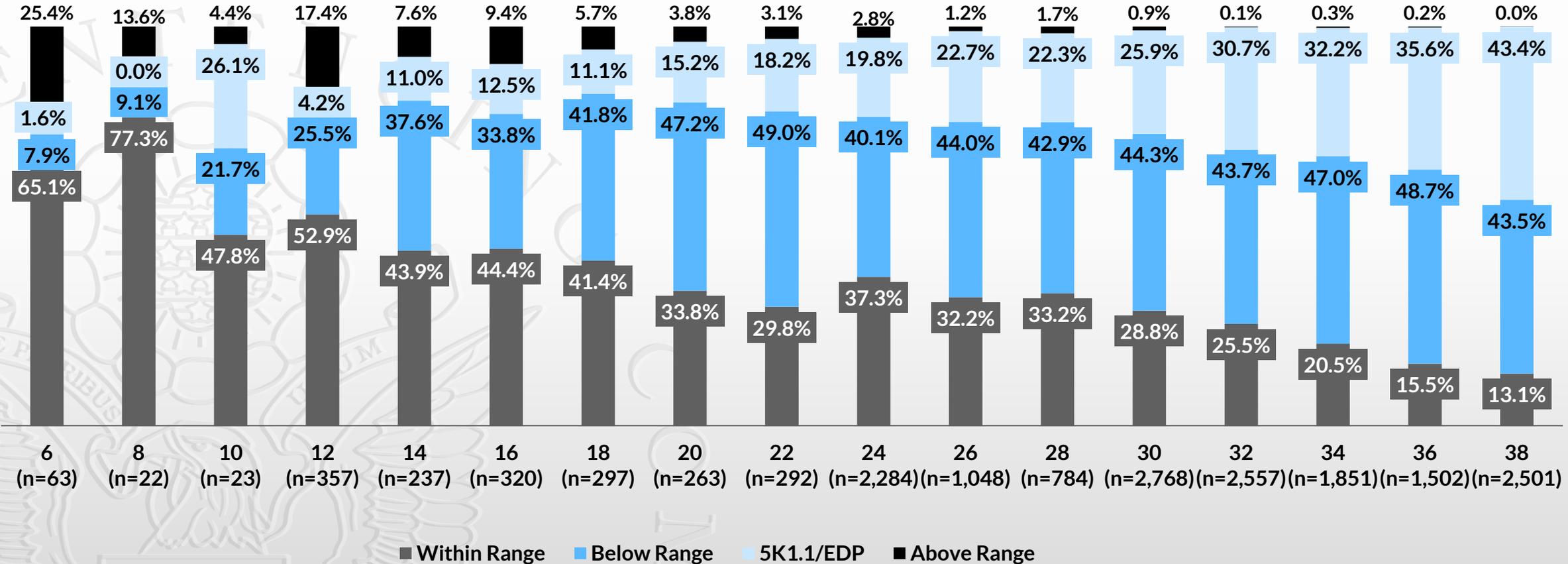
■ Methamphetamine ■ Powder Cocaine ■ Fentanyl ■ All Other Drugs



This analysis includes individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. The base offense levels reported represent the base offense level prior to the application of the mitigating role cap. The BOL Distribution analysis excludes four individuals whose base offense level prior to the application of the mitigating role cap could not be determined.

Position Relative to the Guideline Range by Base Offense Level Fiscal Year 2023

N=17,173



This analysis includes individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. The base offense levels reported represent the base offense level prior to the application of the mitigating role cap. The BOL Distribution analysis excludes four individuals whose base offense level prior to the application of the mitigating role cap could not be determined (N=17,169). Individuals who qualified as a Career Offender under §4B1.1 or an Armed Career Criminal under §4B1.4 were excluded from analysis.

Average Guideline Minimum and Sentence Imposed by Base Offense Level

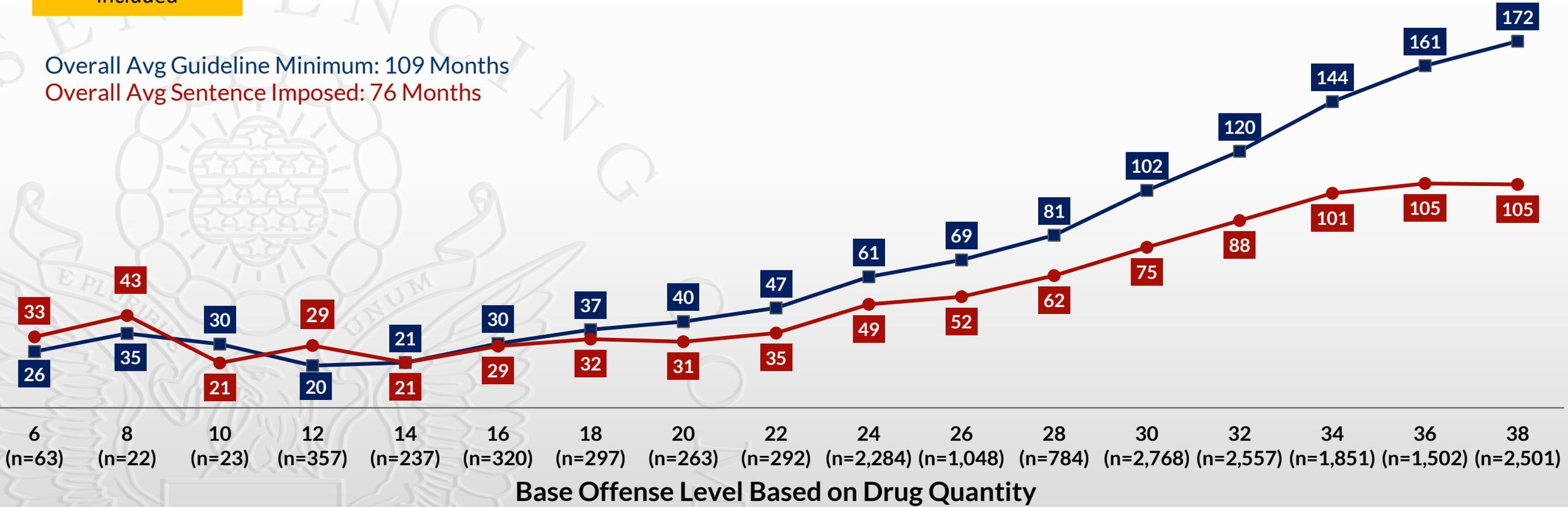
Fiscal Year 2023

§5K1.1 and §5K3.1 included

■ Average Guideline Minimum (in months) ● Average Sentence Imposed (in months)

N=17,173

Overall Avg Guideline Minimum: 109 Months
Overall Avg Sentence Imposed: 76 Months



This analysis includes individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. The base offense levels reported represent the base offense level prior to the application of the mitigating role cap. The BOL Distribution analysis excludes four individuals whose base offense level prior to the application of the mitigating role cap could not be determined (N=17,169). Individuals who qualified as a Career Offender under §4B1.1 or an Armed Career Criminal under §4B1.4 were excluded from analysis.

Average Guideline Minimum and Sentence Imposed by Base Offense Level

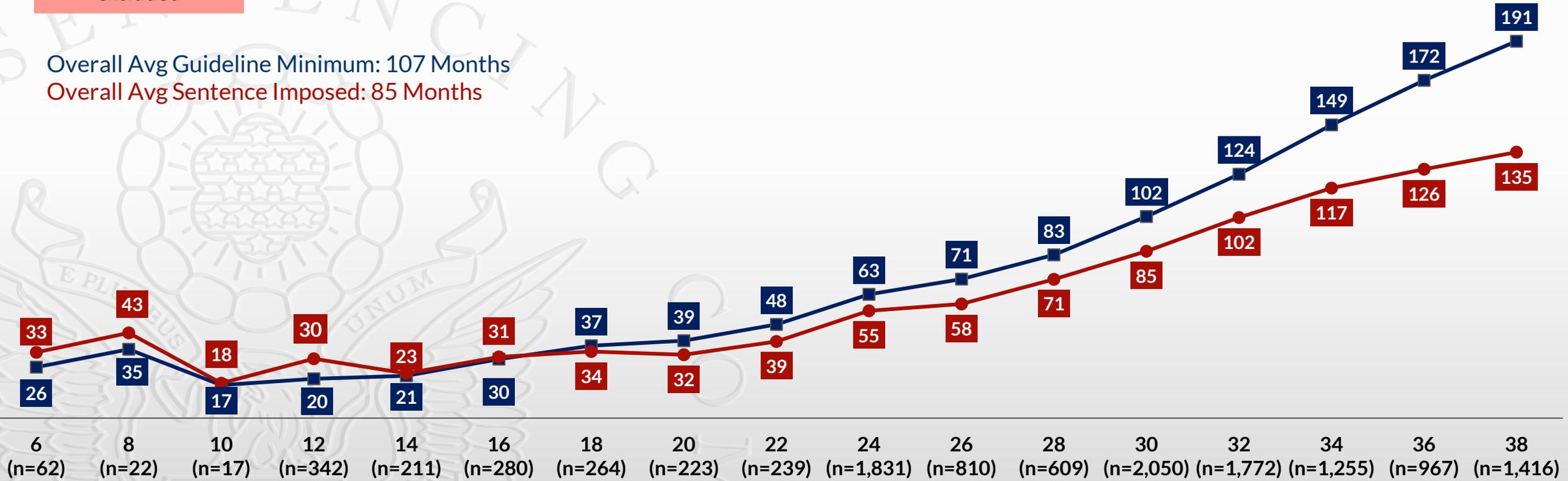
Fiscal Year 2023

■ Average Guideline Minimum (in months) ● Average Sentence Imposed (in months)

N=12,372

§5K1.1 and §5K3.1 excluded

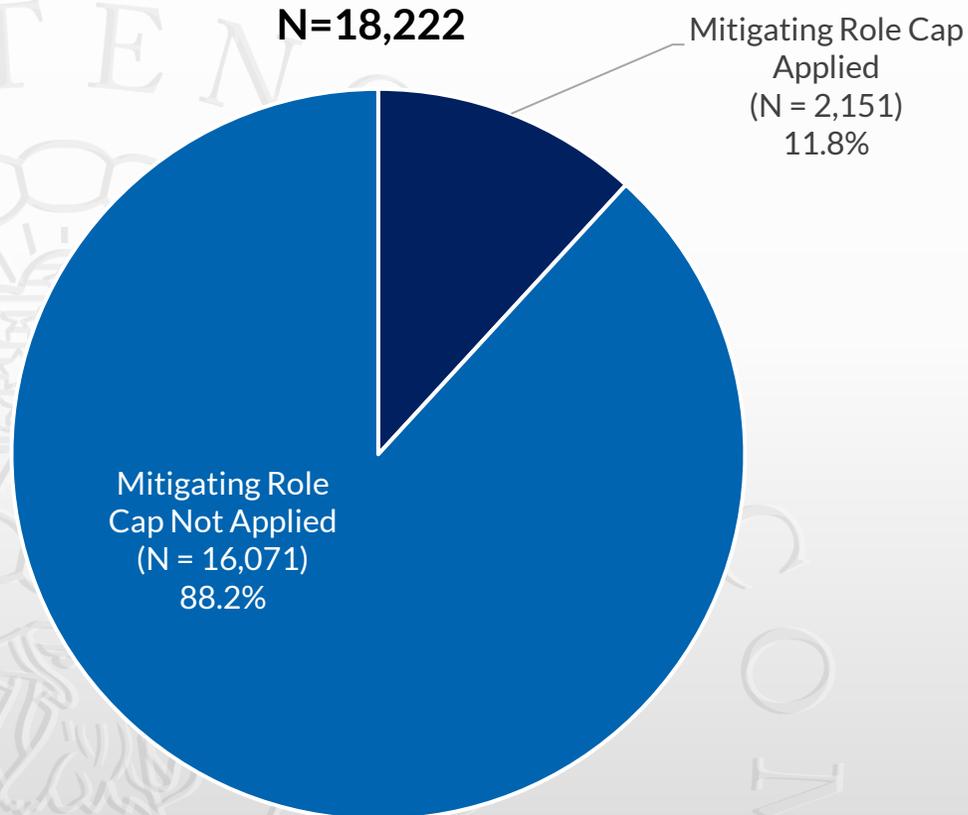
Overall Avg Guideline Minimum: 107 Months
Overall Avg Sentence Imposed: 85 Months



Base Offense Level Based on Drug Quantity

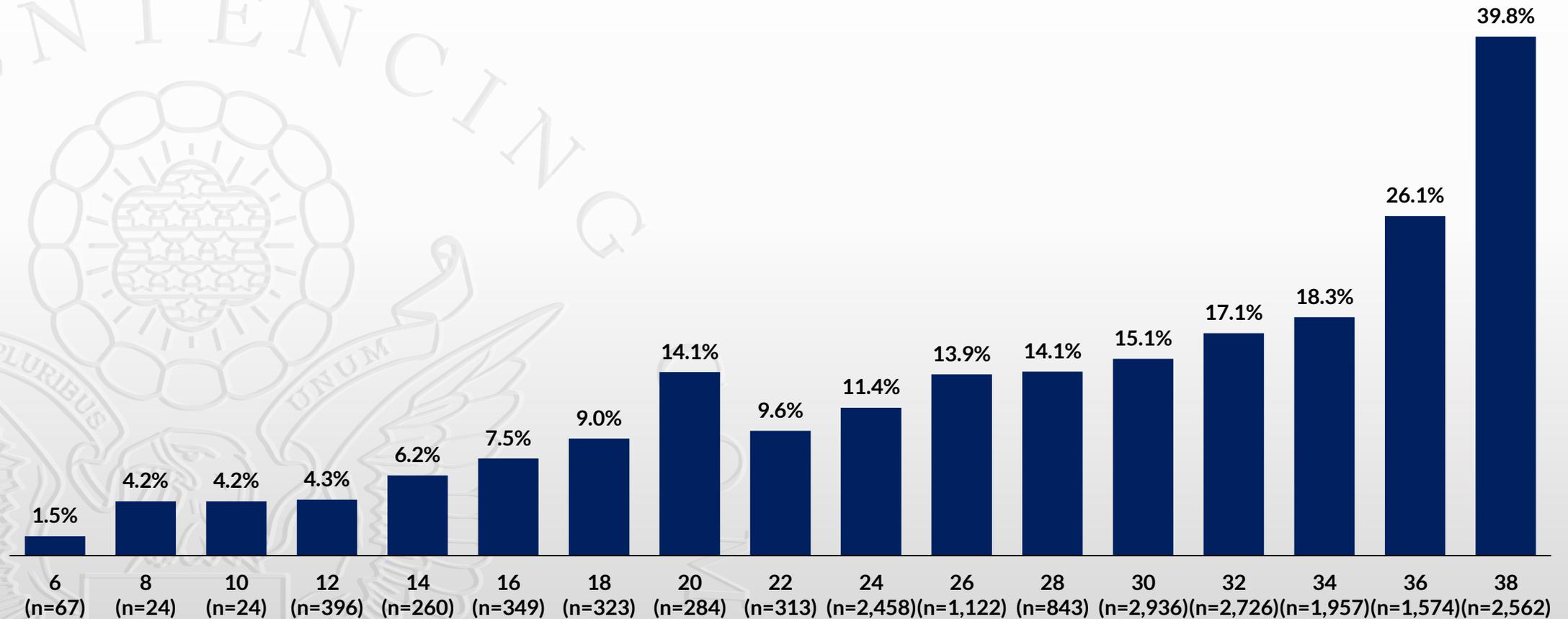
This analysis includes individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. The base offense levels reported represent the base offense level prior to the application of the mitigating role cap. The BOL Distribution analysis excludes two individuals whose base offense level prior to the application of the mitigating role cap could not be determined (N=12,370). Individuals who qualified as a Career Offender under §4B1.1 or an Armed Career Criminal under §4B1.4 were excluded from analysis. Individuals who received a departure under §5K1.1 (Substantial Assistance) or §5K3.1 (Early Disposition Program) were excluded from this analysis.

Individuals Sentenced Under the Drug Quantity Table Receiving the Mitigating Role Cap at §2D1.1(a)(5) Fiscal Year 2023



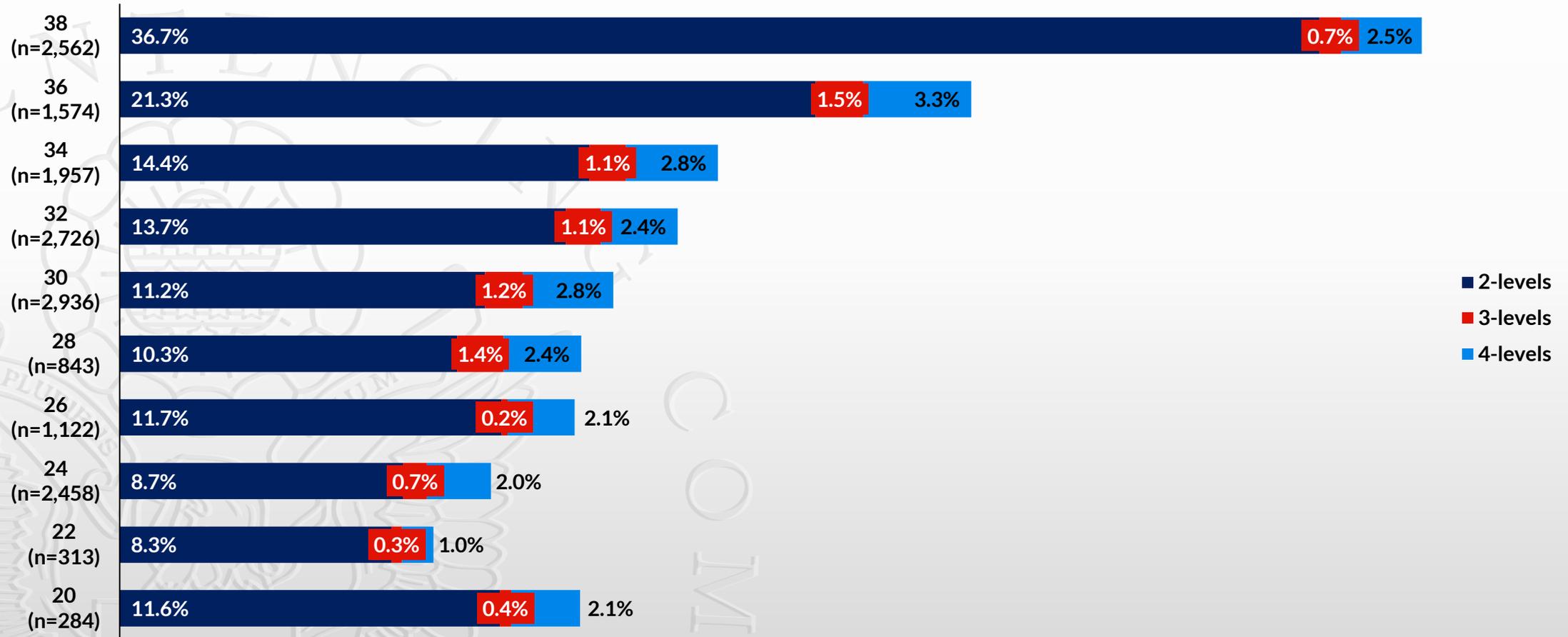
Primary Drug Type	N	%
Methamphetamine	1,497	69.6%
Fentanyl	359	16.7%
Powder Cocaine	236	11.0%
Heroin	46	2.1%
Other	8	0.4%
Marijuana	3	0.1%
Crack Cocaine	2	0.1%

Application of the Mitigating Role Adjustment at §3B1.2 by Base Offense Level Fiscal Year 2023



This analysis includes individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. The base offense levels reported represent the base offense level prior to the application of the mitigating role cap. The BOL Distribution analysis excludes four individuals whose base offense level prior to the application of the mitigating role cap could not be determined.

Application of the Mitigating Role Adjustment at §3B1.2 for Base Offense Levels 20 through 38 Fiscal Year 2023

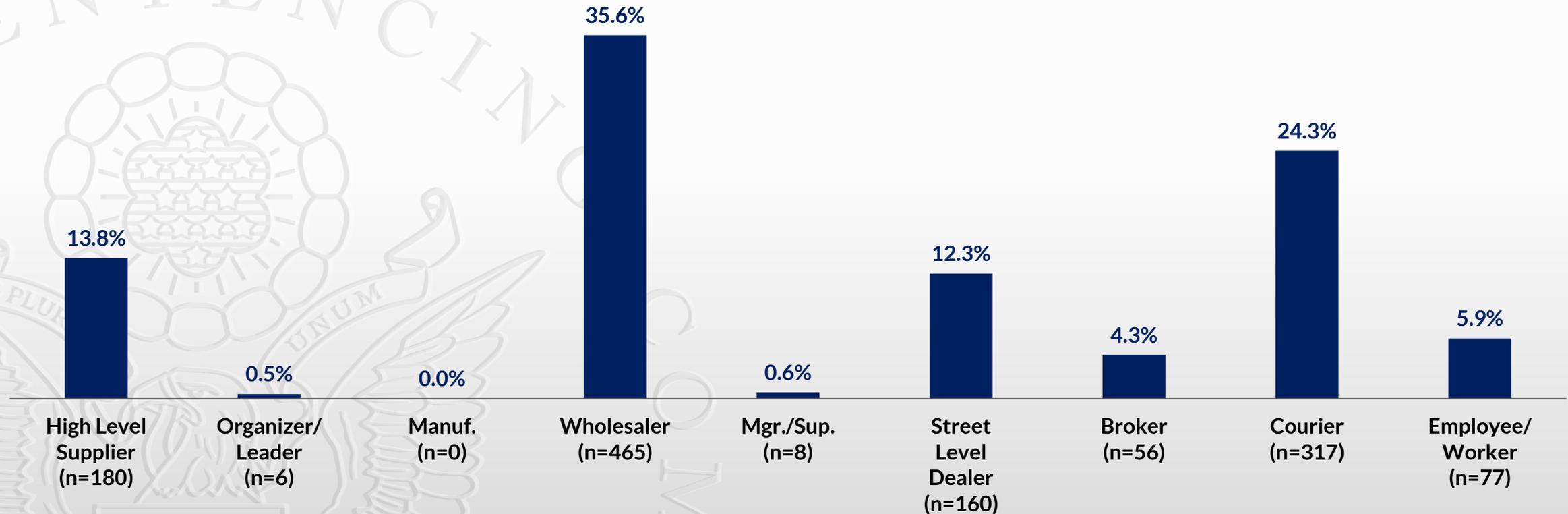


This analysis includes individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. The base offense levels reported represent the base offense level prior to the application of the mitigating role cap. The BOL Distribution analysis excludes four individuals whose base offense level prior to the application of the mitigating role cap could not be determined.

Individuals' Function in Methamphetamine Trafficking Offenses

Fiscal Year 2022 (Sample)

N=1,305

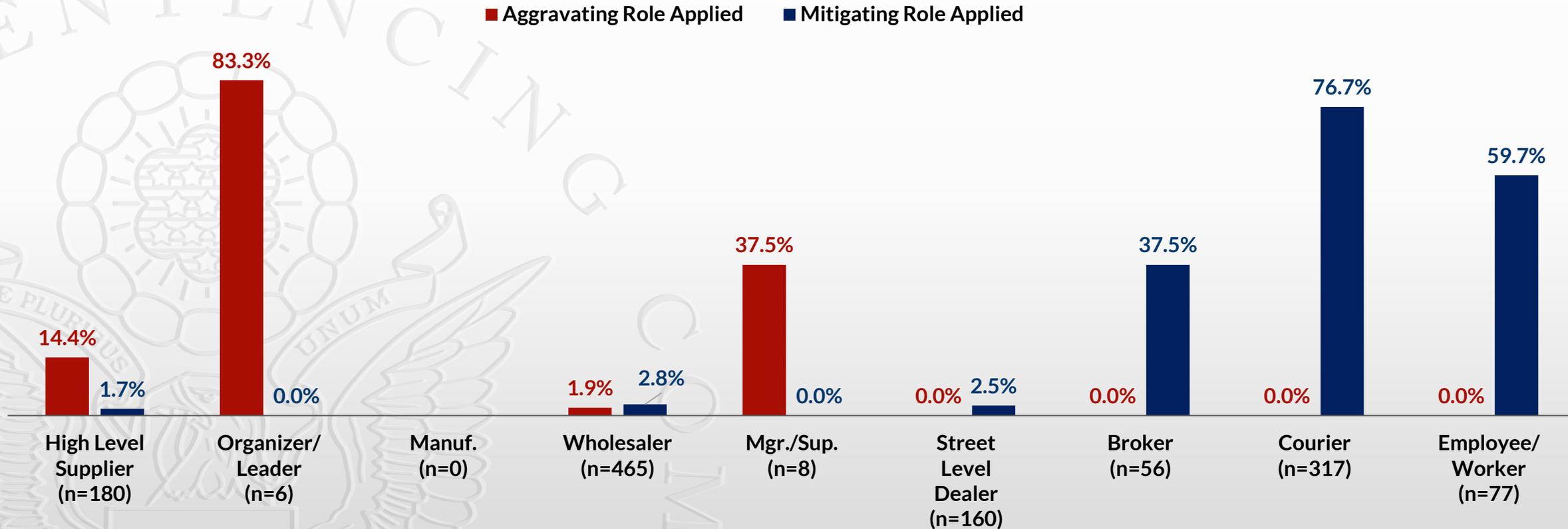


This analysis uses a sample of methamphetamine cases sentenced in fiscal year 2022 from the June 2024 Methamphetamine Report. This sample includes only those individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. Individuals who qualified as a Career Offender under §4B1.1 or an Armed Career Criminal under §4B1.4 were excluded from this analysis. In the fiscal year 2022 sample, 2.8% (n=36) of individuals were classified as performing "Other" functions. These individuals are not represented in the figure above and the category includes functions such as Drug Thief, Chemist/Cook/Chemical Supplier, Renter/Storer, Off/On Loader, and Enabler.

Application of §3B1.1 and §3B1.2 in Methamphetamine Trafficking Offenses

Fiscal Year 2022 (Sample)

N=1,305

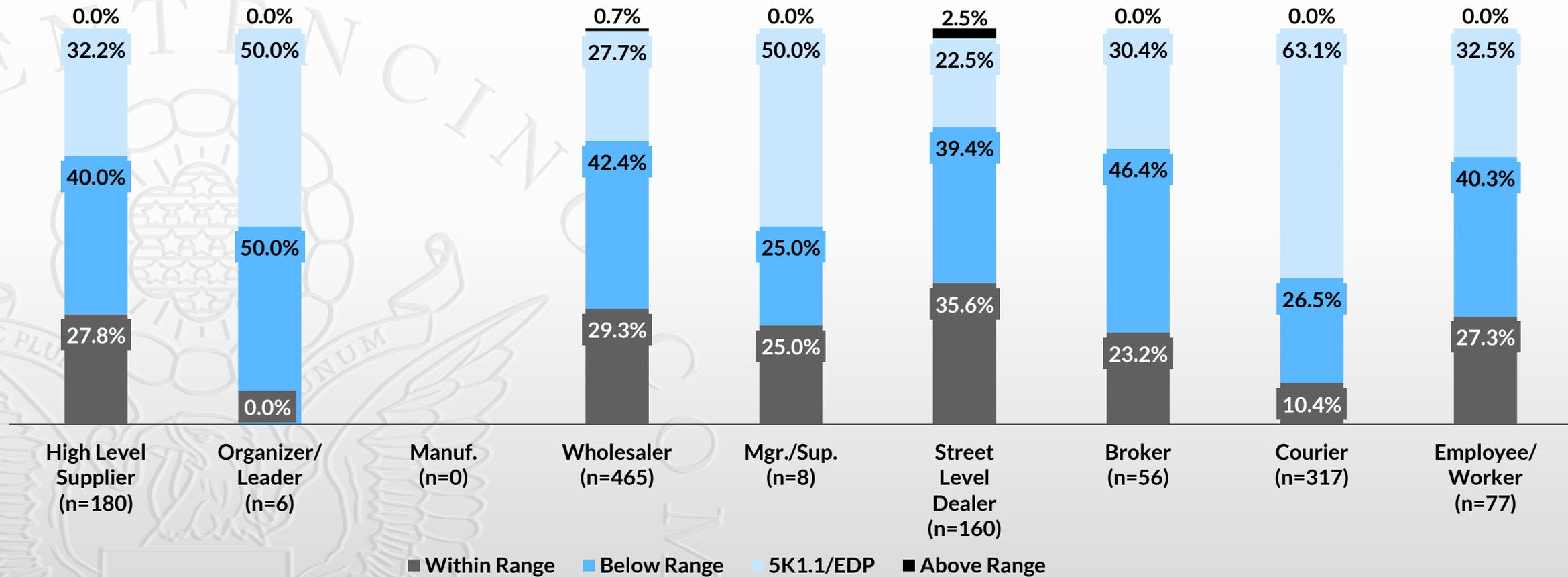


This analysis uses a sample of methamphetamine cases sentenced in fiscal year 2022 from the June 2024 Methamphetamine Report. This sample includes only those individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. Individuals who qualified as a Career Offender under §4B1.1 or an Armed Career Criminal under §4B1.4 were excluded from this analysis. In the fiscal year 2022 sample, 2.8% (n=36) of individuals were classified as performing "Other" functions. These individuals are not represented in the figure above and include functions such as Drug Thief, Chemist/Cook/Chemical Supplier, Renter/Storer, Off/On Loader, and Enabler. In those cases, aggravating role was applied in 2.8% of cases and mitigating role was applied in 44.4% of cases.

Position Relative to the Guideline Range in Methamphetamine Trafficking Offenses

Fiscal Year 2022 (Sample)

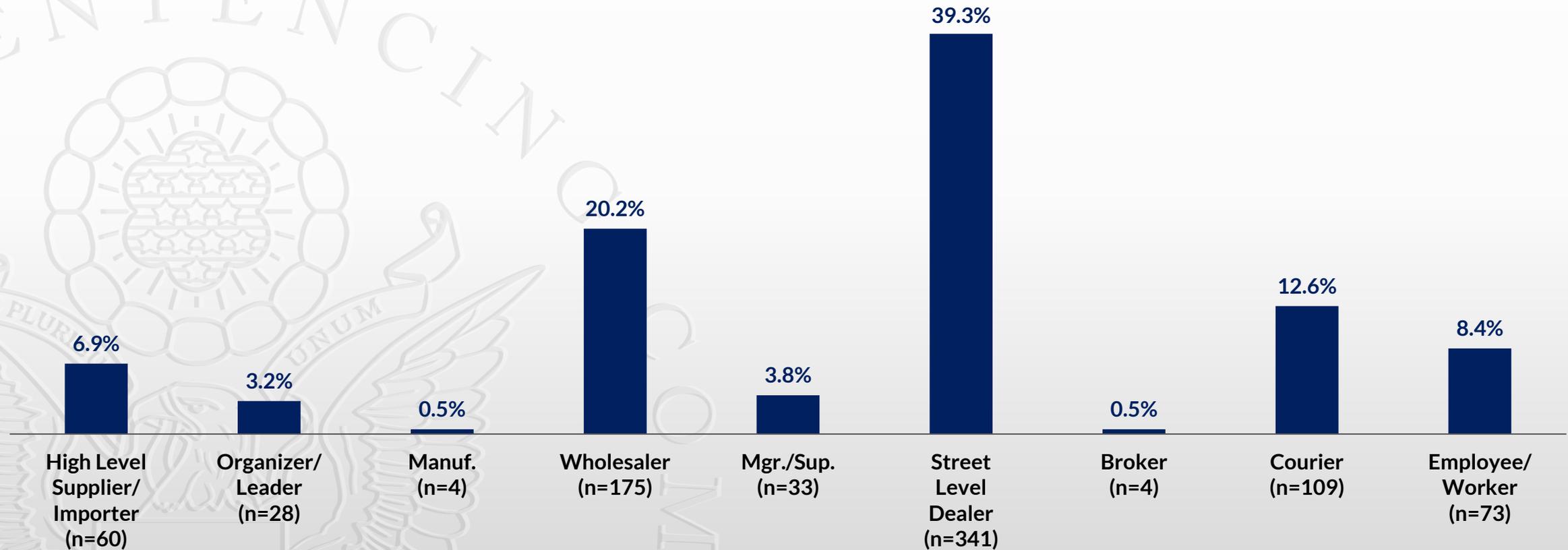
N=1,305



This analysis uses a sample of methamphetamine cases sentenced in fiscal year 2022 from the June 2024 Methamphetamine Report. This sample includes only those individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. Individuals who qualified as a Career Offender under §4B1.1 or an Armed Career Criminal under §4B1.4 were excluded from this analysis. In the fiscal year 2022 sample, 2.8% (n=36) of individuals were classified as performing "Other" functions. These individuals are not represented in the figure above and include functions such as Drug Thief, Chemist/Cook/Chemical Supplier, Renter/Storer, Off/On Loader, and Enabler. Of these individuals, 30.6% received a sentence within range, 44.4% received a below range sentence, and 25.0% received a departure under §5K1.1 or §5K3.1.

Individuals' Function in Fentanyl and Fentanyl Analogue Trafficking Offenses Fiscal Year 2019 (Sample)

N=868



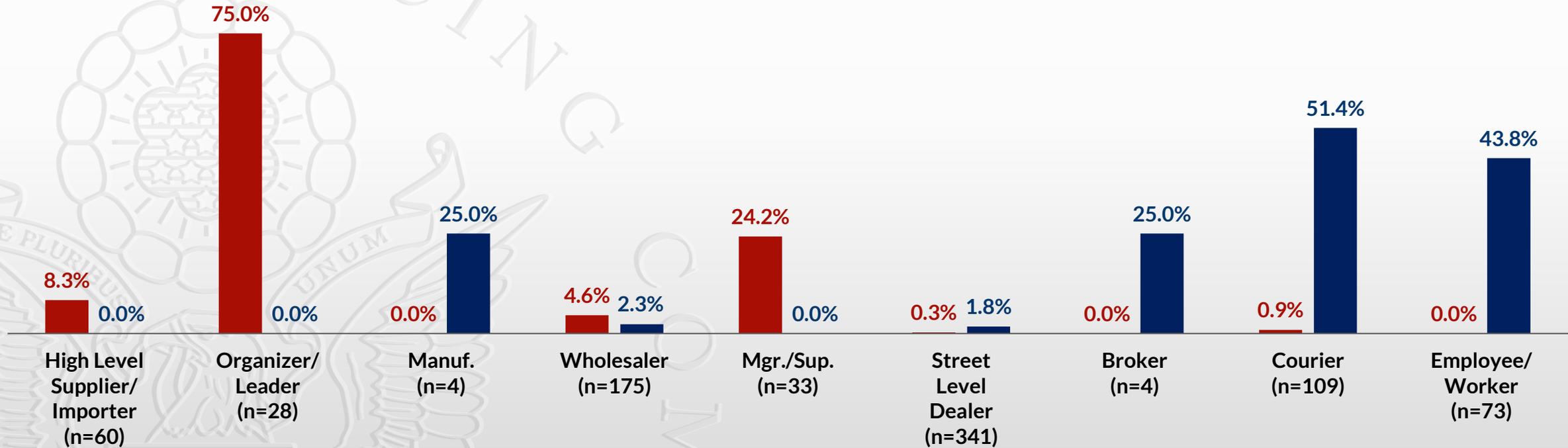
This analysis uses a sample fentanyl cases sentenced in fiscal year 2019 from the January 2021 Fentanyl Report. This sample includes only those individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later. Individuals who qualified as a Career Offender under §4B1.1 or an Armed Career Criminal under §4B1.4 were excluded from this analysis. In the fiscal year 2019 sample, 4.7% (n=41) of individuals were classified as performing "Other" functions. These individuals are not represented in the figure above and the category includes functions such as Medical Professional, Renter/Storer, Enabler, and User Only. There were 51 individuals whose functions could not be determined and those individuals were excluded from this analysis.

Application of §§3B1.1 and 3B1.2 in Fentanyl and Fentanyl Analogue Trafficking Offenses

Fiscal Year 2019 (Sample)

N=868

■ Aggravating Role Applied ■ Mitigating Role Applied

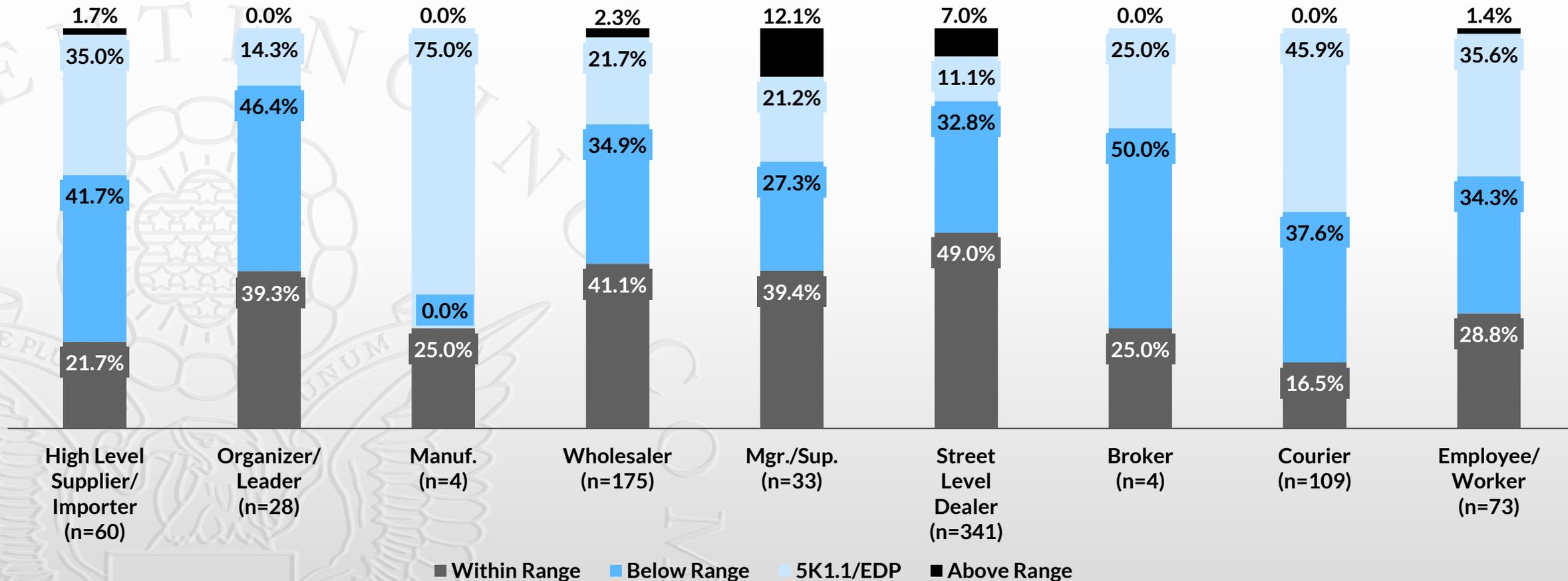


This analysis uses a sample fentanyl cases sentenced in fiscal year 2019 from the January 2021 Fentanyl Report. This sample includes only those individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a Guidelines Manual effective November 1, 2014 or later. Individuals who qualified as a Career Offender under §4B1.1 or an Armed Career Criminal under §4B1.4 were excluded from this analysis. In the fiscal year 2019 sample, 4.7% (n=41) of individuals were classified as performing "Other" functions. These individuals are not represented in the figure above and the category includes functions such as Medical Professional, Renter/Storer, Enabler, and User Only. Of these individuals, aggravating role was applied in 0.0% of cases and mitigating role was applied in 41.5% of cases. There were 51 individuals whose functions could not be determined and those individuals were excluded from this analysis.

Position Relative to the Guideline Range in Fentanyl and Fentanyl Analogue Trafficking Offenses

Fiscal Year 2019 (Sample)

N=868

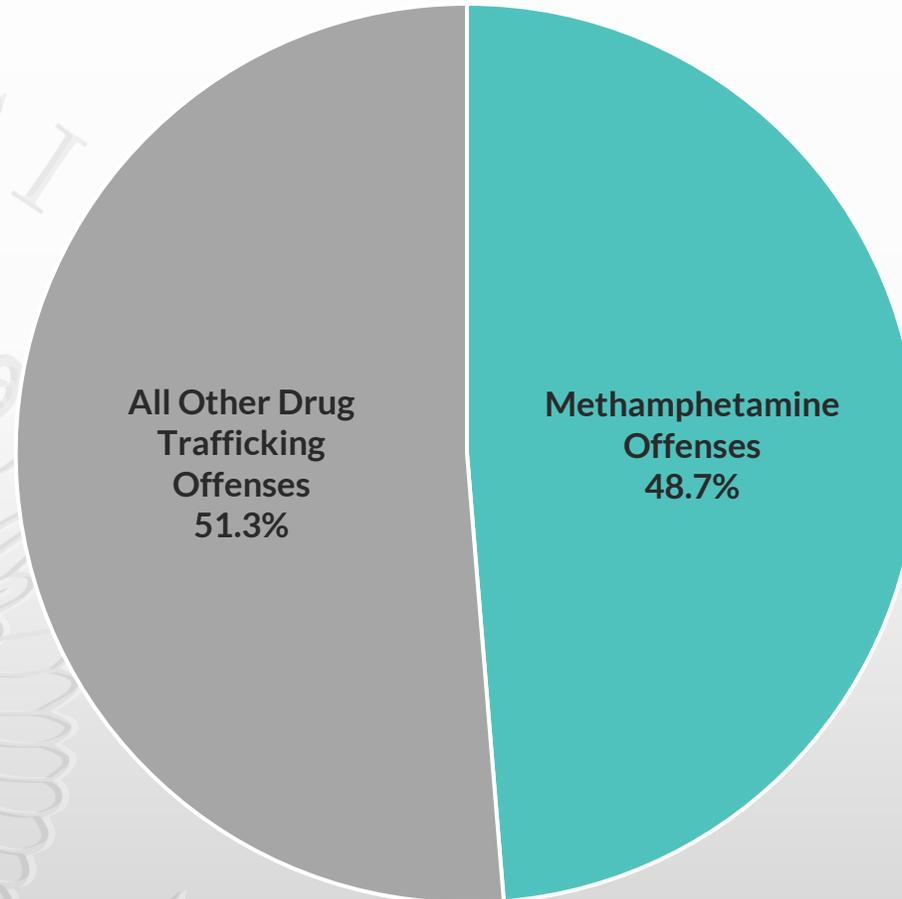


This analysis uses a sample fentanyl cases sentenced in fiscal year 2019 from the January 2021 Fentanyl Report. This sample includes only those individuals sentenced under USSG §2D1.1(a)(5) with complete guideline application information under a Guidelines Manual effective November 1, 2014 or later. Individuals who qualified as a Career Offender under §4B1.1 or an Armed Career Criminal under §4B1.4 were excluded from this analysis. In the fiscal year 2019 sample, 4.7% (n=41) of individuals were classified as performing "Other" functions. These individuals are not represented in the figure above and the category includes functions such as Medical Professional, Renter/Storer, Enabler, and User Only. Of these individuals, 12.2% received a sentence within range, 51.2% received a below range sentence, 31.7% received a departure under §5K1.1 or §5K3.1, and 4.9% received a sentence above the guideline range. There were 51 individuals whose functions could not be determined and those individuals were excluded from this analysis.

Part B: Methamphetamine

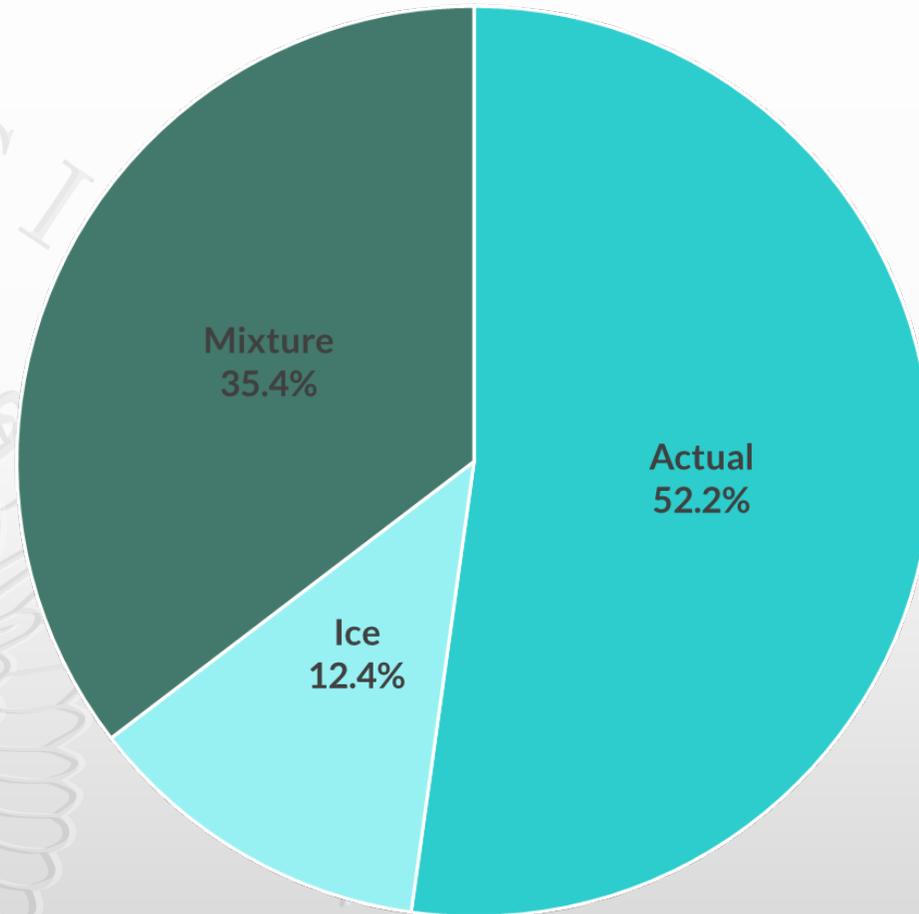


Frequency of Methamphetamine Offenses Compared to All Other Drug Trafficking Offenses Fiscal Year 2022



Frequency of Methamphetamine Types

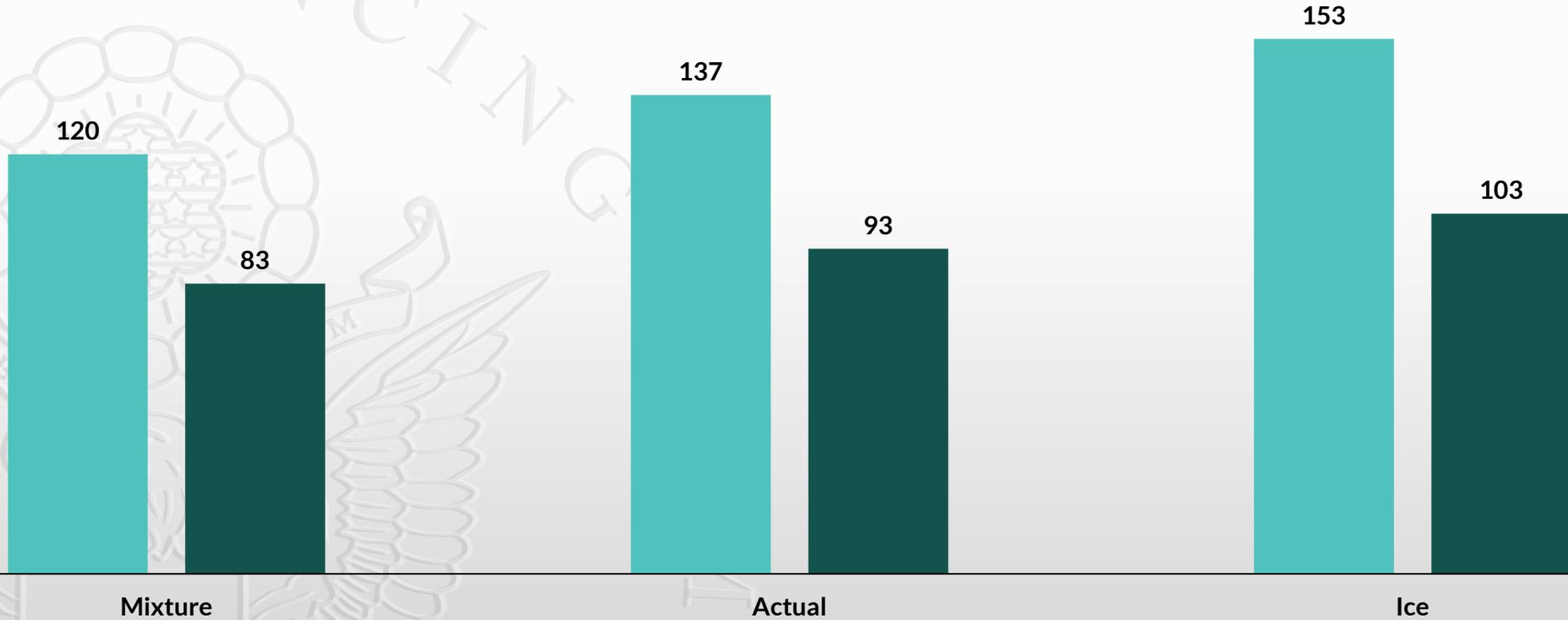
Fiscal Year 2022



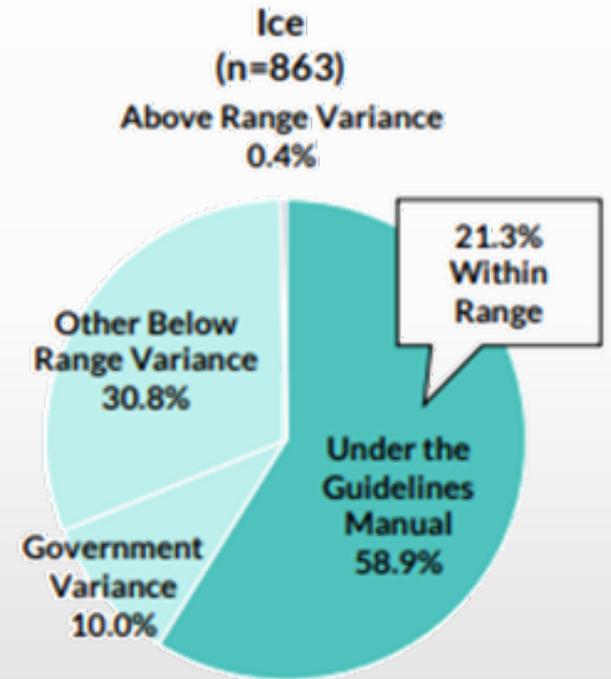
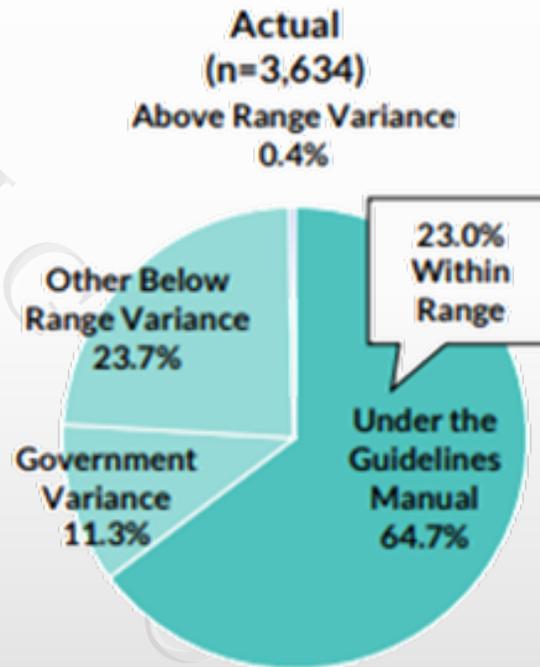
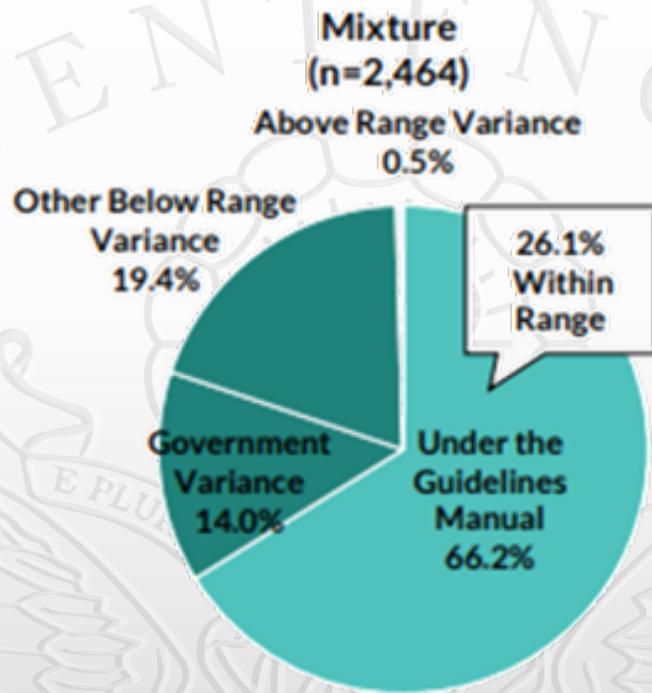
Average Guideline Minimum and Sentence Imposed by Methamphetamine Type

Fiscal Year 2022

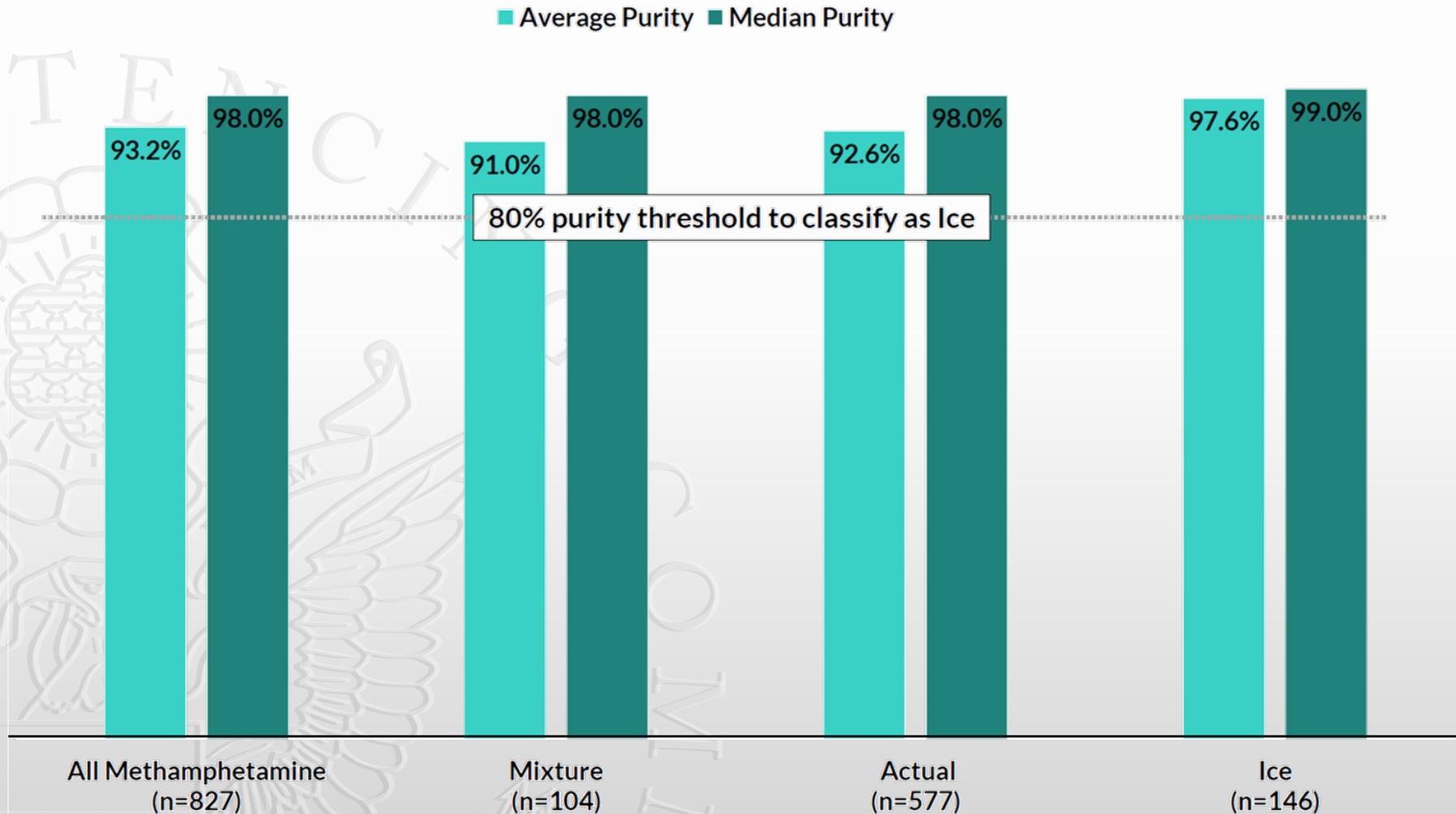
■ Average Guideline Minimum (in months) ■ Average Sentence Imposed (in months)



Sentences Relative to the Guideline Range by Methamphetamine Types Fiscal Year 2022



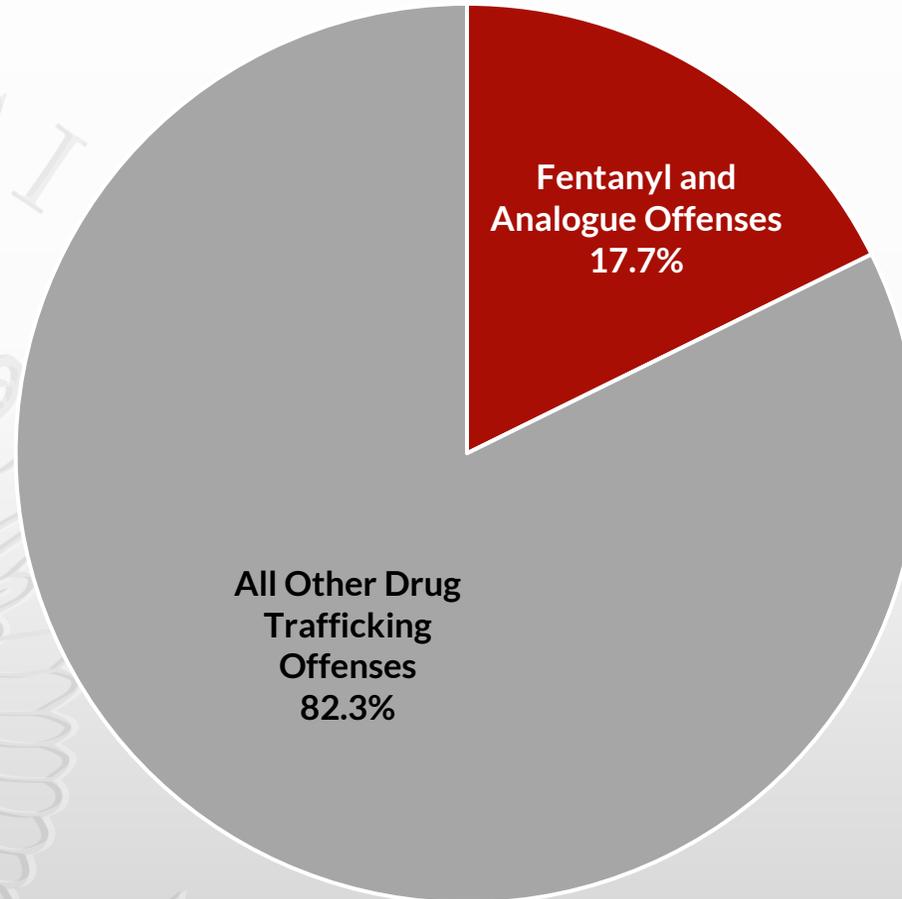
Average and Median Drug Purity by Methamphetamine Types Fiscal Year 2022



Part C: Misrepresentation of Fentanyl and Fentanyl Analogues



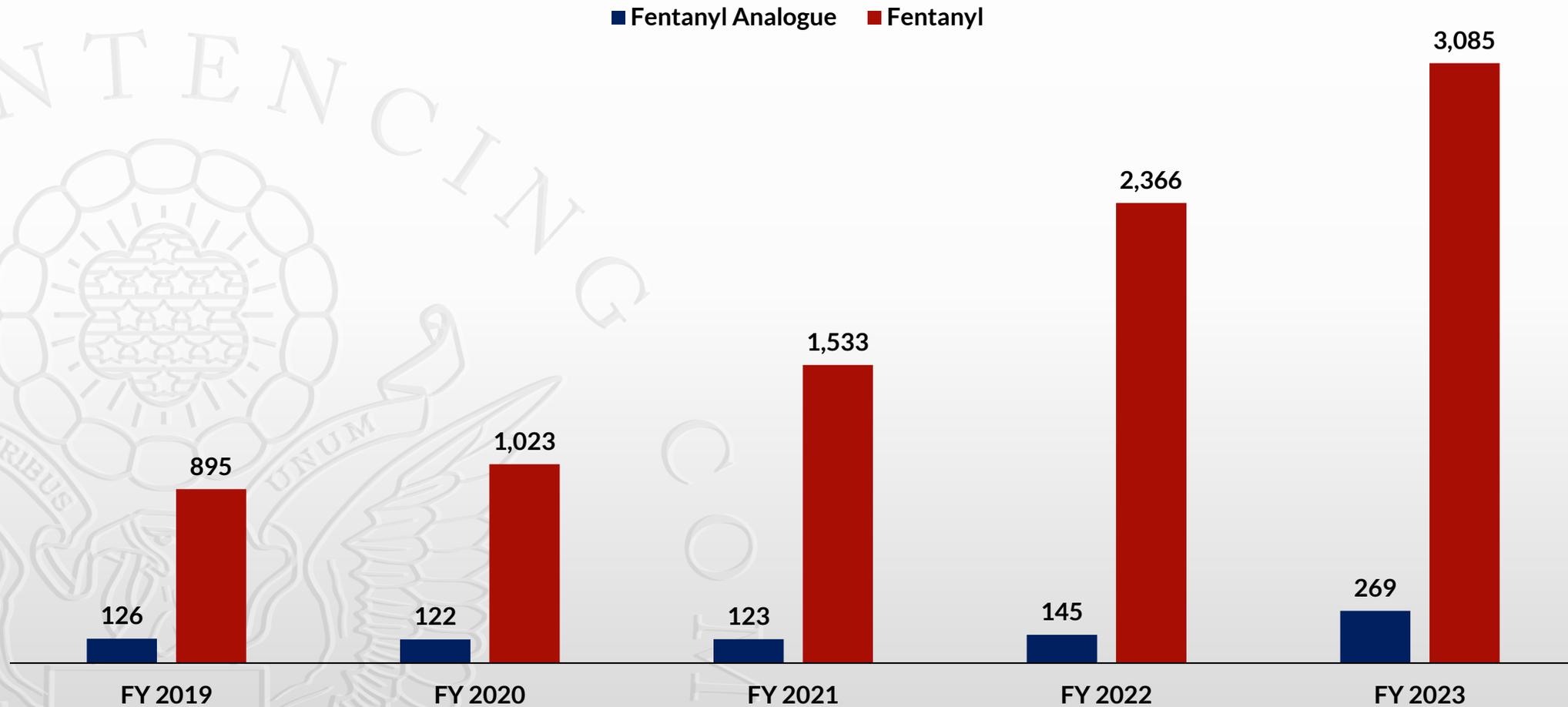
Frequency of Fentanyl and Fentanyl Analogue Offenses Compared to All Other Drug Trafficking Offenses Fiscal Year 2023



This analysis includes individuals sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of a Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), 2D1.10 (Endangering Human Life), or 2D1.14 (Narco-Terrorism).

Rise of Fentanyl and Fentanyl Analogue Offenses

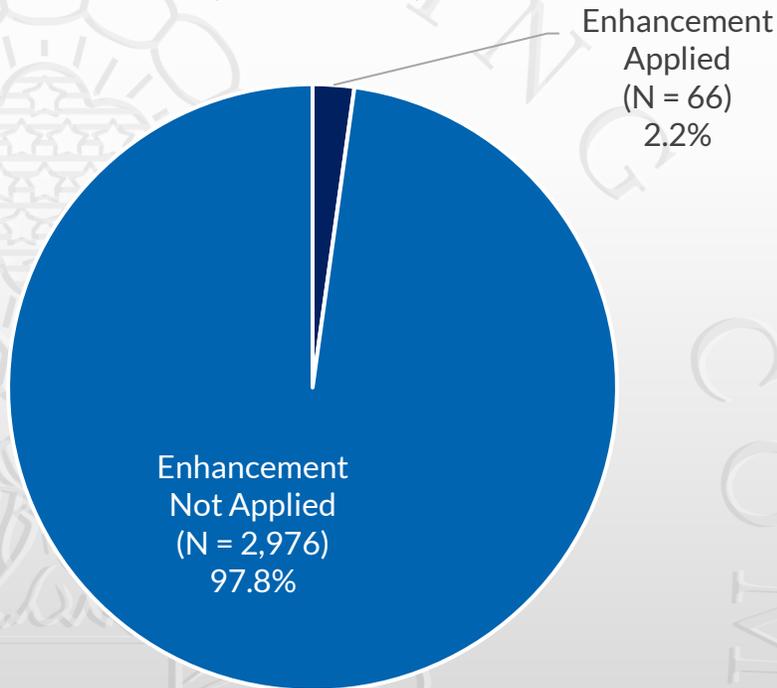
Fiscal Years 2019 through 2023



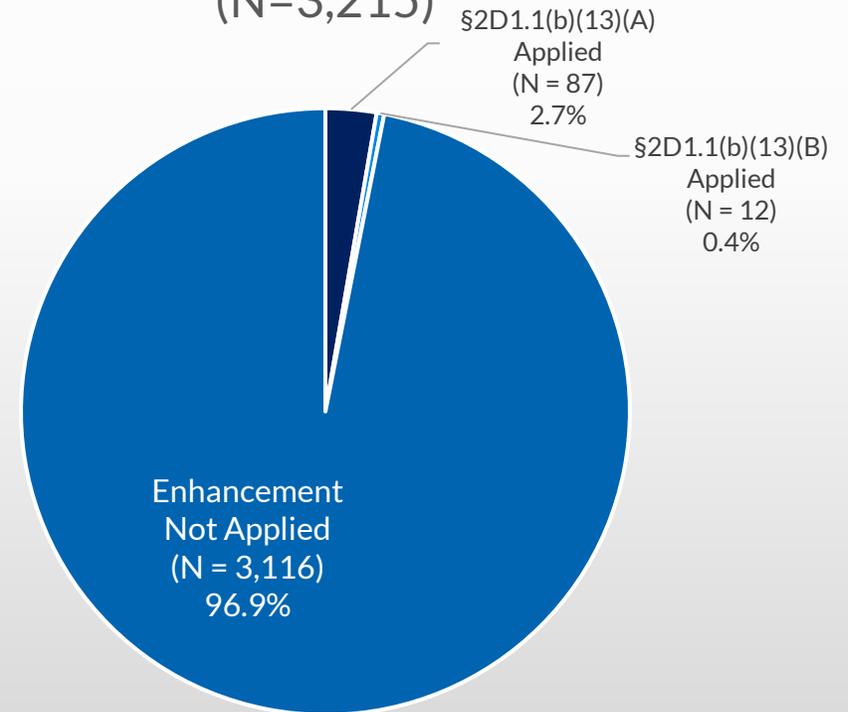
This analysis includes individuals sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of a Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), 2D1.10 (Endangering Human Life), or 2D1.14 (Narco-Terrorism).

Application of §2D1.1(b)(13) Misrepresentation Enhancement Fentanyl Cases

Fiscal Year 2023
(N=3,042)



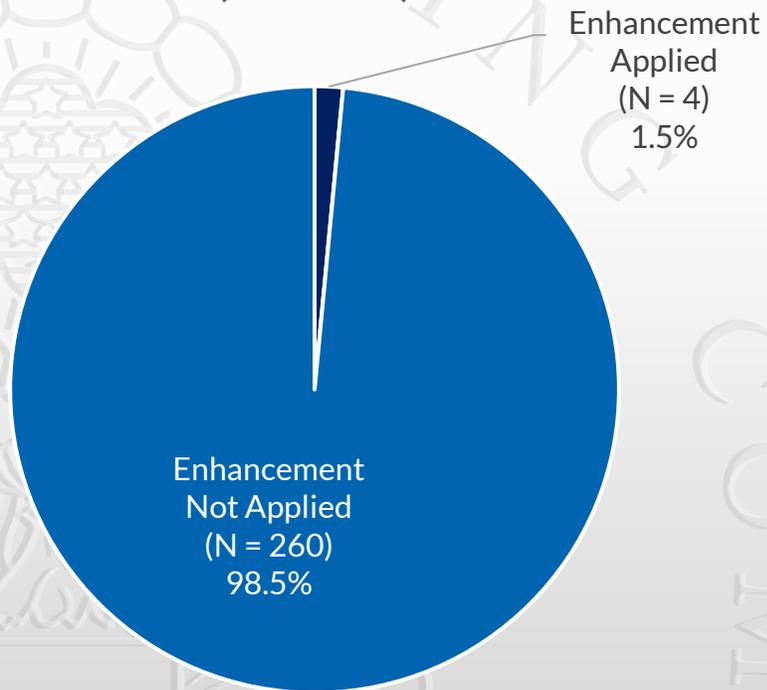
Fiscal Year 2024, Preliminary
(N=3,215)



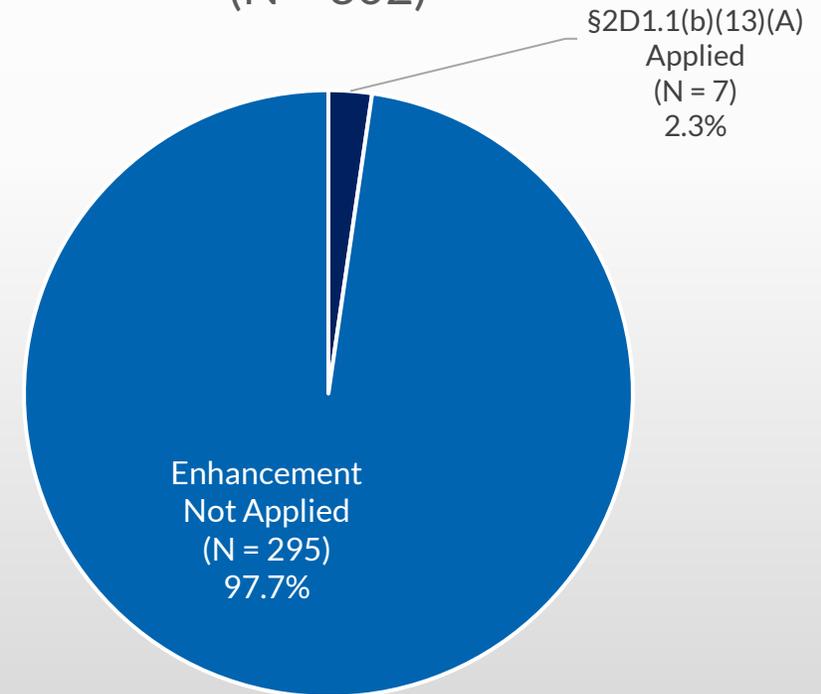
This analysis includes individuals sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of a Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), 2D1.10 (Endangering Human Life), or 2D1.14 (Narco-Terrorism) with complete guideline application and a primary drug type of fentanyl. This enhancement is available for individuals sentenced under a *Guidelines Manual* effective November 1, 2018 or later.

Application of §2D1.1(b)(13) Misrepresentation Enhancement Fentanyl Analogue Cases

Fiscal Year 2023
(N = 264)

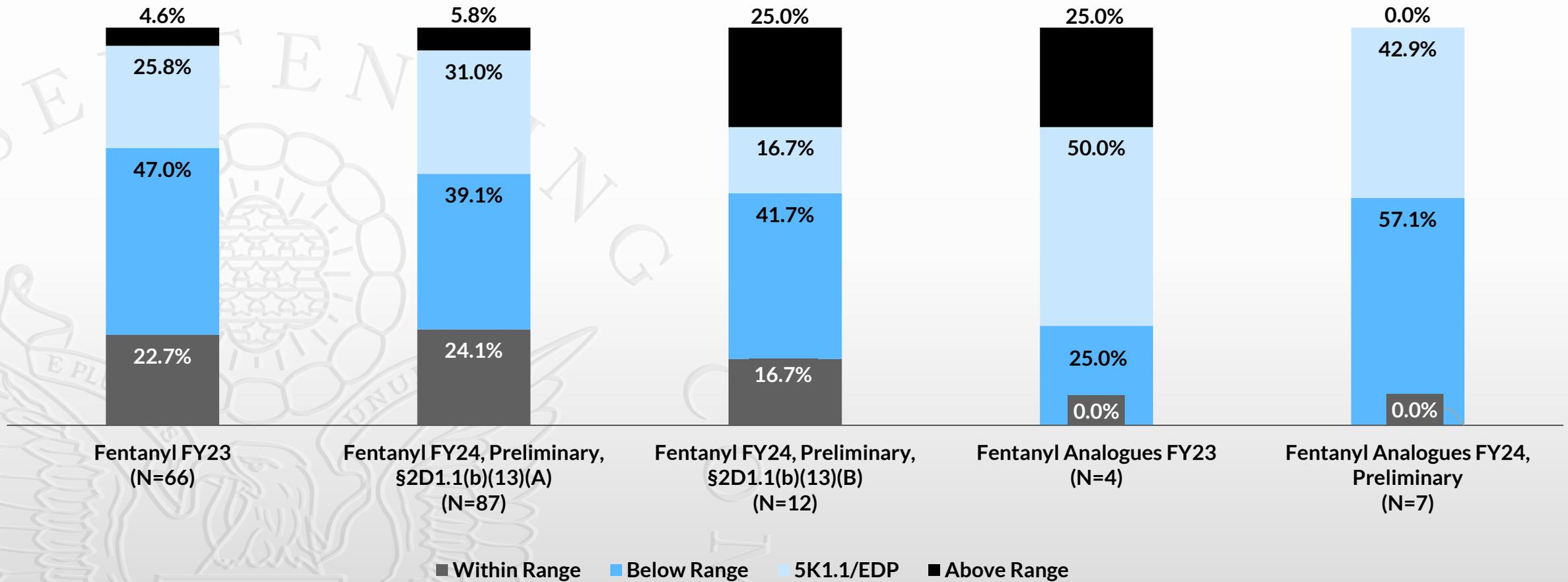


Fiscal Year 2024, Preliminary
(N = 302)



This analysis includes individuals sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of a Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), 2D1.10 (Endangering Human Life), or 2D1.14 (Narco-Terrorism) with complete guideline application and a primary drug type of fentanyl analogue. This enhancement is available for individuals sentenced under a *Guidelines Manual* effective November 1, 2018 or later.

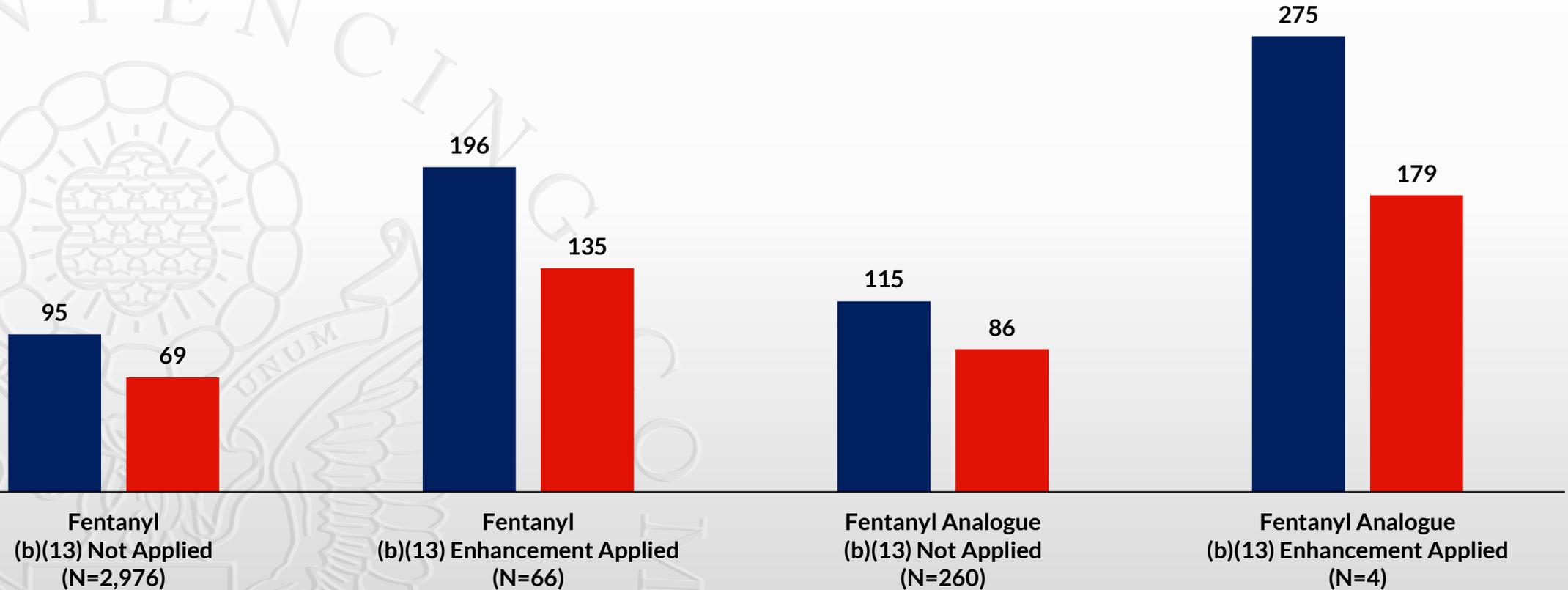
Sentence Relative to the Guideline Range for Individuals who Received the §2D1.1(b)(13) Misrepresentation Enhancement



This analysis includes individuals sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of a Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), 2D1.10 (Endangering Human Life), or 2D1.14 (Narco-Terrorism) with complete guideline application and a primary drug type of fentanyl or fentanyl analogue. This enhancement is available for individuals sentenced under a *Guidelines Manual* effective November 1, 2018 or later.

Average Guideline Minimum and Sentence Imposed by Application of §2D1.1(b)(13) Fiscal Year 2023

■ Average Guideline Minimum (in months) ■ Average Sentence Imposed (in months)



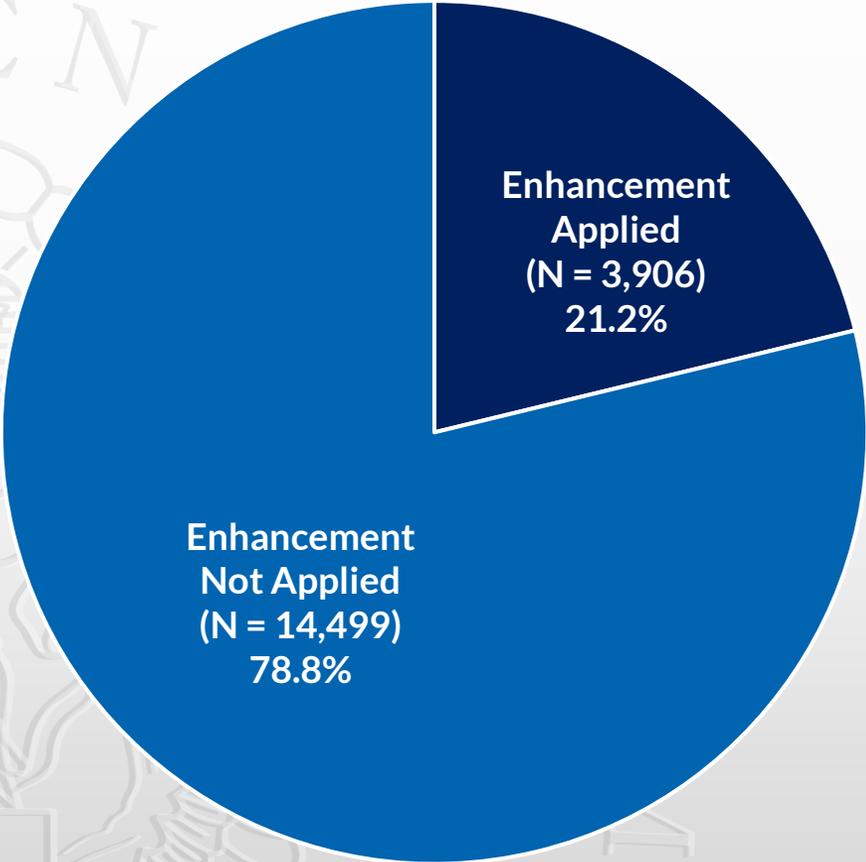
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Part D: Machineguns



Application of §2D1.1(b)(1) Weapons Enhancement

Fiscal Year 2023



Of the 3,906 cases where the enhancement was applied, 3.8% (N = 148) involved a machinegun

This analysis includes individuals sentenced under USSG §2D1.1(b)(1) with complete guideline application information. Staff conducted a special data collection project of cases in fiscal year 2023 who received the §2D1.1(b)(1) enhancement because the offense involved a machinegun.



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Other Resources

- 1** *Methamphetamine Trafficking Offenses in the Federal Criminal Justice System (June 2024)*
- 2** *Fentanyl and Fentanyl Analogues: Federal Trends and Trafficking Patterns (January 2021)*
- 3** *Mandatory Minimum Penalties for Drug Offenses in the Federal Criminal Justice System (October 2017)*
- 4** *Quick Facts*



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

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