

Sentencing and Guideline Application Information for §2B1.1 Offenders



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Sentencing Trends for §2B1.1 Offenders: Fiscal Years 2003 – 2012

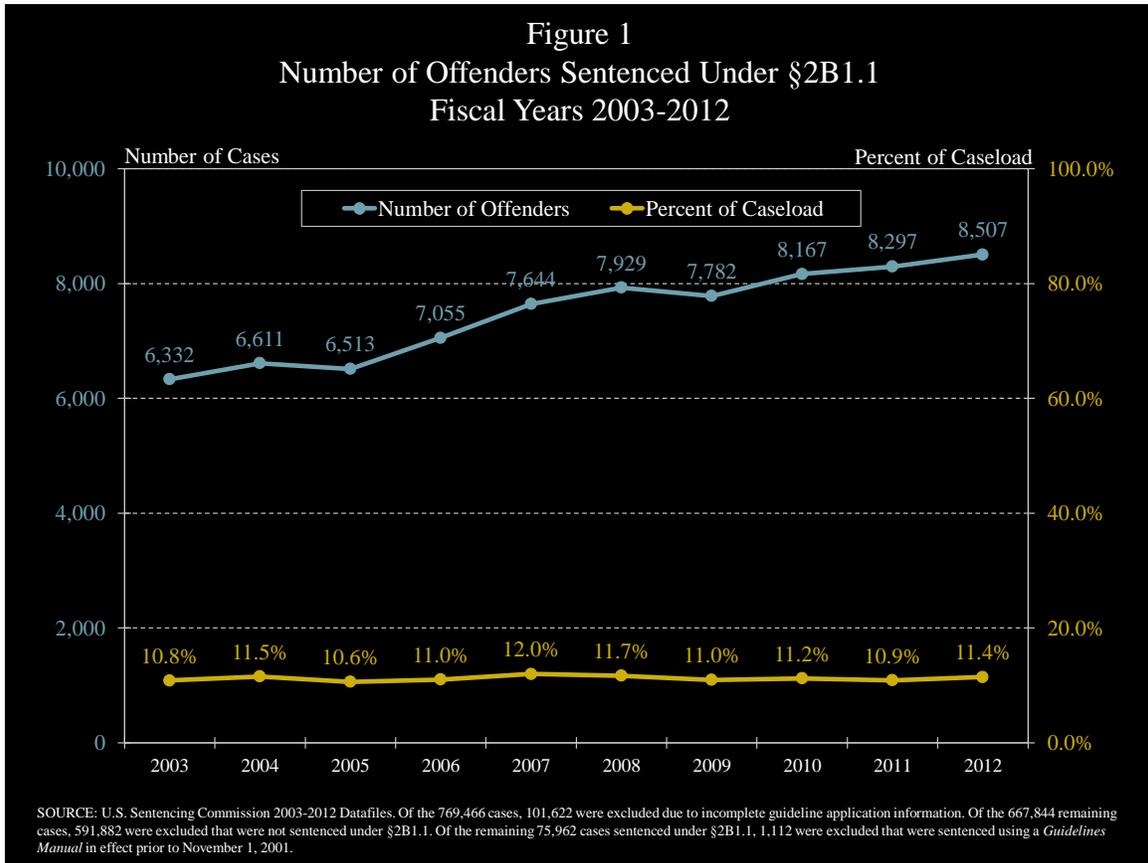


Figure 1 shows the number of offenders sentenced under the fraud guideline (§2B1.1) and the proportion of fraud offenders relative to the federal caseload for that time period from fiscal year 2003 to fiscal year 2012.

The number of fraud offenders (blue line) increased from 6,332 in fiscal year 2003 to 8,507 in fiscal year 2012.

The proportion of fraud offenders (yellow line) consistently has comprised approximately 11 percent of the federal caseload during the ten year period.

Sentencing Trends for §2B1.1 Offenders: Fiscal Years 2003 – 2012

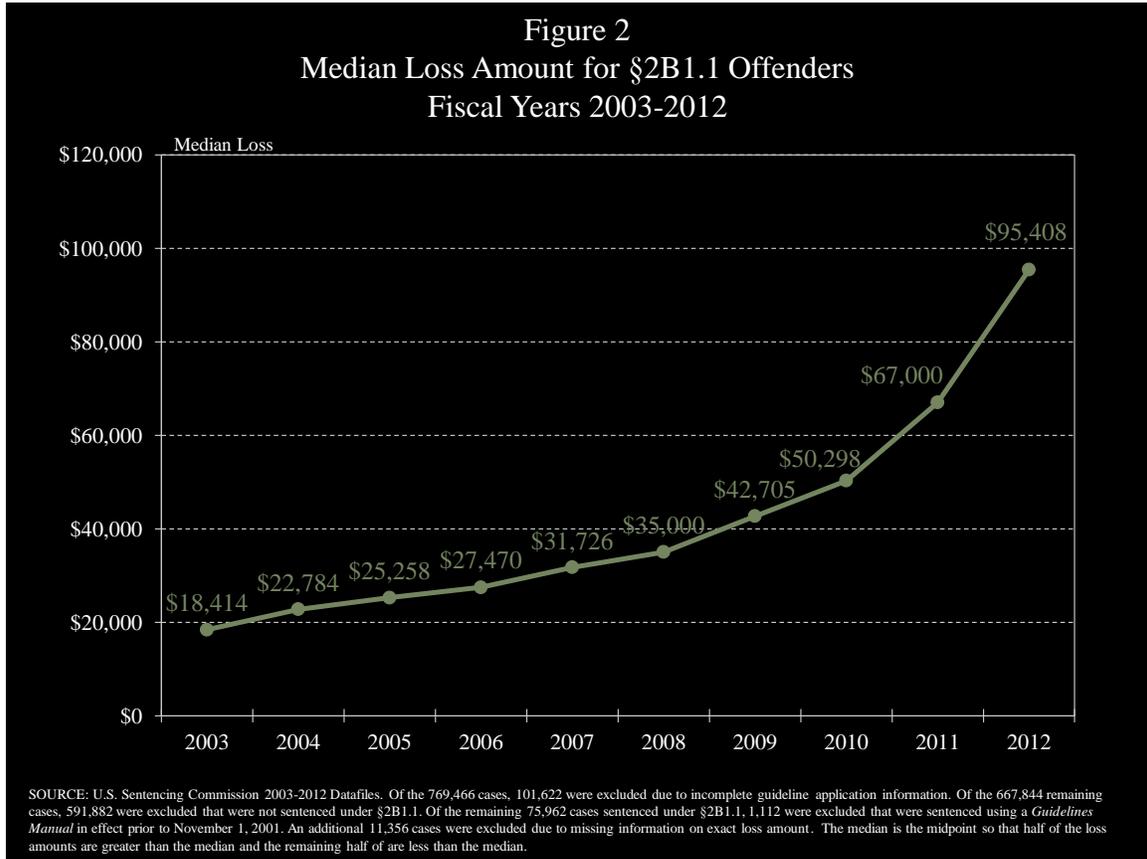


Figure 2 shows the median loss amount for offenders sentenced under the fraud guideline (§2B1.1) from fiscal year 2003 to fiscal year 2012.

The median loss amount increased steadily from \$18,414 in fiscal year 2003 to \$95,408 in fiscal year 2012, an approximate five-fold increase.

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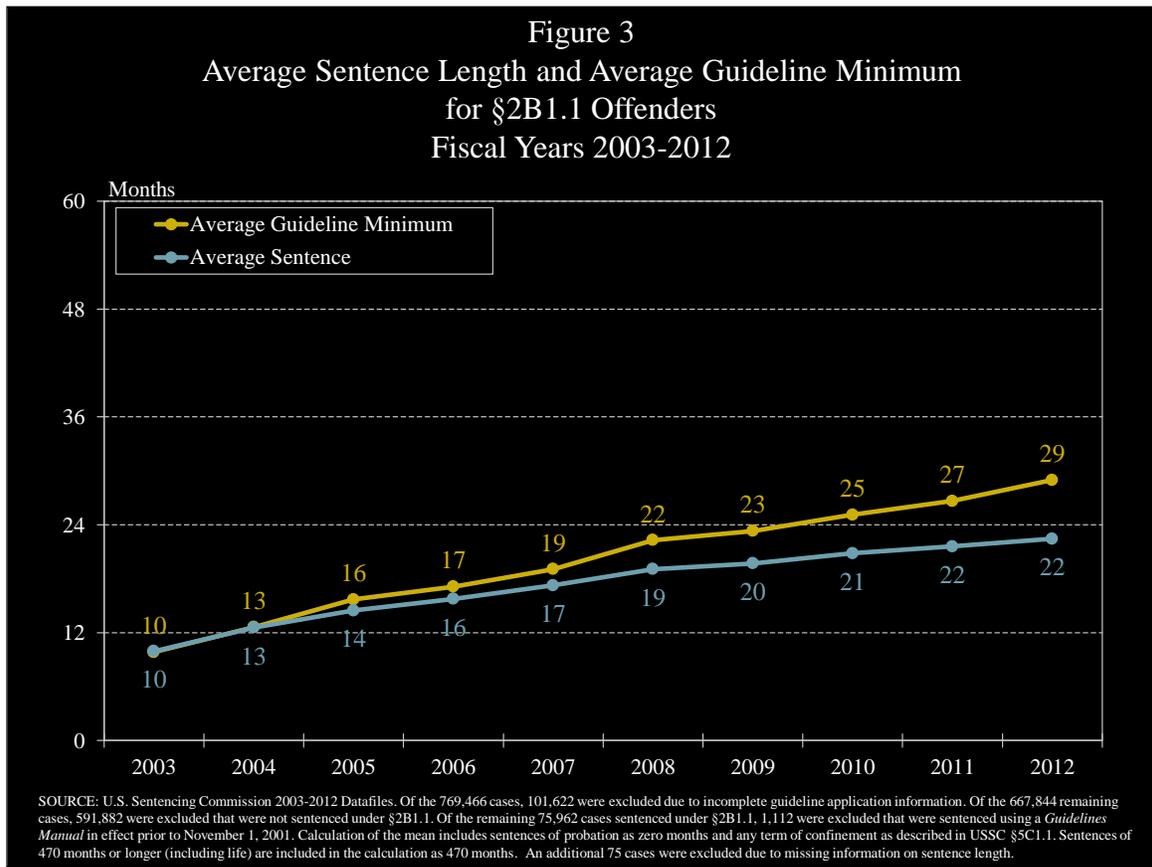


Figure 3 shows the average guideline minimum and average sentence imposed for offenders sentenced under the fraud guideline (§2B1.1) from fiscal year 2003 to fiscal year 2012.

The average guideline minimum (yellow line) for fraud offenders increased from ten months to 29 months from fiscal year 2003 to fiscal year 2012.

The average sentence (blue line) for fraud offenders increased from ten months to 22 months from fiscal year 2003 to fiscal year 2012, a slower increase than the average guideline minimum during the time period.

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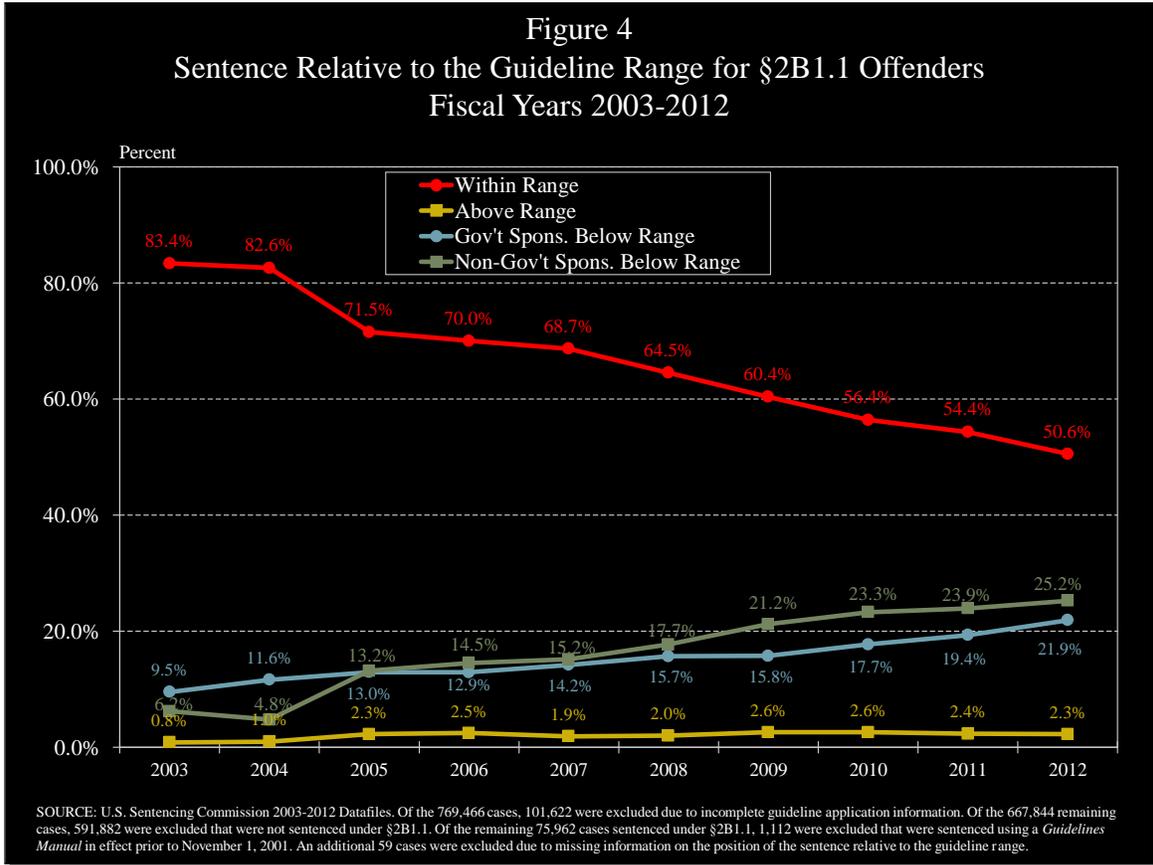


Figure 4 shows the sentences relative to the guideline range for offenders sentenced under the fraud guideline (§2B1.1) from fiscal year 2003 to fiscal year 2012.

The rates of within range sentences (red line) for fraud offenders decreased from 83.4 percent in fiscal year 2003 to 50.6 percent in fiscal year 2012.

The rates of government sponsored below range sentences (blue line) for fraud offenders increased from 9.5 percent to 21.9 percent during the time period.

The rates of non-government sponsored below range sentences (green line) for fraud offenders increased from 6.1 percent to 25.2 percent during the time period.

The rates of above range sentences (yellow line) for fraud offenders increased from 0.8 percent to 2.3 percent during the time period.

Sentencing Trends for §2B1.1 Offenders: Fiscal Years 2003 – 2012

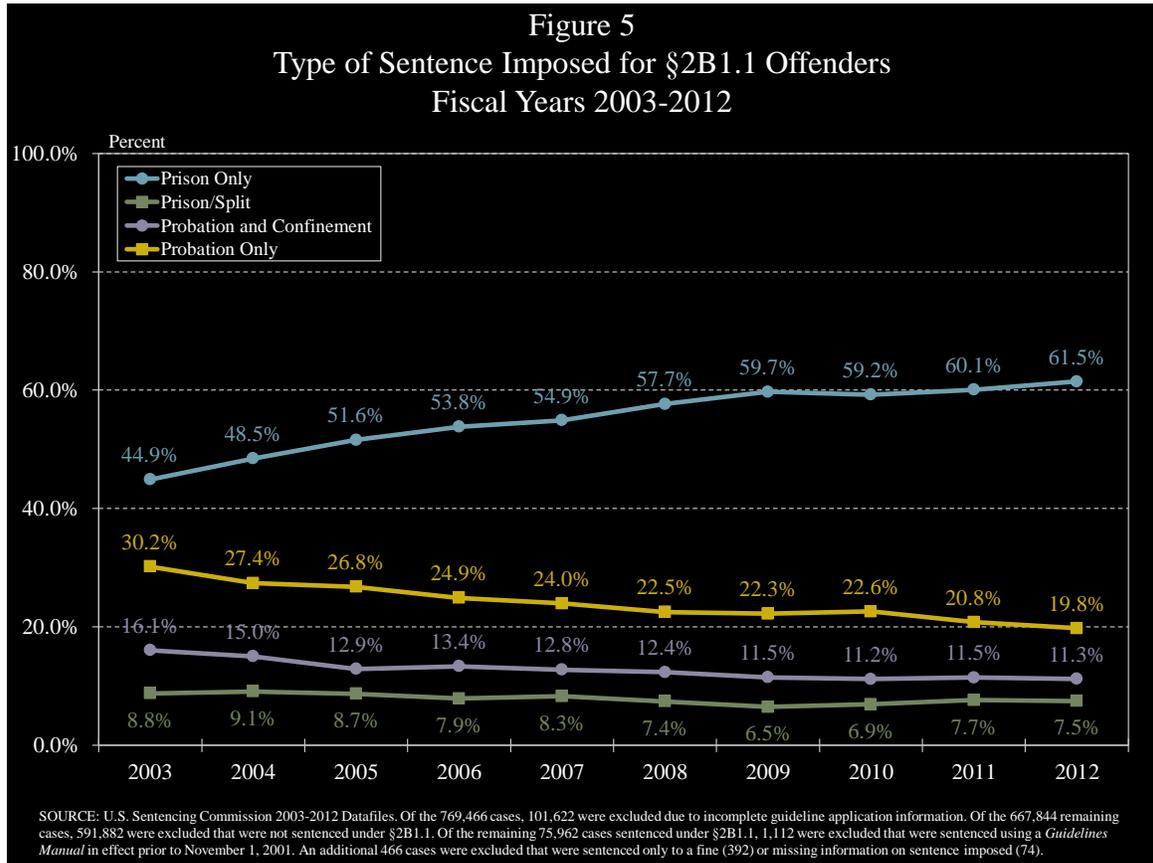


Figure 5 shows the type of sentence imposed for offenders sentenced under the fraud guideline (§2B1.1) from fiscal year 2003 to fiscal year 2012.

The percentage of fraud offenders who were sentenced to prison only (blue line) increased from 44.9 percent in fiscal year 2003 to 61.5 percent in fiscal year 2012.

The percentage of fraud offenders sentenced to probation only (yellow line) decreased from 30.2 percent to 19.8 percent during the time period.

Alternative sentences (purple line and green line) consistently have been imposed less often than prison and probation and decreased during the time period.

Analysis of §2B1.1 Offenders in Each Loss Table Category: Fiscal Year 2012

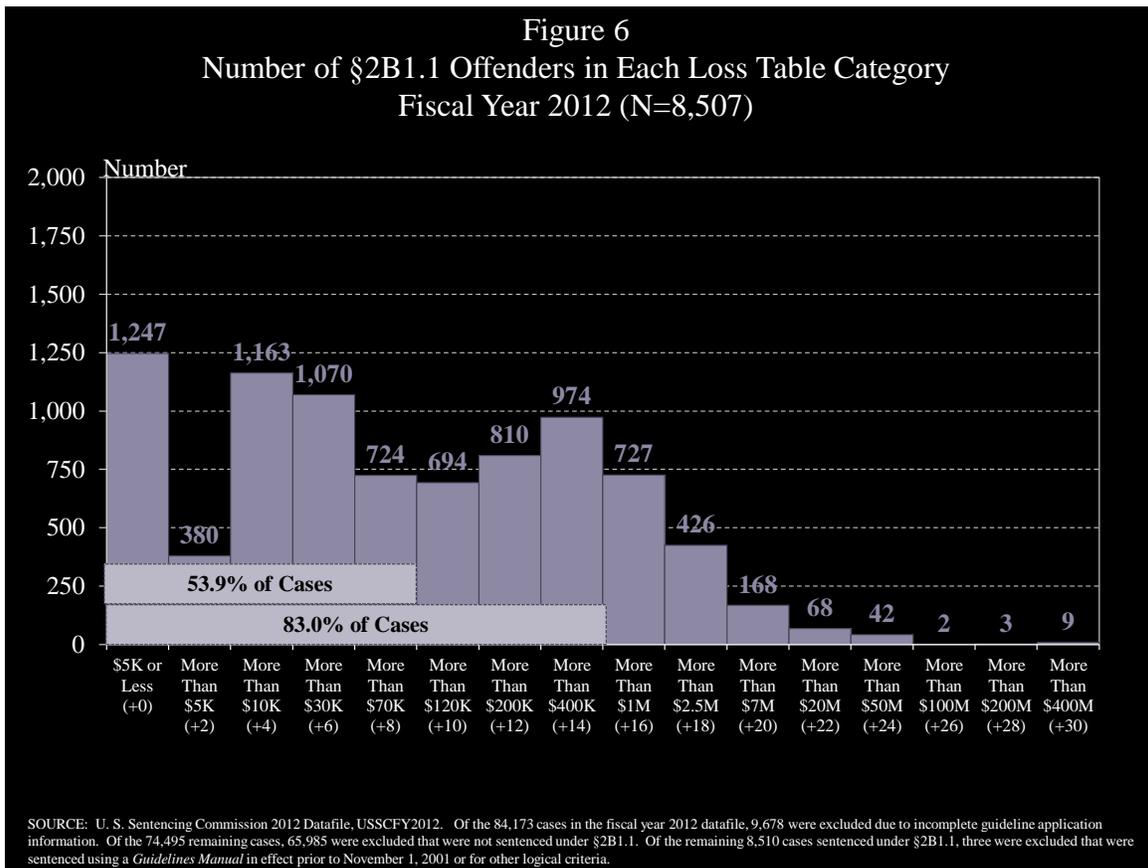


Figure 6 shows the number of offenders sentenced under the fraud guideline (§2B1.1) in each loss table category for fiscal year 2012.

A total of 1,247 (14.7%) of fraud offenders had loss amounts of \$5,000 or less and did not receive an offense level increase from the loss table.

The majority of fraud offenders (83.0%) received offense level increases from the lower half of the loss table, involving \$1,000,000 or less.

Approximately half (53.9%) of fraud offenders had loss amounts of \$120,000 or less.

Analysis of §2B1.1 Offenders in Each Loss Table Category: Fiscal Year 2012

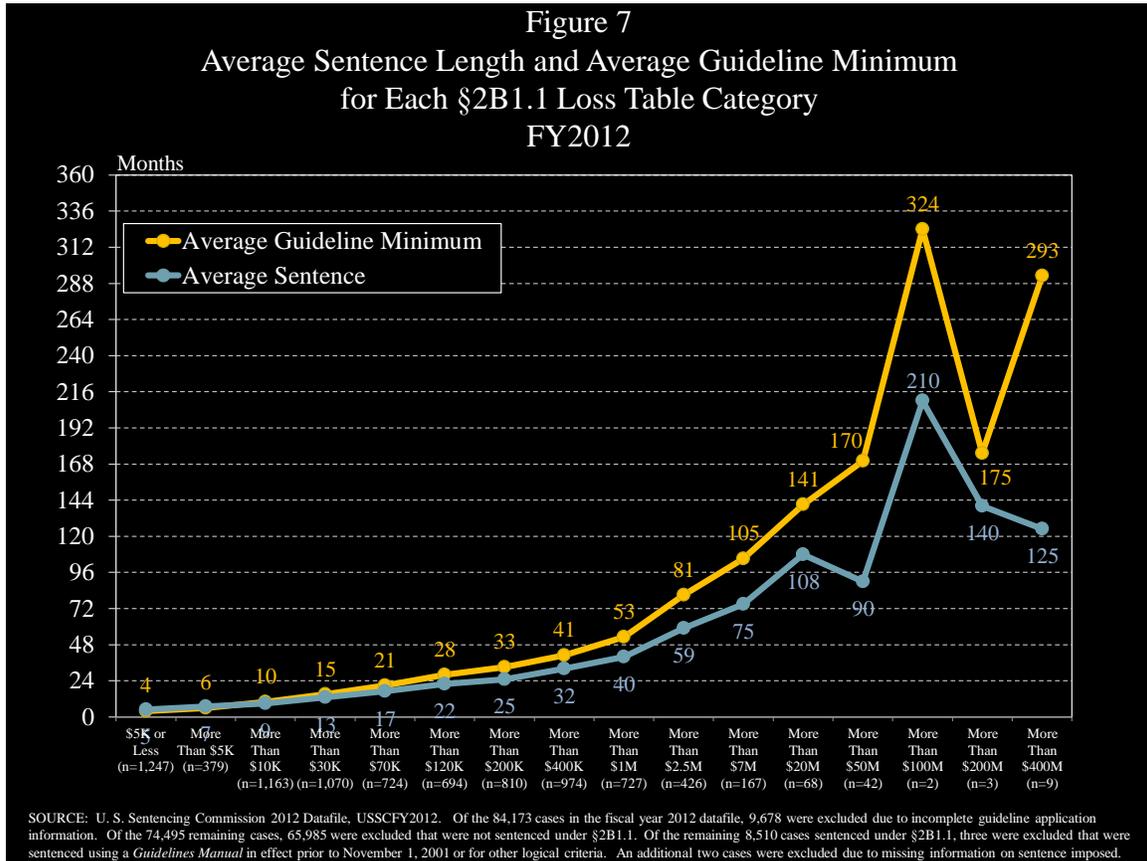


Figure 7 shows the average guideline minimum and average sentence imposed for offenders sentenced under the fraud guideline (§2B1.1) in each loss table category in fiscal year 2012.

The average guideline minimum (yellow line) is greater for fraud offenders in higher loss table categories increasing from four months for offenders with no loss table increase (\$5,000 or less) to 293 months for the nine offenders in the more than \$400,000,000 category.

The average sentence (blue line) also is greater for fraud offenders in higher loss table categories increasing from five months for offenders with no loss table increase (\$5,000 or less) to 125 months for the nine offenders in the more than \$400,000,000 category.

Analysis of §2B1.1 Offenders in Each Loss Table Category: Fiscal Year 2012

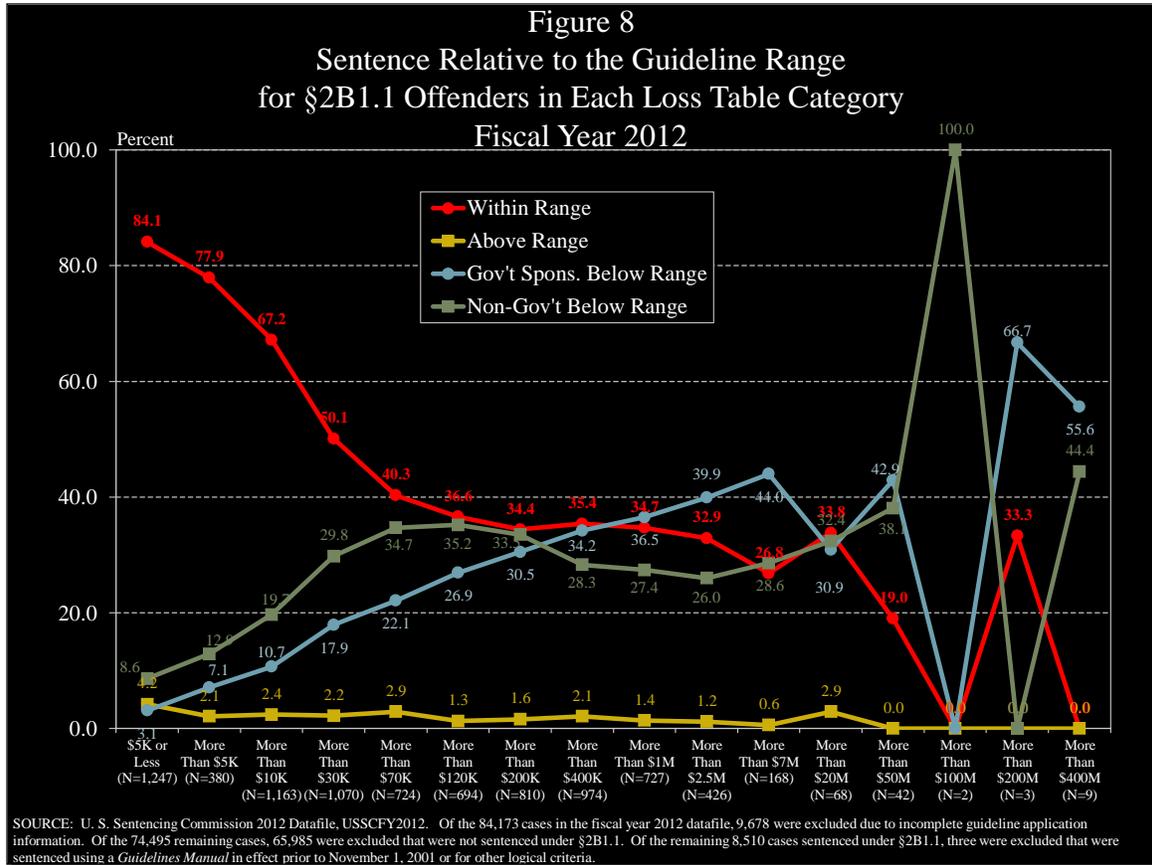


Figure 8 shows sentences relative to the guideline range for offenders sentenced under the fraud guideline (§2B1.1) for offenders in each loss table category in fiscal year 2012.

Rates of within range sentences (red line) decrease for fraud offenders in higher loss table categories from 84.1 percent for offenders with no offense level increase (\$5,000 or less) to 0.0 percent for the nine offenders in the more than \$400,000,000 category.

Overall, non-government sponsored below range sentences (green line) are more commonly imposed for fraud offenders in loss table categories up to \$400,000.

Overall, government sponsored below range sentences (blue line) are more commonly imposed for fraud offenders in loss table categories involving more than \$400,000.

Analysis of §2B1.1 Offenders in Each Loss Table Category: Fiscal Year 2012

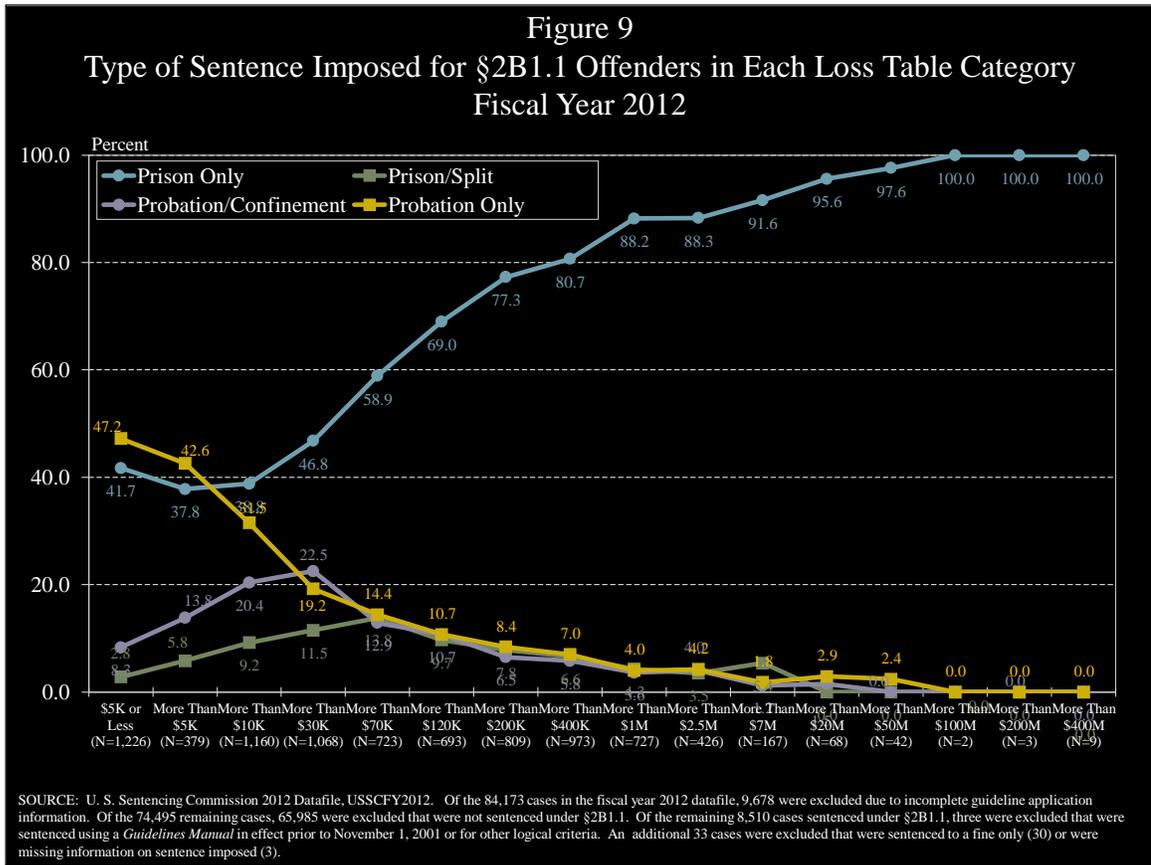


Figure 9 shows the type of sentence imposed for offenders sentenced under the fraud guideline (§2B1.1) in each loss table category in fiscal year 2012.

Prison sentences (blue line) are imposed more frequently for fraud offenders in higher loss table categories. The rate of prison only sentences increases from 41.7 percent for offenders with no offense level increase (\$5,000 or less) to 100.0 percent for the nine offenders in the more than \$400,000,000 category.

Probation sentences (yellow line) are imposed more frequently for fraud offenders in lower loss table categories. The rate of probation only sentences decreases from 47.2 percent for offenders with no offense level increase (\$5,000 or less) to 0.0 percent for the nine offenders in the more than \$400,000,000 category.

Alternative sentences (purple line and green line) are imposed more frequently for offenders in lower loss table categories.

Application of §2B1.1 Specific Offense Characteristics: Fiscal Year 2012

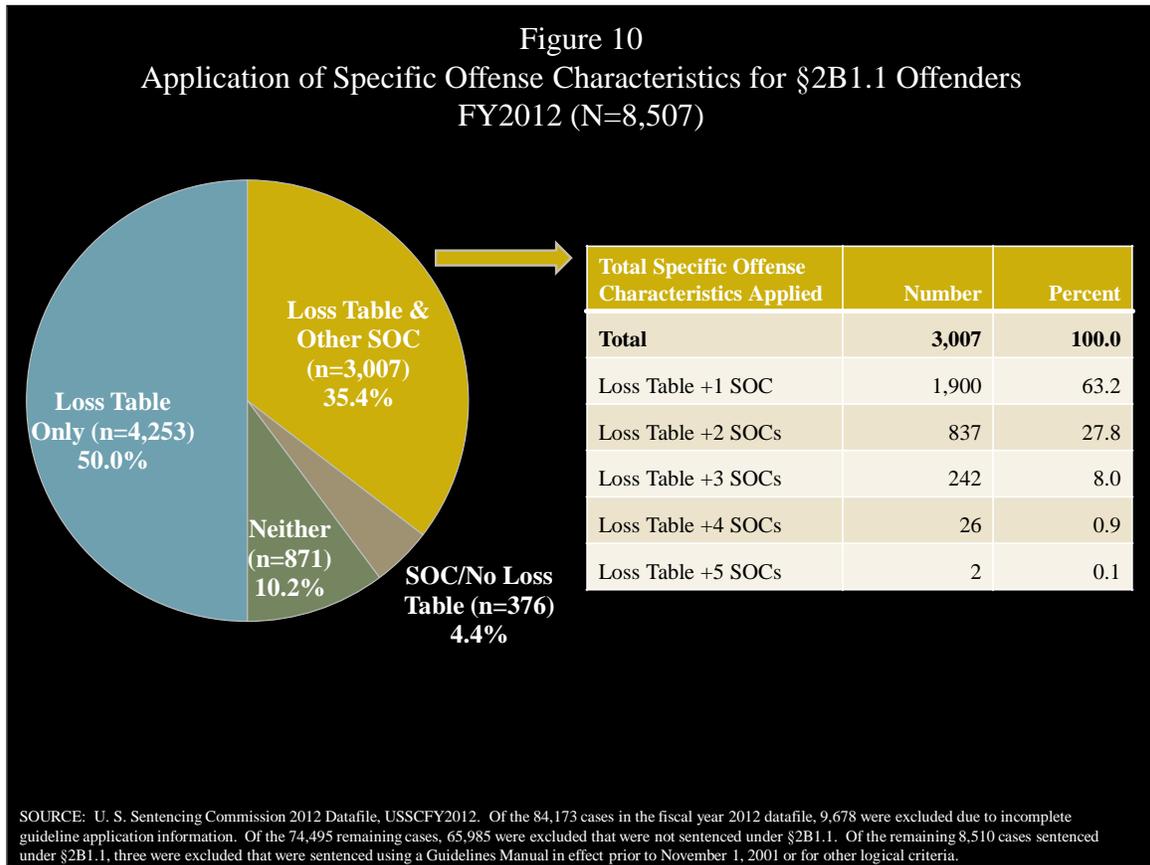


Figure 10 shows the application of the loss table and additional specific offense characteristics for offenders sentenced under the fraud guideline (§2B1.1) in fiscal year 2012.

The pie chart shows that half (50.0%) of fraud offenders receive an offense level increase from the loss table and no other specific offense characteristics under the guideline (blue). Approximately one-third (35.4%) of fraud offenders receive an offense level increase from the loss table and at least one additional specific offense characteristic under the guideline (yellow).

Four percent of fraud offenders receive offense level increases from at least one specific offense characteristic, but no increase from the loss table (tan). Ten percent of fraud offenders receive neither an offense level increase under the loss table nor any other specific offense characteristic (green).

The table in Figure 10 shows that, of the 3,007 fraud offenders with an offense level increase from the loss table and at least one additional specific offense characteristic applied (yellow), nearly two-thirds (63.2%) receive one additional specific offense characteristic, 27.8 percent receive two additional specific offense characteristics, 8.0 percent receive three additional specific offense characteristics, 0.9 percent receive four additional specific offense characteristics, and 0.1 percent receive five additional specific offense characteristics.

Application of §2B1.1 Specific Offense Characteristics: Fiscal Year 2012

Figure 11
Application Rates for Selected Specific Offense Characteristics for
§2B1.1 Offenders with Loss Table and at Least One Additional
Specific Offense Characteristic
FY2012 (N=3,007)

	Specific Offense Characteristics	Number	Percent
(b)(2)	Victim Table	1,778	59.1
(b)(4)	Receiving Stolen Property	81	2.7
(b)(9)	Misrepresentation of Charity/Bankruptcy/Educational Funding	240	8.0
(b)(10)	Relocation/Outside U.S./Sophisticated Means	1,042	34.7
(b)(11)	Device Making/Means of Identification	853	28.4
(b)(13)	Stolen Vehicles/Cargo	79	2.6
(b)(14)	Risk of Injury or Weapon Possession	39	1.3
(b)(15)	Gross Receipts/Endanger Financial Institution	146	4.9
(b)(18)	Securities/Commodities Law Officer/Director/Broker	67	2.2

SOURCE: U. S. Sentencing Commission 2012 Datafile, USSCFY2012. The FY2012 datafile consists of cases sentenced and received at the Commission between October 1, 2011 and September 30, 2012; therefore the latest *Guidelines Manual* referenced for these cases was effective November 1, 2011. Of the 84,173 cases in the fiscal year 2012 datafile, 9,678 were excluded due to incomplete guideline application information. Of the 74,495 remaining cases, 65,985 were excluded that were not sentenced under §2B1.1. Of the remaining 8,510 cases sentenced under §2B1.1, three were excluded that were sentenced using a *Guidelines Manual* in effect prior to November 1, 2001 or for other logical criteria. Only the 3,007 cases with a loss table increase and another specific offense characteristic increase are referenced in the table. Specific offense characteristics applied in less than one percent of cases are not reported in the table.

Figure 11 shows the application rates of specific offense characteristics for offenders sentenced under the fraud guideline (§2B1.1) who received an offense level increase from the loss table and at least one additional specific offense characteristic

The three specific offense characteristics most frequently applied were:

- 59.1% (1,778 of 3,007) involving ten or more victims (§2B1.1(b)(2)).
- 34.7% (1,042 of 3,007) relocating a fraudulent scheme, committing a scheme outside the United States, or other sophisticated means (§2B1.1(b)(11)).
- 28.4% (853 of 3,007) involving use of device-making equipment, production of unauthorized access devices, or production or possession of means of identification.

The table shows the additional six specific offense characteristics that were applied at rates ranging from 1.3 percent to 8.0 percent. Only specific offense characteristics that were applied in more than one percent of cases are included in the table.

Application of §2B1.1 Specific Offense Characteristics: Fiscal Year 2012

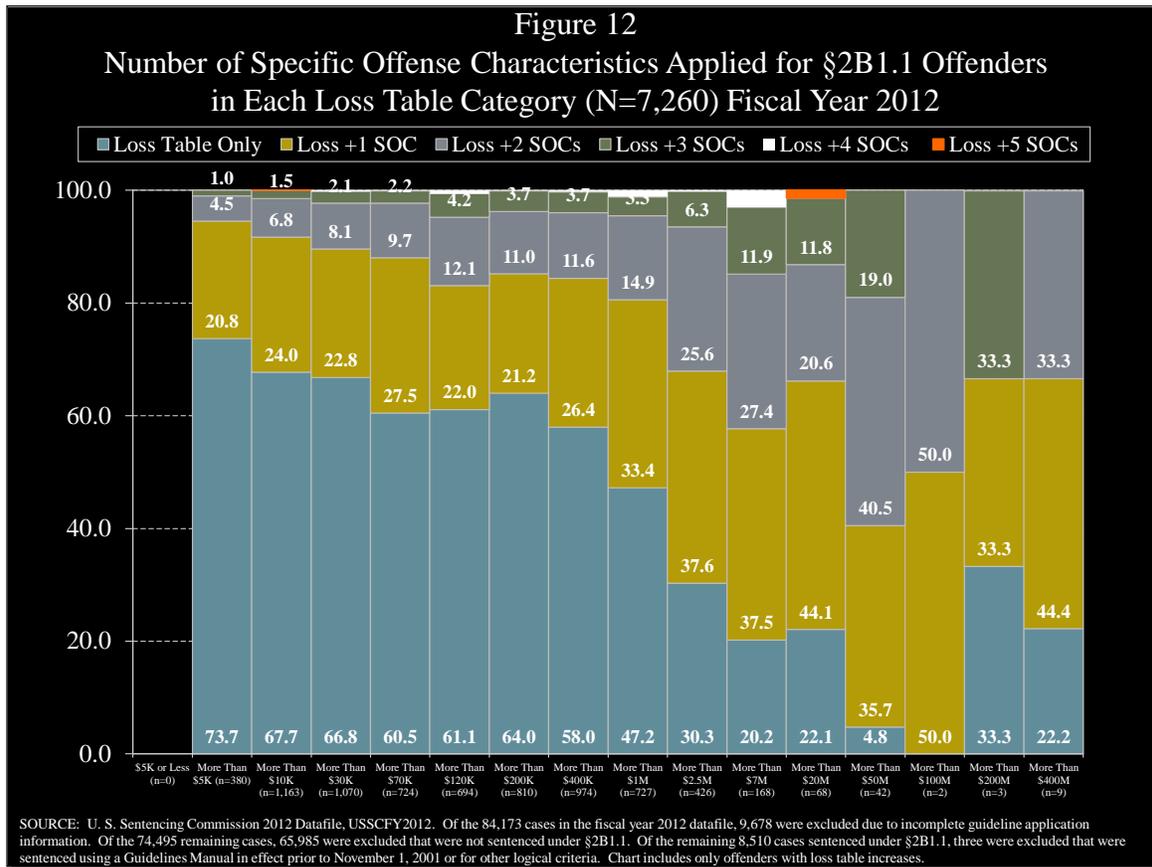


Figure 12 shows the combination of loss table and specific offense characteristic application for offenders sentenced under the fraud guideline (§2B1.1) in each loss table category in fiscal year 2012.

The number of specific offense characteristics applied is greater for fraud offenders in higher loss table categories; the majority of offenders have two or fewer specific offense characteristics applied.

The percentage of fraud offenders with an offense level increase from the loss table only (blue) decreases from 73.7 percent for offenders with more than \$5,000 to 22.2 percent for the nine offenders with more than 400,000,000.

The percentage of fraud offenders with an offense level increase from the loss table and one additional specific offense characteristic (yellow) increases from 20.8 percent for offenders with more than \$5,000 to 44.4 percent for the nine offenders with more than \$400,000,000.