



The Past Predicts the Future: Criminal History and Recidivism of Federal Offenders

UNITED STATES SENTENCING COMMISSION



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Part I

Introduction

The Commission's Ongoing Recidivism Research

The United States Sentencing Commission¹ began studying recidivism shortly after the enactment of the Sentencing Reform Act of 1984² (“SRA”). The Commission’s recent publication *Recidivism Among Federal Offenders: A Comprehensive Overview* (“*Recidivism Overview Report*”) discussed the history of this study in greater detail.³ Recidivism information is central to three of the primary purposes of punishment as described in the SRA—specific deterrence, incapacitation, and rehabilitation—all of which focus on prevention of future crimes through correctional intervention. Information about recidivism is also relevant to the Commission’s obligation to formulate sentencing policy that “reflect[s], to the extent practicable, advancements in knowledge of human behavior as it relates to the sentencing process.”⁴ Considerations of recidivism by federal offenders were also central to the Commission’s initial work in developing the *Guidelines Manual’s* criminal history provisions.⁵ They remained important to subsequent work and continue to be a key consideration in the Commission’s work today.

Recent developments, particularly public attention to the size of the federal prison population and the cost of incarceration,⁶ have refocused the Commission’s interest on the recidivism of federal offenders.⁷ The Commission’s current recidivism research substantially expands on the scope of previous Commission recidivism projects.⁸ In addition to a different set of offenders—U.S. citizen federal offenders released from prison or placed on probation in 2005—the project’s study group is much larger than those in previous Commission studies and follows the offenders for a longer period of time (eight years). This cohort was expanded to include offenders released in 2004 and 2006 for those offenders who received sentencing enhancements under the career offender guideline or the Armed Career Criminal Act (ACCA) due to the small number of these offenders released in 2005 alone. This larger study group provides the opportunity to develop statistically useful conclusions about many subgroups of federal offenders.

This Report: Criminal History and Recidivism of Federal Offenders

The focus of this report is the 25,431 U.S. citizen federal offenders released from prison or placed on probation in calendar year 2005. These offenders were originally sentenced between fiscal year 1991 and the first quarter of fiscal year 2006.⁹ The findings included in this report build on those in the *Recidivism Overview Report*. Information about the components of Chapter Four of the *Guidelines Manual*—including total criminal history score, criminal history category, and point assignments for types of past convictions—and their association with recidivism are contained in this report. Analyses of the type of instant offense and recidivism are also contained in this report.¹⁰

As noted in the *Recidivism Overview Report*, recidivism correlates strongly with both criminal history and age at release.¹¹ In general, recidivism is higher for younger offenders and for those with greater criminal history. As an individual offender’s criminal record cannot decrease with age, only stay constant or increase, older offenders will on average have greater criminal history than younger offenders. Given this relationship between age, criminal history, and recidivism, the analyses in this report will include offenders grouped by age when there is sufficient population to provide meaningful results.

Recidivism “refers to a person’s relapse into criminal behavior, often after the person receives sanctions or undergoes intervention for a previous crime.”¹² Recidivism measures can provide policy makers with information regarding the relative threat to public safety posed by various types of offenders, and the effectiveness of public safety initiatives in (1) deterring crime and (2) rehabilitating or incapacitating offenders.¹³ Recidivism is typically measured by criminal acts that resulted in the rearrest, reconviction, and/or reincarceration of the offender over a specified period of time. These are the three recidivism measures used in this report, but the report primarily relies on the first, rearrest, due to data quality problems for the other two measures. While states have improved the completeness of criminal history records, a recent federal study found significant gaps in reporting of dispositions following an arrest. Such gaps occur in the criminal record used in this report, and lead to an undercounting of reconvictions.¹⁴

Rearrest classifies a person as a recidivist if he or she has been arrested for a new crime after being released into the community directly on probation or after serving a term of imprisonment. Rearrest also includes arrests for alleged violations of supervised release, probation, or state parole. The number of

rearrests in the Commission's analysis is based on the number of unique arrest dates, regardless of the number of individual charges arising from a single arrest event. Thus, if an offender was arrested on a single occasion for both driving under the influence and possession of cocaine, that arrest date would constitute a single rearrest event.

Reconviction classifies a person as a recidivist if an arrest resulted in a subsequent court conviction.¹⁵ Violations and revocations of supervision are not included in reconvictions since no formal prosecution occurred. While states have improved the completeness of criminal history records, a recent federal study found significant gaps in reporting of dispositions following an arrest.¹⁶ Such gaps occur in the criminal records used in this report, and lead to an undercounting of reconvictions, because missing dispositions for rearrests are treated as if reconviction and reincarceration did not occur.

Reincarceration classifies a person as a recidivist if a conviction or revocation resulted in a prison or jail sentence as punishment. The reincarceration measure counts offenders who were reported returned to the Federal Bureau of Prisons, state prison, or local jail for any term of incarceration. Incomplete criminal records also create missing information about reincarceration.¹⁷

Many rearrests do not ultimately result in a reconviction or reincarceration for reasons relating to procedural safeguards (*e.g.*, the suppression of evidence for an unconstitutional search and seizure), lack of sufficient evidence to convict or revoke, and prosecutorial or judicial resources limitations. To the extent that the rearrest event is an accurate indicator of relapse into criminal behavior, excluding events due to non-conviction or non-incarceration will result in underestimation of recidivism. Even using the least restrictive measure, rearrest, does not count the full extent of offender recidivism, as many crimes go unreported to police or, if reported, do not result in an arrest. For these reasons, no measure is perfect, and reporting several measures provides a more complete and nuanced picture of reoffending. The three measures overlap in some areas—meaning all offenders who were reconvicted or reincarcerated also were necessarily rearrested, too. Some offenders who were reconvicted, however, were not reincarcerated. Generally speaking, however, the measure of rearrest is larger than the measure of reconviction, which in turn is larger than the measure of reincarceration.

Part II contains the report's findings. Part III provides conclusions. The methodology used in this report is discussed in greater detail in the Appendix.

Part II

Key Findings and Study Group

The Key Findings of the Commission’s Study on Criminal History and Recidivism Among Federal Offenders Are That:

- Criminal history score and Criminal History Category (CHC) are strong predictors of recidivism.
- There are differences in the rearrest rates for offenders with different criminal history point scores within each CHC, but the largest differences are for offenders in CHC I, which includes offenders with a criminal history score of zero or one point.
- Offenders with zero criminal history points had a lower rearrest rate than offenders with one criminal history point (30.2% compared to 46.9%), a slightly longer median time to rearrest (27 months compared to 25 months), and less serious rearrest offenses (the most common being public order offenses compared to assault for offenders with one criminal history point).
- Offenders with zero criminal history points and no prior contact with the criminal justice system had an 11.7 percentage point lower recidivism rate than offenders with zero criminal history points and some prior contact with the criminal justice system, such as arrests or convictions that do not receive points (25.7% compared to 37.4%).
- Chapter Four of the *Guidelines Manual* assigns criminal history points to reflect the seriousness of single prior convictions. Offenders who only had prior convictions assigned one point have a significantly lower recidivism rate than offenders who have prior convictions assigned two or three points (53.4% vs. 71.3% for offenders with at least one two-point offense and 70.5% for offenders with at least one three-point offense).

Overview: Calculating Criminal History Under the *Guidelines Manual*

Chapter Four of the *Guidelines Manual* establishes a method for evaluating an offender’s criminal history by assigning points to criminal events that occurred during the offender’s past. The object of this method is to calculate the offender’s criminal history score, which will correspond to a CHC on the Sentencing Table. For purposes of this report, the components of an offender’s criminal history score provide the basis for analyses, and so a basic understanding of the rules that govern the criminal history calculation is critical.¹⁸

To calculate criminal history, an offender’s past convictions are assigned one, two, or three points based on the nature of the offense and the sentence. These point assignments are designed to reflect the seriousness of the crime of conviction. To that end the *Guidelines Manual* instructs, as follows:

- (a) Add 3 points for each prior sentence of imprisonment exceeding one year and one month.
- (b) Add 2 points for each prior sentence of imprisonment of at least sixty days not counted in (a).
- (c) Add 1 point for each prior sentence not counted in (a) or (b), up to a total of 4 points for this subsection.
- (d) Add 2 points if the defendant committed the instant offense while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status.
- (e) Add 1 point for each prior sentence resulting from a conviction of a crime of violence that did not receive any points under (a), (b), or (c) above because such sentence was treated as a single sentence, up to a total of 3 points for this subsection.¹⁹

In general, three-point sentences almost always represent a state or federal felony conviction and are generally more serious than two-point sentences, which are more serious than one-point sentences. Prior convictions for certain minor offenses, such as low-level misdemeanors, petty offenses and traffic offenses, are never counted toward the criminal history calculation.²⁰

In addition to the points assigned for prior sentences, two additional considerations impacted an offender’s criminal history score at the time offenders in this report were sentenced. First, an offender received two additional criminal history points if the instant offense of conviction occurred while the offender was serving a criminal justice sentence (“status points”). Second, an offender could receive one or two additional points if the instant offense occurred less than two years after release from imprisonment on a sentence that already counted in the criminal history score (“recency points”). Recency points were no longer applied starting November 1, 2010.²¹

The total number of criminal history points determine the offender’s Criminal History Category (CHC) for the purpose of determining the sentencing guideline range on the Sentencing Table — total criminal history points correspond to CHCs on the Sentencing Table as follows:

Criminal History Category (CHC)	I	II	III	IV	V	VI
Total Criminal History Points	(0 or 1)	(2 or 3)	(4, 5, 6)	(7, 8, 9)	(10, 11, 12)	(13 or more)

Description of the Study Population

As noted in the *Recidivism Overview Report*, offenders in CHC I comprised over half (53.6%) of the study group and includes offenders with zero or one criminal history point. The highest category, CHC VI, had 7.6 percent of the offenders studied.

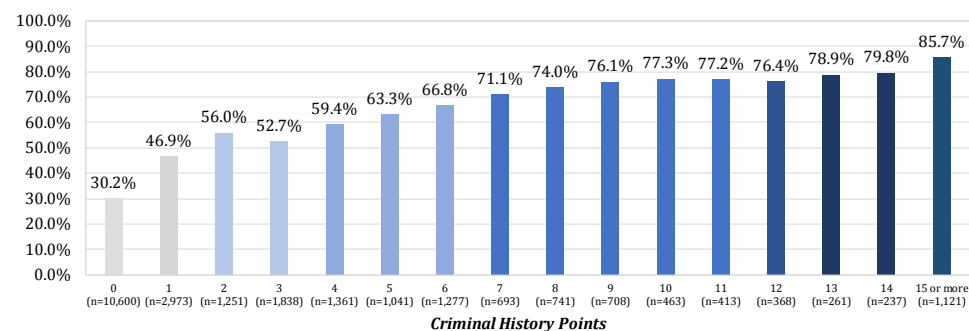
The demographics of the study group varied by CHC. Females were a quarter (25.6%) of offenders in CHC I, but only 5.8 percent of offenders in CHC VI. Offenders in CHC I were 48.7 percent White, 24.6 percent Black, 20.6 percent Hispanic, and 6.1 percent Other racial groups. Offenders in CHC VI were 38.4 percent White, 50.3 percent Black, 9.8 percent Hispanic, and 1.6 percent Other racial groups. The median age at release for offenders in CHC I offenders was 37 years. The median age of offenders in the other categories varied between a low of 34 for CHCs III and IV and a high of 39 years for CHC VI.²²

Criminal History Points and Recidivism

As discussed previously, and consistent with its past work in this area, the Commission’s present study found that recidivism rates are closely correlated with total criminal history points and resulting CHC classification, as offenders with lower criminal history scores have lower recidivism rates than offenders with higher criminal history scores.²³ Criminal history points range from a low of 30.2 percent of offenders with zero criminal history points to a high of 85.7 percent for offenders with 15 or more criminal history points. In fact, each additional criminal history point is generally associated with a greater likelihood of recidivism. For example, the rearrest rate of offenders with three total criminal history points is 52.7 percent, compared to 59.4 percent for offenders with four criminal history points. This pattern continues even at higher total points, with rearrest rates ranging from 71.1 percent (offenders with seven criminal history points), 74.0 percent (offenders with eight criminal history points), and 76.1 percent (offenders with nine criminal history points).

Because an offender’s criminal history points determine the CHC to which the offender is assigned, recidivism rates are also correlated with the CHC. That is, the higher the CHC (a result of more prior crimes and/or more serious crimes), the higher the recidivism rate. Rearrest rates ranged from a low of 33.8 percent for offenders in CHC I to a high of 80.1 percent for offenders in CHC VI.

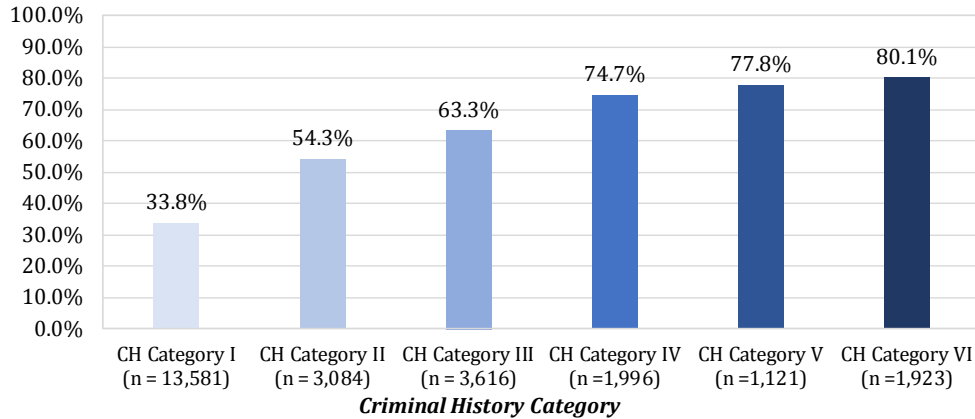
Figure 1.
Rearrest Rates for Recidivism Study Offenders by Criminal History Points



SOURCE: U.S. Sentencing Commission’s 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Part Two:
KEY FACTS AND STUDY GROUP

Figure 2.
Rearrest Rates for Recidivism Study Offenders by Criminal History Category



SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Table 1.
Rearrest Rates for Recidivism Study Offenders by Criminal History Category I

	No Criminal History	Convictions/Prior Contact	One Point
Rearrest Rate	25.7%	37.4%	46.9%
Time to Rearrest	27 months	27 months	25 months
Most Serious Rearrest Event	Public order (21.9%)	Public order (21.4%)	Assault (23.0%)
TOTAL	6,543	4,053	2,972

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Offenders assigned to CHC II (two or three criminal history points) had rearrest rates of 56.0 percent and 52.7 percent. Offenders in CHC III had rearrest rates of 59.4 percent for offenders with four criminal history points, increasing to 66.8 percent for offenders with six criminal history points. Offenders in CHC IV had rearrest rates in the low- to mid-seventies, offenders in CHC V had rearrest rates in the mid-seventies, and offenders in CHC VI had rearrest rates in the high seventies and above. While there are differences in rearrest rates within each CHC, the greatest difference between rearrest rates for offenders assigned to the same CHC but who have a difference of only one criminal history point were offenders in CHC I. CHC I includes offenders with either zero or one criminal history point. An increase of only one additional point from zero to one was associated with a 16.7 percent increase in the rearrest rate—from 30.2 percent for offenders with zero criminal history points to 46.9 percent for offenders with one criminal history point.

Because of the sizeable difference in the rearrest rates for offenders within CHC I, the Commission further analyzed the offenders with zero or one criminal history point and found additional differences. Offenders with zero criminal history points were slightly slower to recidivate, with a median time to rearrest of 27 months compared to 25 months for offenders with one criminal history point. For offenders who were rearrested, the Commission ranked new offenses in order of seriousness. If an offender was rearrested multiple times or had multiple charges in an arrest, the most serious offense according to this ranking was counted as the most serious post-release event. Using this method, offenders with zero criminal history points committed less serious new offenses than offenders with one criminal history point. The most common new offense committed by offenders with zero criminal history points were public order offenses (21.7%) compared to assault (23.0%) for offenders with one criminal history point.

The Commission further studied offenders with zero criminal history points to determine whether there were discernible differences within that group of offenders. Specifically, some offenders with zero criminal history points had no prior contact with the criminal justice system; that is, they did not have arrests or convictions prior to the instant offense of conviction. Other offenders with zero criminal history points had prior contact with the criminal justice system; that is, they had prior arrests that did not lead to convictions or they had convictions that did not receive points due to the age of the conviction or the minor nature of the crime.²⁴

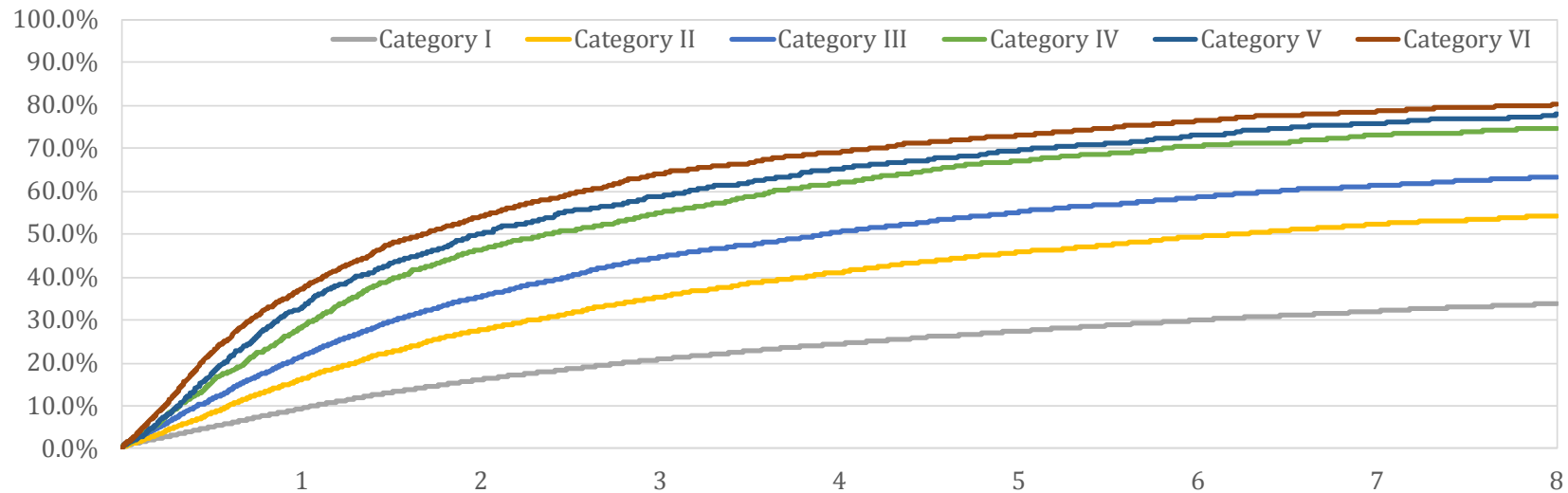
The Commission found differences in the recidivism rates between offenders with zero criminal history points who did and did not have prior contact with the criminal justice system.²⁵ Overall, offenders with zero criminal history points had a rearrest rate of 30.2 percent. However, offenders who had no prior contact with the criminal justice system had a rearrest rate 11.7 percentage points lower than offenders with prior contact (25.7% compared to 37.4%). Both groups had a lower rearrest rate than offenders with one criminal history point (46.9%).

Aside from the difference in recidivism rates, the Commission did not find additional substantial differences between the two groups of offenders with zero criminal history points. Offenders with zero criminal history points who did not have prior contact with the criminal justice system both had a median

time to rearrest of 27 months and had a public order offense as the most common post-release offense (21.9% for those with no prior criminal history contact and 21.4% for those with prior criminal history contact).

The median time to rearrest decreased as CHC increased. Offenders in CHC I had a median time to rearrest of 26 months, compared to 14 months for offenders in CHC VI. Assault was the most serious post-release event for offenders in CHCs II through VI. Roughly a quarter of those who were rearrested in each of those categories were rearrested for assault.

Figure 3.
Time to First Rearrest of Recidivism Study Offenders by Number of Years Since Release



SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Data File, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Part Two:
KEY FACTS AND STUDY GROUP

Recidivism By One, Two, and Three-Point Offenders

The Commission performed additional analyses to study whether the manner in which criminal history points are assigned for a single prior conviction predicts recidivism. Specifically, the Commission grouped offenders by the number of criminal history points assigned to any single prior conviction and examined the rearrest rates for each group. As discussed above, an offender’s past convictions are assigned one, two, or three points based on the nature of the offense and sentence. These point assignments are designed to reflect the seriousness of the offense of conviction, with three-point sentences almost always representing a felony conviction. The Commission’s analysis indicates that the number of criminal history points assigned to a single prior conviction does predict recidivism. Offenders with more serious offenses in their criminal history as reflected in their point assignment generally had higher rearrest rates than those with less serious sentences.

Offenders with only one-point sentences were rearrested less often than other offenders. For offenders with only one-point sentences in their criminal history, 53.4 percent were rearrested compared to 71.3 percent for offenders with at least one two-point sentence and 70.5 percent for offenders with at least one three-point sentence. Furthermore, within each age category, the rearrest rate was substantially lower for offenders with only one-point sentences than for offenders with two or three-point sentences.

Offenders with only one-point sentences in their criminal history were also slower to recidivate than other offenders. For offenders with only one-point sentences in their criminal history, the median time to rearrest was 24 months compared to 17 months for offenders with two or three-point sentences. Across most age groups, the time to rearrest was longest for offenders with only one-point sentences, followed by offenders with two point sentences and then three-point sentences.

Regardless of whether offenders had only one-point sentences or more serious two-point, or three-point sentences in their criminal history, assault was the most common offense of rearrest. For offenders with only one-point sentences, assault (24.9%) was the most common offense, followed by public order offenses (14.4%). For offenders with two or three-point sentences, the most common offenses of rearrest were assault (26.8% and 24.6%, respectively) followed by drug trafficking (12.9% and 13.3%, respectively).

Table 2.
Rearrest Rates for Recidivism Study Offenders by Point Types of Past Convictions

	Offenders with Only 1-Point Sentences	Offenders with 2-Point Sentences, No 3-Sentences	Offenders with 3-Point Sentences
Rearrest Rate	53.4%	71.3%	70.5%
Time to Rearrest	24 months	17 months	17 months
Most Serious Rearrest Event	Assault (24.9%)	Assault (26.8%)	Assault (24.6%)
TOTAL	6,574	2,793	5,386

SOURCE: U.S. Sentencing Commission’s 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Table 3.
Rearrest Rates for Recidivism Study Offenders by Point Types of Previous Convictions

<i>Age Category</i>	Offenders with Only 1-Point Sentences			Offenders with 2-Point Sentences, No 3-Point Sentences			Offenders with 3-Point Sentences		
	TOTAL Offenders	N	Rearrest Rate	TOTAL Offenders	N	Rearrest Rate	TOTAL Offenders	N	Rearrest Rate
LT 21	99	82	82.3%	25	23	92.0%	--	--	--
21-25	938	673	71.8%	458	399	87.1%	210	180	85.7%
26-30	1,376	895	65.0%	684	547	80.0%	747	623	83.4%
31-35	1,316	699	53.1%	622	431	69.3%	1,192	920	77.2%
36-40	925	458	49.5%	362	227	62.7%	1,022	736	72.0%
41-45	1,267	553	43.7%	469	286	61.0%	1,448	996	68.8%
51-60	503	126	25.1%	133	60	45.1%	589	282	47.9%
GT 60	150	25	16.7%	40	19	47.5%	174	54	31.0%
TOTAL	6,574	3,511	53.4%	2,793	1,992	71.3%	5,386	3,795	70.5%

SOURCE: U.S. Sentencing Commission’s 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis. -- indicates insufficient number of cases.

Contrary to the general findings above, offenders with a two-point sentence but no three-point sentence had a slightly higher rearrest rate than offenders with at least one three-point sentence (71.3% compared to 70.5%). However, this was partly due to the substantially younger age distribution for offenders with a two-point sentence but no three-point sentence. Half (49.9%) of offenders with a two-point sentence but no three-point sentence were age 30 or younger at the time of release for the instant offense of conviction, compared to only 17.8 percent of offenders with at least one three-point sentence. Comparing offenders grouped into the same age ranges, for most age ranges offenders with a two-point sentence but no three-point sentence generally had lower rearrest rates than offenders with a three-point sentence.

Instant Offense and Recidivism

The Commission also studied the association between an offender’s instant offense and recidivism. For the analyses discussed in this part of the report, an offender’s federal instant offense is grouped into one of seven broad categories based on the primary sentencing guideline that the court applied at sentencing: violent, drug trafficking, firearms, immigration, economic crime, child pornography, and other offenses not in the previous categories.²⁶

The primary sentencing guideline is the guideline from Chapter Two of the *Guidelines Manual* that was used to calculate an offender’s offense level. In cases where multiple Chapter Two guidelines were applied because the offender had multiple counts of conviction for different offenses, the primary sentencing guideline is the Chapter Two guideline that ultimately led to the highest offense level. The selection of a guideline from Chapter Two is determined by a combination of the defendant’s offense or offenses of conviction and surrounding conduct.²⁷

Table 4.
Rearrest Rates for Recidivism Study Offenders by Offense of Conviction

	TOTAL Offenders	N	%
<i>Offense Category</i>			
Violent	1,842	1,180	64.1%
Drug Trafficking	10,888	5,448	50.0%
Firearms	3,167	2,164	68.3%
Immigration	919	506	55.1%
Economic Crime	6,579	2,363	35.9%
Child Pornography	412	155	37.6%
Other	1,609	701	43.6%
TOTAL	25,416	12,517	49.3%

SOURCE: U.S. Sentencing Commission’s 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Table 5.
Median Time to Rearrest for Recidivism Study Offenders
by Offense of Conviction

	N	Months to Recidivism
<i>Offense Category</i>		
Violent	1,180	14
Drug Trafficking	5,448	25
Firearms	2,164	17
Immigration	506	16
Economic Crime	2,363	21
Child Pornography	155	26
Other	701	18
TOTAL	12,517	21

SOURCE: U.S. Sentencing Commission’s 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Offenders convicted of a firearms offense had the highest rearrest rate (68.4%), followed by offenders convicted of a violent offense (64.1%), and an immigration offense (55.1%). Offenders convicted of an economic crime had the lowest rearrest rate (35.9%). Of all offenders who were rearrested, offenders convicted of a violent offense had the shortest median time to rearrest (14 months), followed by offenders convicted of an immigration offense (16 months), and a firearms offense (17 months). Offenders convicted of a child pornography offense had the longest median time to rearrest (26 months). For all offenders, except for offenders convicted of a child pornography offense, assault was one of the top two most common offenses of rearrest. Offenders convicted of child pornography offenses were most often rearrested for a public order offense as their most serious crime.

Part III

Conclusion

Conclusion

As found in previous Commission reports, Criminal History Category is a strong predictor of recidivism. The analyses contained in this report show that the various components of Chapter Four of the *Guidelines Manual*, including criminal history points, category, and seriousness of past offenses as reflected in point assignment to past convictions also are strong predictors of recidivism.

Criminal History Points and Criminal History Category

Overall, an offender's total criminal history score is a strong predictor of recidivism. Rearrest rates range from a low of 30.2 percent of offenders with zero criminal history points to a high of 85.7 percent for offenders with 15 or more criminal history points. Each additional criminal history point is generally associated with a greater likelihood of recidivism.

Criminal History Category I

There are substantial differences in recidivism rates among groups of offenders in CHC I. Among offenders with zero points and no prior contact with the criminal justice system, there is an 11.7 percentage point difference in rearrest rates. Between offenders with zero criminal history points and some criminal history and one-point offenders there is a 10.4 percentage point difference. Overall, there is a 22.1 percentage point difference in rearrest rates between offenders with no criminal history and one-point offenders. These differences within CHC I are substantially larger than the differences within other CHCs. In addition, offenders with zero points have a longer median time to rearrest and a less serious offense of rearrest than offenders with one criminal history point (public order vs. assault).

One-Point, Two-Point, and Three-Point Sentences

The manner in which Chapter Four of the *Guidelines Manual* assigns criminal history points is designed to reflect that the seriousness of single prior convictions is predictive of recidivism. An offender's past convictions are assigned one, two, or three points based on the nature of the offense and sentence. These point assignments reflect the seriousness of the offender's past conviction. Offenders with only one-point sentences have significantly lower rearrest rates (53.4%) than offenders with a two-point but no three-point sentence (71.3%), or offenders with a three-point sentence (70.5%).

Endnotes

ENDNOTES

1 The United States Sentencing Commission (“Commission”) is an independent agency in the judicial branch of government. Established by the Sentencing Reform Act of 1984, its principal purposes are (1) to establish sentencing policies and practices for the federal courts, including guidelines regarding the appropriate form and severity of punishment for offenders convicted of federal crimes; (2) to advise and assist Congress, the federal judiciary, and the executive branch in the development of effective and efficient crime policy; and (3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues. See 28 U.S.C. §§ 995(a)(14), (15), (20).

2 Pub. L. 98-473, Title II §§ 211-217, 98 Stat. 2027 (Oct. 12, 1984).

3 See U.S. SENTENCING COMMISSION, RECIDIVISM AMONG FEDERAL OFFENDERS: A COMPREHENSIVE OVERVIEW 3 (2016), http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism_overview.pdf [hereinafter RECIDIVISM OVERVIEW REPORT].

4 28 U.S.C. § 991(b)(2).

5 See U.S. SENTENCING COMMISSION, SUPPLEMENTARY REPORT ON THE INITIAL SENTENCING GUIDELINES AND POLICY STATEMENTS 41-44 (1987), http://www.ussc.gov/sites/default/files/pdf/guidelines-manual/1987/manual-pdf/1987_Supplementary_Report_Initial_Sentencing_Guidelines.pdf [hereinafter SUPPLEMENTARY REPORT].

6 See, e.g., U.S. Sentencing Commission, Final Priorities For Amendment Cycle, 79 FR. 49378, 49379 (Aug. 20, 2014) (“Pursuant to 28 U.S.C. § 994(g), the Commission intends to consider the issue of reducing costs of incarceration and overcapacity of prisons, to the extent it is relevant to any identified priority.”).

7 See RECIDIVISM OVERVIEW REPORT, *supra* note 3, at 3.

8 See, e.g., SUPPLEMENTARY REPORT, *supra* note 5; U.S. SENTENCING COMMISSION, REPORT TO THE CONGRESS: CAREER OFFENDER SENTENCING ENHANCEMENTS (2016), http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/criminal-history/201607_RtC-Career-Offenders.pdf [hereinafter “CAREER OFFENDER REPORT”]; U.S. SENTENCING COMMISSION, REPORT TO CONGRESS: FEDERAL CHILD PORNOGRAPHY OFFENSES 293-310 (2012), http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/sex-offense-topics/201212-federal-child-pornography-offenses/Full_Report_to_Congress.pdf; U.S. SENTENCING COMMISSION, A COMPARISON OF THE FEDERAL SENTENCING GUIDELINES CRIMINAL HISTORY CATEGORY AND THE U.S. PAROLE COMMISSION SALIENT FACTOR SCORE (2005), http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2005/20050104_Recidivism_Salient_Factor_Computation.pdf; U.S. SENTENCING COMMISSION, RECIDIVISM AND THE “FIRST

OFFENDER” (2004), http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2004/200405_Recidivism_First_Offender.pdf; U.S. SENTENCING COMMISSION, MEASURING RECIDIVISM: THE CRIMINAL HISTORY COMPUTATION OF THE FEDERAL SENTENCING GUIDELINES (2004), http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2004/200405_Recidivism_Criminal_History.pdf [hereinafter MEASURING RECIDIVISM REPORT].

9 Each fiscal year begins on October 1 of the preceding calendar year. For example, FY 2006 began on October 1, 2005, and ended on September 30, 2006.

10 “Instant offense” refers to the offense of conviction that resulted in an offender being included in this study.

11 See RECIDIVISM OVERVIEW REPORT, *supra* note 3.

12 See NATL INSTITUTE OF JUSTICE, U.S. DEPT. OF JUSTICE, RECIDIVISM, <https://web.archive.org/web/20160120175242/http://www.nij.gov/topics/corrections/recidivism/pages/welcome.aspx> (last modified June 17 2014).

13 See MICHAEL D. MALTZ, RECIDIVISM 7-20 (2001); see also Ryan King & Brian Elderboom, *Improving Recidivism as a Performance Measure*, URBAN INSTITUTE (2014), <https://www.bja.gov/Publications/UI-ImprovingRecidivism.pdf>.

14 See U.S. GOVERNMENT ACCOUNTABILITY OFFICE, CRIMINAL HISTORY RECORDS: ADDITIONAL ACTIONS COULD ENHANCE THE COMPLETENESS OF RECORDS USED FOR EMPLOYMENT-RELATED BACKGROUND CHECKS (Feb. 2015), <http://www.gao.gov/products/GAO-15-162>.

15 Revocations were not counted as reconvictions because the offenders were not convicted of a new offense (even if the basis for revocation was a “new law violation”). Offenders whose terms of supervision were revoked and who were sentenced to imprisonment were treated as having been reincarcerated.

16 See *supra* note 14.

17 *Id.*

18 This section provides a simplified summary of the criminal history calculation for those sentences which resulted in points, for purposes of understanding the data set forth in this report. Several criminal history rules, including those that apply to stale convictions and revocation sentences, are not discussed here. For a complete understanding of the rules that govern criminal history see USSG, Ch. 4.

19 USSG §4A1.1.

20 USSG §4A1.2(c).

21 See USSG App. C, amend. 742 (eff. Nov. 1, 2010).

22 See Appendix, *infra*, at Tables 1 through 4 (illustrating more detail on demographic and offenses by criminal history category).

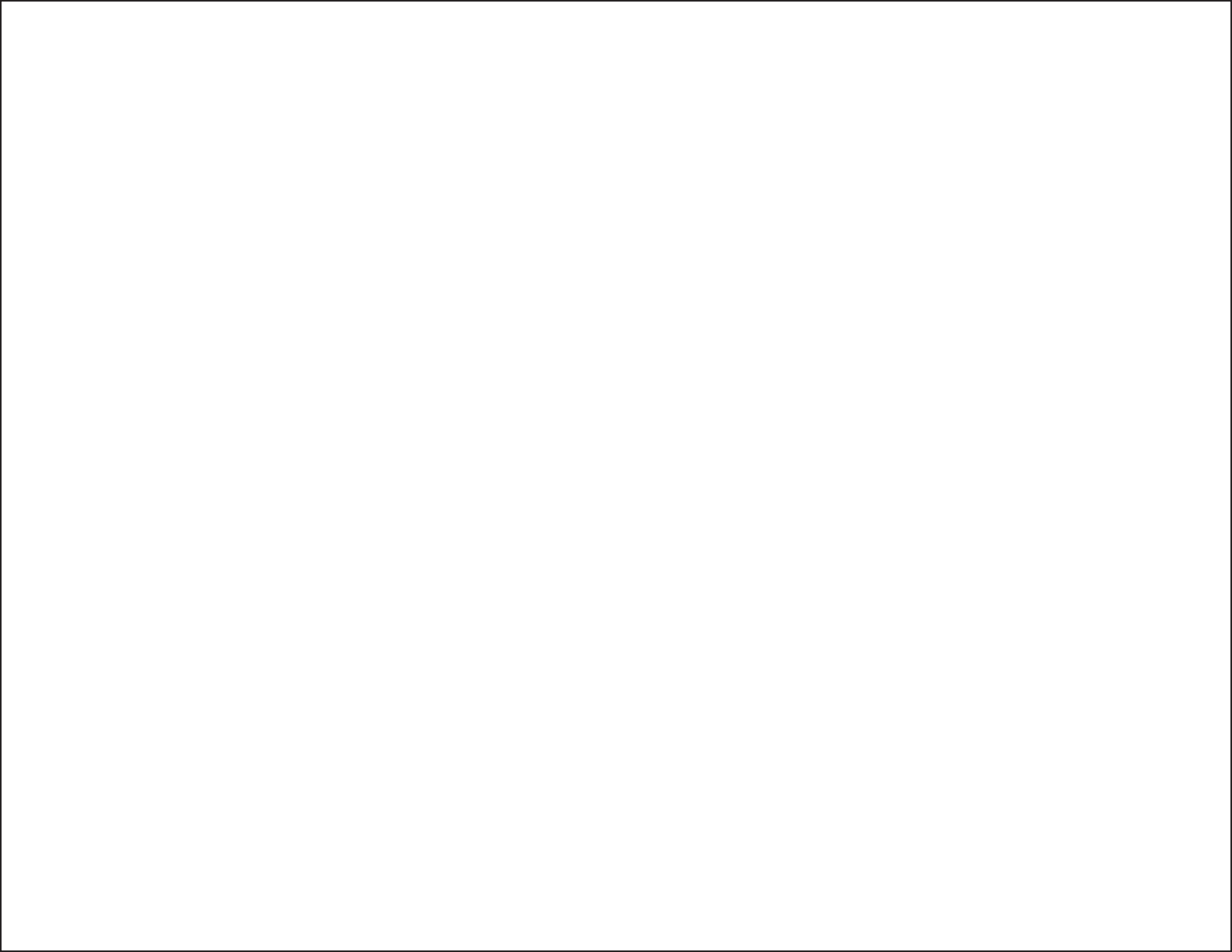
23 See RECIDIVISM OVERVIEW REPORT, *supra* note 3, at 18.

24 USSG §4A1.2(c).

25 An offender can have criminal history but not receive points if they were arrested but not convicted, if they served sentences that were completed over 15 years ago (or five years ago for juveniles), or if they were convicted only for traffic offenses.

26 For more information on the types of offenses included in each category see Appendix, *infra*.

27 This use of the primary sentencing guideline differs from the method used in the Recidivism Overview Report, which classified a defendant based on his or her offense of conviction, which was the offense with the highest statutory maximum penalty. Future Commission recidivism reports will use the primary sentencing guideline classification, which will allow for consistent reporting across offenses.



Appendix

How Recidivism Is Measured in This Report

The Commission selected an eight-year follow-up period for its research. It considered all recidivism events (including felonies, misdemeanors, and “technical” violations of the conditions of supervision), except minor traffic offenses, which occurred over that eight-year period. This report primarily relies on rearrest data in providing more detailed information about the recidivism by criminal history.

Classification of Instant Offense

An offender’s instant offense was categorized based on the primary sentencing guideline that applied at sentencing. This use of the primary sentencing guideline differs from the method used in the *Recidivism Overview Report*, which classified a defendant based on his or her offense of conviction, which was the offense with the highest statutory maximum penalty. Future Commission recidivism reports will use the primary sentencing guideline classification, which will allow for consistent reporting across offenses.

The guidelines were grouped into seven categories: violent, drug trafficking, firearms, immigration, economic crime, child pornography, and all other categories. Below are the guidelines in each offense type:

Violent: §§2A1.1, 2A1.2, 2A1.3, 2A1.4, 2A1.5, 2A2.1, 2A2.2, 2A2.3, 2A2.4, 2A3.1, 2A3.2, 2A3.3, 2A3.4, 2A3.6, 2A4.1, 2A4.2, 2A5.1, 2A6.2, 2B3.1, 2B3.2, 2E1.3, 2E1.5, 2G1.2, 2K1.4, 2K1.7

Drug Trafficking: §§2D1.1, 2D1.10, 2D1.14, 2D1.2, 2D1.3, 2D1.4, 2D1.5, 2D1.6, 2D1.8

Firearms: §§2K1.3, 2K1.5, 2K2.1, 2K2.2, 2K2.3, 2K2.4, 2K2.5, 2K2.6

Immigration: §§2L1.1, 2L1.2, 2L1.3, 2L2.1, 2L2.2, 2L2.3, 2L2.4, 2L2.5

Economic Crime: §§2B1.1, 2B1.2, 2B1.4, 2B1.5, 2B1.6, 2B2.1, 2B2.2, 2B4.1, 2B5.1, 2B5.2, 2B6.1, 2C1.1, 2C1.2, 2C1.3, 2C1.4, 2C1.5, 2C1.6, 2C1.7, 2E1.1, 2E1.2, 2E1.4, 2E2.1, 2E5.1, 2E5.2, 2E5.4, 2F1.1, 2F1.2, 2N3.1, 2R1.1, 2S1.1, 2S1.2, 2S1.3, 2S1.4, 2T1.1, 2T1.2, 2T1.3, 2T1.4, 2T1.5, 2T1.6, 2T1.7, 2T1.8, 2T1.9, 2T2.1, 2T2.2, 2T3.1, 2T3.2, 2T4.1

Child Pornography: §§2G1.3, 2G2.1, 2G2.2, 2G2.3, 2G2.4, 2G2.6, 2G3.1

All other: §§2A3.5, 2A5.2, 2A5.3, 2A6.1 2B1.3, 2B2.3, 2B3.3, 2B5.3, 2B5.4, 2C1.8, 2D1.11, 2D1.12, 2D1.13, 2D1.7, 2D1.9, 2D2.1, 2D2.2, 2D2.3, 2D3.1, 2D3.2, 2D3.3, 2D3.4, 2D3.5, 2E3.1, 2E3.2, 2E3.3, 2E4.1, 2E5.3, 2E5.5, 2E5.6, 2G1.1, 2G2.5, 2G3.2 2H1.1, 2H1.2, 2H1.3, 2H1.4, 2H1.5, 2H2.1, 2H3.1, 2H3.2, 2H3.3, 2H4.1, 2H4.2, 2J1.1, 2J1.2, 2J1.3, 2J1.4, 2J1.5, 2J1.6, 2J1.7, 2J1.8, 2J1.9, 2K1.1, 2K1.2, 2K1.6, 2K3.1, 2K3.2, 2M1.1, 2M2.1, 2M2.2, 2M2.3, 2M2.4, 2M3.1, 2M3.2, 2M3.3, 2M3.4, 2M3.5, 2M3.6, 2M3.7, 2M3.8, 2M3.9, 2M4.1, 2M5.1, 2M5.2, 2M5.3, 2M6.1, 2M6.2, 2N1.1, 2N1.2, 2N1.3, 2N2.1, 2P1.1, 2P1.2, 2P1.3, 2P1.4, 2Q1.1, 2Q1.2, 2Q1.3, 2Q1.4, 2Q1.5, 2Q1.6, 2Q2.1, 2Q2.2, 2X1.1, 2X2.1, 2X3.1, 2X4.1, 2X5.1, 2X5.2, 2X6.1, 2X7.1

Gender of Recidivism Study Offenders by Criminal History Category

Criminal History Category	TOTAL Offenders		Male		Female	
	N	N	%	N	%	
CHC I	13,575	10,096	74.4%	3,479	25.6%	
CHC II	3,084	2,619	84.9%	465	15.1%	
CHC III	3,615	3,221	89.1%	394	10.9%	
CHC IV	1,994	1,850	92.8%	144	7.2%	
CHC V	1,121	1,055	94.1%	66	5.9%	
CHC VI	1,923	1,812	94.2%	111	5.8%	
TOTAL	25,312	20,653		4,659		

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Race of Recidivism Study Offenders by Criminal History Category

Criminal History Category	TOTAL Offenders	White		Black		Hispanic		Other	
	N	N	%	N	%	N	%	N	%
CHC I	13,570	6,608	48.7%	3,332	24.6%	2,797	20.6%	833	6.1%
CHC II	3,081	1,314	42.7%	1,125	36.5%	540	17.5%	102	3.3%
CHC III	3,612	1,315	36.4%	1,606	44.5%	568	15.7%	123	3.4%
CHC IV	1,995	700	35.1%	976	48.9%	260	13.0%	59	3.0%
CHC V	1,117	398	35.6%	548	49.1%	144	12.9%	27	2.4%
CHC VI	1,922	738	38.4%	966	50.3%	188	9.8%	30	1.6%
TOTAL	25,297	11,073		8,553		4,497		1,174	

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

**Median Age of Recidivism Study Offenders at Release
by Criminal History Category**

Criminal History Category	N	Median Age
CHC I	13,549	35
CHC II	3,082	31
CHC III	3,610	30
CHC IV	1,995	30
CHC V	1,119	31
CHC VI	1,921	33
TOTAL	25,276	33

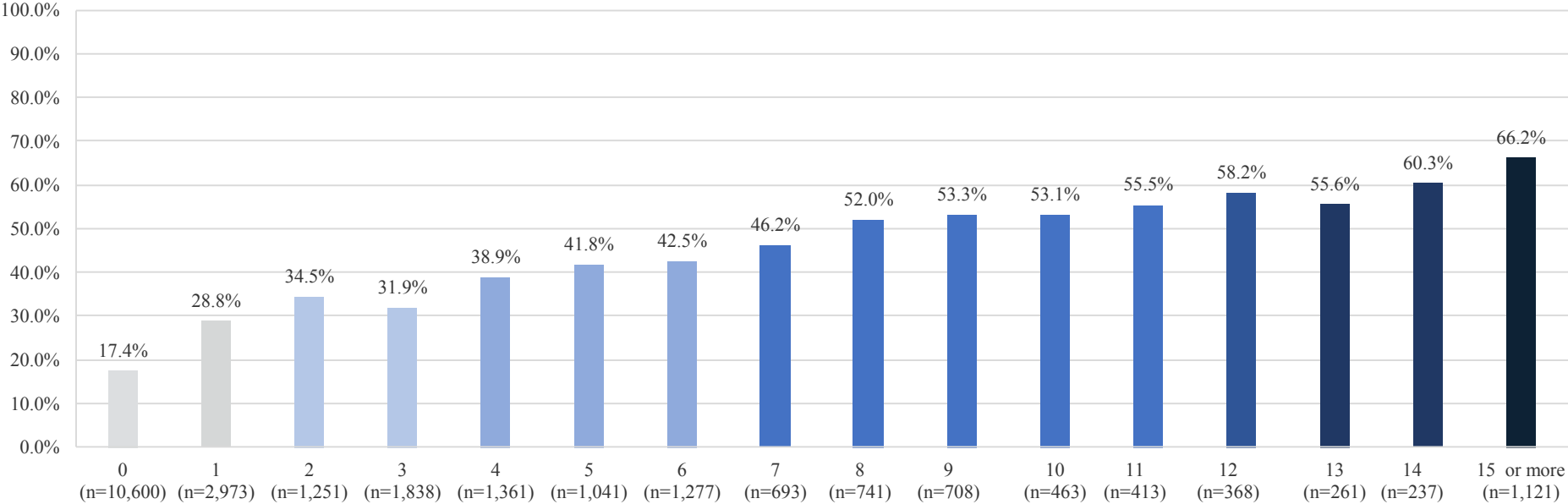
SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

**Age of Recidivism Study Offenders at Release by
Criminal History Category**

Criminal History Category	TOTAL Offenders	TOTAL Percent	LT 21		21-25		26-30		31-35		36-40		41-50		51-60		GT 60	
			N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
CHC I	13,549	100.0%	313	2.3%	1,807	13.3%	2,065	15.2%	1,989	14.7%	1,871	13.8%	2,963	21.9%	1,769	13.1%	772	5.7%
CHC II	3,082	100.0%	43	1.4%	383	12.4%	609	19.8%	599	19.4%	438	14.2%	641	20.8%	276	9.0%	93	3.0%
CHC III	3,610	100.0%	28	0.8%	436	12.1%	780	21.6%	802	22.2%	514	14.2%	708	19.6%	251	7.0%	91	2.5%
CHC IV	1,995	100.1%	11	0.6%	231	11.6%	424	21.3%	475	23.8%	321	16.1%	359	18.0%	144	7.2%	30	1.5%
CHC V	1,119	100.0%	3	0.3%	79	7.1%	216	19.3%	279	24.9%	182	16.3%	264	23.6%	81	7.2%	15	1.3%
CHC VI	1,921	100.1%	0	0.0%	48	2.5%	218	11.4%	418	21.8%	408	21.2%	587	30.6%	199	10.4%	43	2.2%
TOTAL	25,276		398		2,984		4,312		4,562		3,734		5,522		2,720		1,044	

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not add to 100.0% due to rounding.

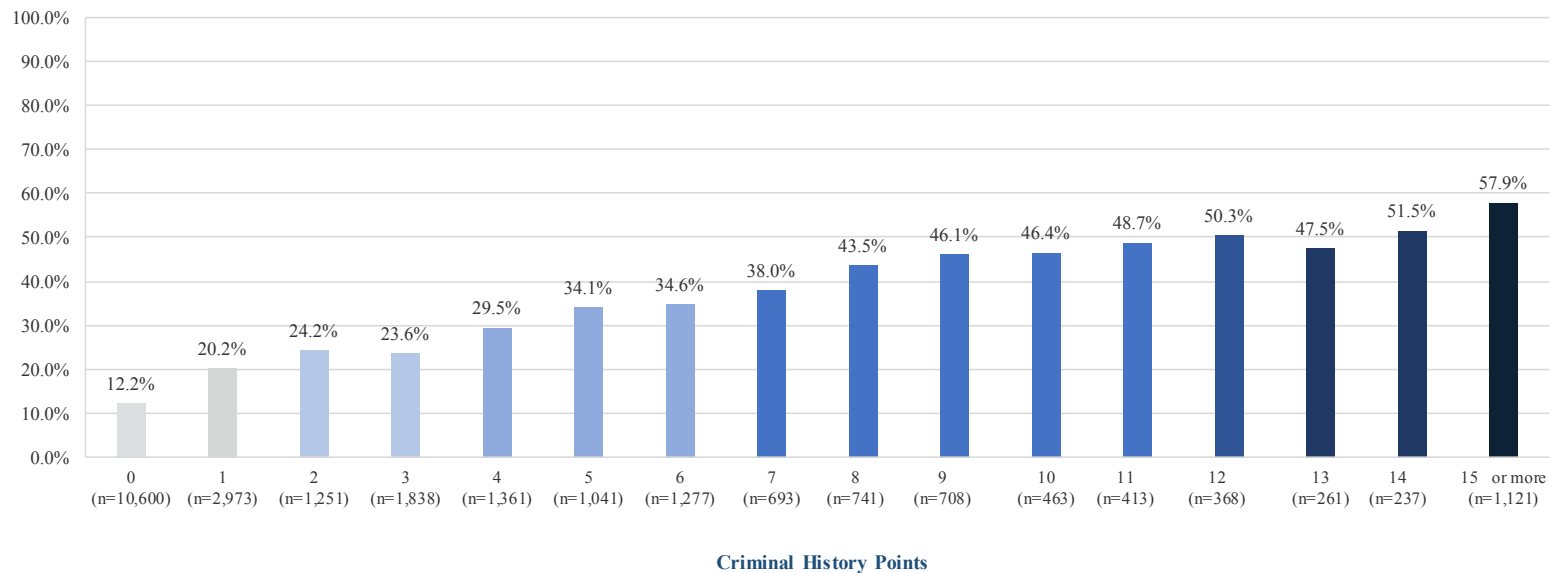
Reconviction Rates for Recidivism Study Offenders by Criminal History Points



Criminal History Points

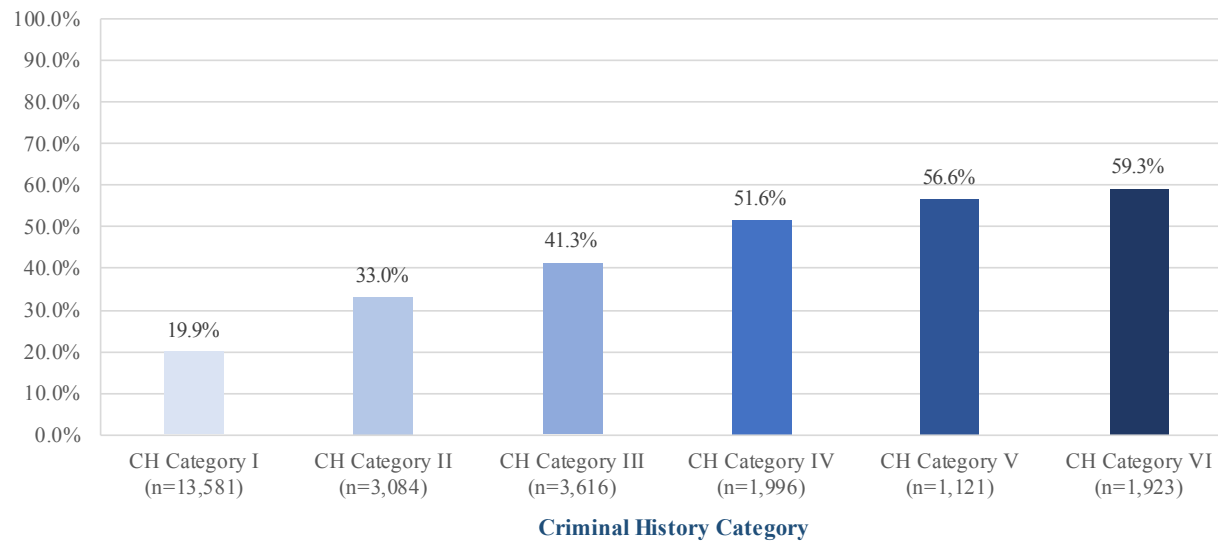
SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Reincarceration Rates for Recidivism Study Offenders by Criminal History Points



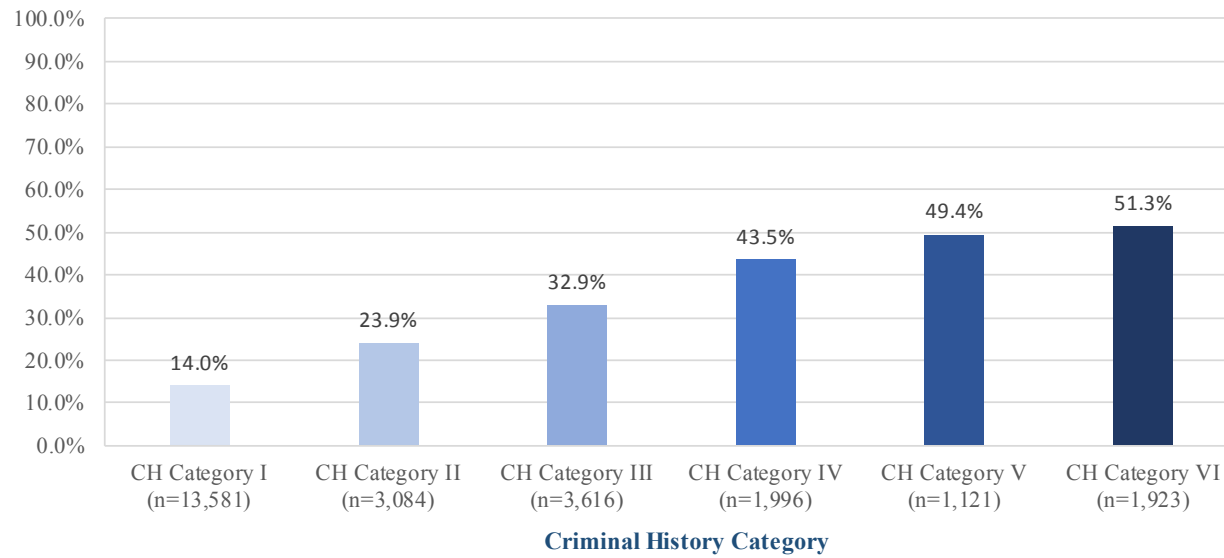
SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Reconviction Rates for Recidivism Study Offenders by Criminal History Category



SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Reincarceration Rates for Recidivism Study Offenders by Criminal History Category



SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Reconviction Rates for Recidivism Study Offenders by Point Types of Past Convictions

	Offenders with Only 1-Point Offenses	Offenders with 2-Point Offenses, No 3-Point Offenses	Offenders with 3-Point Offenses
Reconviction Rate	33.3%	50.0%	48.6%
Time to Reconviction	33 months	26 months	26 months
Most Serious Reconviction Event	Other Public Order (16.9%)	Other Public Order (16.5%)	Other Public Order (16.4%)
TOTAL	6,574	2,793	5,386

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Reincarceration Rates for Recidivism Study Offenders by Point Types of Past Convictions

	Offenders with Only 1-Point Offenses	Offenders with 2-Point Offenses, No 3-Point Offenses	Offenders with 3-Point Offenses
Reincarceration Rate	24.0%	41.6%	41.1%
Time to Reincarceration	31 months	26 months	26 months
Most Serious Reincarceration Event	Other Public Order (20.3%)	Other Public Order (20.8%)	Other Public Order (19.1%)
TOTAL	6,574	2,793	5,386

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

**Reconviction Rates for Recidivism Study Offenders
by Point Types of Previous Convictions**

Age Category	Offenders with Only 1-Point Offenses			Offenders with 2-Point Offenses, No 3-Point Offenses			Offenders with 3-Point Offenses		
	TOTAL Offenders	N	Reconviction Rate	TOTAL Offenders	N	Reconviction Rate	TOTAL Offenders	N	Reconviction Rate
LT 21	99	63	63.6%	25	19	76.0%	--	--	--
21-25	938	478	51.0%	458	320	69.9%	210	143	68.1%
26-30	1,376	562	40.8%	684	395	57.8%	747	460	61.6%
31-35	1,316	424	32.2%	622	282	45.3%	1,192	635	53.3%
36-40	925	258	27.9%	362	155	42.8%	1,022	511	50.0%
41-45	1,267	318	25.1%	469	181	38.6%	1,448	668	46.1%
51-60	503	65	12.9%	133	34	25.6%	589	165	28.0%
GT 60	150	19	12.7%	40	10	25.0%	174	31	17.8%
TOTAL	6,574	2,187	33.3%	2,793	1,396	50.0%	5,386	2,616	48.6%

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis. -- indicates insufficient number of cases.

Reincarceration Rates for Recidivism Study Offenders by Point Types of Previous Convictions

Age Category	Offenders with Only 1-Point Offenses			Offenders with 2-Point Offenses, No 3-Point Offenses			Offenders with 3-Point Offenses		
	TOTAL Offenders	N	Reincarceration Rate	TOTAL Offenders	N	Reincarceration Rate	TOTAL Offenders	N	Reincarceration Rate
LT 21	99	48	48.5%	25	17	68.0%	--	--	--
21-25	938	363	38.7%	458	279	60.9%	210	127	60.5%
26-30	1,376	408	29.7%	684	334	48.8%	747	382	51.1%
31-35	1,316	301	22.9%	622	233	37.5%	1,192	537	45.1%
36-40	925	181	19.6%	362	121	33.4%	1,022	436	42.7%
41-45	1,267	218	17.2%	469	141	30.1%	1,448	567	39.2%
51-60	503	48	9.5%	133	28	21.1%	589	137	23.3%
GT 60	150	11	7.3%	40	8	20.0%	174	26	14.9%
TOTAL	6,574	1,578	24.0%	2,793	1,161	41.6%	5,386	2,215	41.1%

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis. -- indicates insufficient number of cases.

**Reconviction Rates for Recidivism Study Offenders
by Offense of Conviction**

Offense Category	TOTAL Offenders	N	%
Violent	1,842	805	43.7%
Drug Trafficking	10,888	3,357	30.8%
Firearms	3,167	1,509	47.7%
Immigration	919	342	37.2%
Economic Crime	6,579	1,484	22.6%
Child Pornography	412	87	21.1%
Other	1,609	473	29.4%
TOTAL	25,416	8,057	31.7%

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

**Reincarceration Rates for Recidivism Study Offenders
by Offense of Conviction**

Offense Category	TOTAL Offenders	N	%
Violent	1,842	705	38.3%
Drug Trafficking	10,888	2,546	23.4%
Firearms	3,167	1,234	39.0%
Immigration	919	275	29.9%
Economic Crime	6,579	1,085	16.5%
Child Pornography	412	68	16.5%
Other	1,609	348	21.6%
TOTAL	25,416	6,261	24.6%

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

**Median Time to Reconviction of Recidivism Study Offenders by
Offense of Conviction**

	N	Months to Recidivism
Offense Category		
Violent	761	21
Drug Trafficking	3,218	34
Firearms	1,455	26
Immigration	326	24
Economic Crime	1,360	29
Child Pornography	73	24
Other	449	27
TOTAL	7,642	30

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

**Median Time to Reincarceration of Recidivism Study Offenders by
Offense of Conviction**

	N	Months to Recidivism
Offense Category		
Violent	661	22
Drug Trafficking	2,407	33
Firearms	1,180	26
Immigration	259	24
Economic Crime	961	28
Child Pornography	54	25
Other	324	27
TOTAL	5,846	29

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

