



## **2026 PROPOSED AMENDMENTS ON CAREER OFFENDER**

Hello, my name is David Rutter, and I am a Research Associate in the Office of Research and Data at the U.S. Sentencing Commission.

On January 30, 2026, the Commission voted to publish proposed amendments to the Federal Sentencing Guidelines for public comment.

Among the proposals is a career offender amendment that would amend the definitions for the terms “crime of violence” and “controlled substance offense” in §4B1.2. Section 4B1.2 of the Guidelines Manual provides definitions for the terms used in Section 4B1.1, the Career Offender Guideline.

The Commission is seeking public comment on whether to promulgate this amendment.

In this presentation, the Commission will provide data analyses to inform the public’s comment on the career offender amendment.

In Title 28 Section 994(h), Congress directed the Commission to assure that the “the guidelines specify a term of imprisonment at or near the maximum term authorized” for individuals who are 18 years or older, have been convicted of a felony that is a crime of violence or controlled substance offense, and have previously been convicted of two or more felonies that are crimes of violence or controlled substance offenses.

The Commission implemented Congress’s directive by identifying a defendant as a career offender if (1) the defendant was at least eighteen years old at the time he or she committed the instant offense of conviction; (2) the instant offense is a felony that is a crime of violence or a controlled substance offense; and (3) the defendant has at least two prior felony convictions of either a crime of violence or a controlled substance offense.

When these criteria are met, section 4B1.1 provides for a guideline range “at or near the maximum [term of imprisonment] authorized” — typically resulting in a guidelines range significantly greater than would otherwise apply.

The guidelines accomplish this through two potential adjustments.



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First, the guideline provides for a potentially increased final offense level. The table at section 4B1.1(b) provides a range of applicable final offense levels based on the statutory maximum penalties for an individual's instant federal statute of conviction.

In addition to potentially increasing the applicable offense level, the career offender guideline also assigns all individuals to Criminal History Category VI, the highest criminal history category, regardless of the number of criminal history points assigned in Chapter Four of the guidelines.

Before presenting data related to the proposed amendment, the Commission will provide an overview of the individuals sentenced under the Career Offender guideline in fiscal year 2024, including the number of those individuals, demographics, and sentencing information.

This slide presents data on the number of individuals sentenced under section 4B1.1 each year, over a ten-year period, from fiscal year 2015 to fiscal year 2024.

The number of individuals has decreased over this 10-year period. In fiscal year 2015, over 2,000 individuals were sentenced under the Career Offender guideline. In FY 2020, the number of individuals decreased to 1,216. And in fiscal year 2024, 1,279 individuals were sentenced under section 4B1.1.

Data is also presented on how the number of individuals sentenced under the Career Offender guideline compared to the total federal criminal caseload for those years. The share of the overall caseload sentenced as Career Offenders has decreased from 3 percent in fiscal year 2015 to 2 percent in FY 2024.

This slide presents data on the demographics of individuals sentenced under section 4B1.1, compared to all individuals sentenced in fiscal year 2024.

59% of the individuals sentenced under section 4B1.1 were black, 23% of these individuals were white, and 16 percent were Hispanic. Among all cases in fiscal year 2024, 50 percent of sentenced individuals were Hispanic, 24% were black, and 21 percent were white.

Over 95 percent of individuals sentenced under section 4B1.1 were male and U.S. citizens. Among all cases in FY 2024, 87 percent of sentenced individuals were male, and 65 percent were U.S. citizens.



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This slide presents data on the position of the sentence imposed relative to the guideline range for individuals sentenced under section 4B1.1 in fiscal year 2024.

60 percent of the individuals sentenced under section 4B1.1 received a variance below the guideline range.

18 percent were sentenced within range, and an equal share received a departure under section 5K1.1 for substantial assistance.

Among all cases in FY 2024, 30 percent of the sentences were a variance below the guideline range, and 46 percent were within the applicable guideline range.

Similar information is also presented over a ten-year period from FY 2015 to FY 2024.

The share of Career Offender cases sentenced within the applicable guideline range has decreased from 25 percent in FY 2015 to 18 percent in FY 2024.

The share of cases sentenced below the applicable guideline range has increased from 50 percent in FY 2015 to 64 percent in FY 2024.

The career offender guideline specifies, in part, that an individual qualifies for application of the guideline if both the instant federal offense of conviction and at least two prior felony convictions are a crime of violence or a controlled substance offense. The Commission undertook an analysis to distinguish among those individuals sentenced under section 4B1.1.

Specifically, the Commission assigned each individual sentenced under section 4B1.1 in FY 2024 to one of three categories based on the potential combinations of instant and prior offenses provided for in the guidelines: controlled substance offense only, violent only, and mixed (for example, those individuals with an instant violent offense and prior controlled substance offense). In a previous publication, the Commission described these categories as distinct pathways to receive the enhancement.

Over half of the individuals sentenced under section 4B1.1 had a controlled substance offense-only pathway, meaning the instant offense was a controlled substance offense and the prior offenses that triggered the enhancement were controlled substance offenses.



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For five percent of the individuals sentenced under section 4B1.1, the instant offense was a crime of violence, and both prior offenses were crimes of violence.

The remaining 40 percent had convictions for a combination of controlled substance offenses and crimes of violence, which are referred to as the mixed pathway group.

Here the Commission presents data on the recidivism rates for approximately 1,000 individuals who were sentenced under section 4B1.1 in 2006 or later and released from custody in 2015. Recidivism is defined here as a new arrest within 5 years of release from prison.

Individuals identified as receiving the section 4B1.1 enhancement based on a controlled substance-only pathway recidivated at a rate of 49%. Individuals with a violent-only pathway recidivated at a higher rate of 57%, as well as those individuals with a mixed pathway, at 53%.

The Commission examined the time between release and rearrest for each individual. Those who received the enhancement based on the violent-only pathway, were rearrested the quickest after release, at an average of 10 months, followed by individuals with a controlled substance-only pathway at 20 months, and a mixed pathway at 22 months.

The Commission also examined the type of offense for which individuals were rearrested. Those with a controlled substance-only pathway were most commonly rearrested for a drug trafficking offense, those with a violent-only pathway were rearrested for robbery most commonly, and individuals with a mixed pathway were rearrested for assault as the most common offense.

As previously mentioned, the mixed group includes individuals with an instant offense of conviction for a crime of violence and those with an instant offense involving a controlled substance offense.

Those with an instant offense of conviction for a controlled substance offense recidivated at a rate of 50% while those individuals with an instant offense of conviction for a crime of violence recidivated at a higher rate of 69%.

The Commission will now present information and relevant data on the proposed amendment.



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The proposed amendment would amend the definitions for the terms “crime of violence” and “controlled substance offense” in §4B1.2.

The proposed amendment provides options to eliminate the current categorical approach used to determine whether a federal offense qualifies as a crime of violence or a controlled substance offense.

For federal offenses, the proposed amendment would define crimes of violence by requiring a conviction under one of the listed federal statutes.

For state offenses, the proposed amendment sets forth two different options for amending the definition of crime of violence.

The first option would define a state crime of violence based on how the state offense is labeled under state law and provides a list of labels that would qualify as a crime of violence.

The second option would define a state crime of violence by reference to a list of federal statutes. Under this approach, a state offense would qualify regardless of whether the state offense includes additional elements or means of committing an element.

Both options set forth limitations and exclusions to the definition of a state crime of violence.

Data will now be presented regarding the proposed amendment’s revision to the definition of crime of violence.

Of the 61,678 individuals sentenced in fiscal year 2024, the Commission identified 1,650 individuals whose instant federal conviction was for one of the statutes listed in the reassigned section §4B1.2(a) of the proposed amendment as a crime of violence.

This slide presents all prior convictions for those 1,650 individuals which were assigned criminal history points under §4A1.1 of the Guidelines Manual.

Some of these prior convictions may constitute a crime of violence under either or both options in the proposed amendment.



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This slide presents the same data but now includes individuals with an instant federal conviction for one of the additional bracketed statutes listed in the reassigned section §4B1.2(a) of the proposed amendment.

The Commission identified an additional 692 individuals with such a crime of violence conviction, resulting in a total of 2,342 individuals.

A distribution of the prior convictions for these 2,342 individuals assigned criminal history points under §4A1.1 of the Guidelines Manual is presented.

Again, some of these prior convictions may constitute a crime of violence under either or both options in the proposed amendment.

The proposed amendment also sets forth two different options for amending the definition of controlled substance offense.

The first option would require a conviction under one of several federal statutes, effectively eliminating state-controlled substance offenses from the definition.

The second option would maintain the current definition of controlled substance offense but would limit its scope by setting a minimum sentence length requirement for a prior conviction to qualify as a controlled substance offense.

Data will now be presented regarding the proposed amendment's revision to the definition of controlled substance offense.

The Commission estimated the impact of the proposed amendment's first option, which excludes state-controlled substance offenses from the scope of its application by requiring a conviction under one of a list of specific federal statutes.

Of the 1,279 individuals sentenced under §4B1.1 in fiscal year 2024, the Commission estimates that 962 individuals qualified for the §4B1.1 enhancement in part due to at least one state-controlled substance offense. Under the proposed amendment, these individuals would no longer qualify for the enhancement at §4B1.1. The Commission estimates that the remaining 317 individuals would continue to be eligible for the enhancement under the proposed amendment.

The second option would maintain the current definition of controlled substance offense but would limit its scope by setting a minimum sentence length requirement for a prior conviction to qualify as a controlled substance offense.



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This option sets forth several sentence length sub options, including measuring the sentence length by the length of the sentence served. The data here, however, is based on the Commission's criminal history rules, which uses sentence imposed.

Of the 1,279 individuals sentenced under §4B1.1 in fiscal year 2024, the Commission estimates that 471 individuals qualified for the §4B1.1 enhancement in part due to at least one controlled substance offense for which the sentence was not assigned three criminal history points under §4A1.1(a). Under the proposed amendment, those individuals would no longer be eligible for the §4B1.1 enhancement.

The Commission estimates that the remaining 808 individuals qualified for the §4B1.1 enhancement due to prior offenses which were controlled substance offense assigned three criminal history points under §4A1.1(a) or a crime of violence and, therefore, would continue to be eligible for the enhancement under the proposed amendment.

This concludes the data presentation. For further information on the proposed amendment and prior research on individuals sentenced under 4B1.1, please visit the United States Sentencing Commission's website at [ussc.gov](https://ussc.gov).

Comments may be submitted to the Commission at the addresses shown. The public comment period concludes on March 18, 2026.

Thank you.