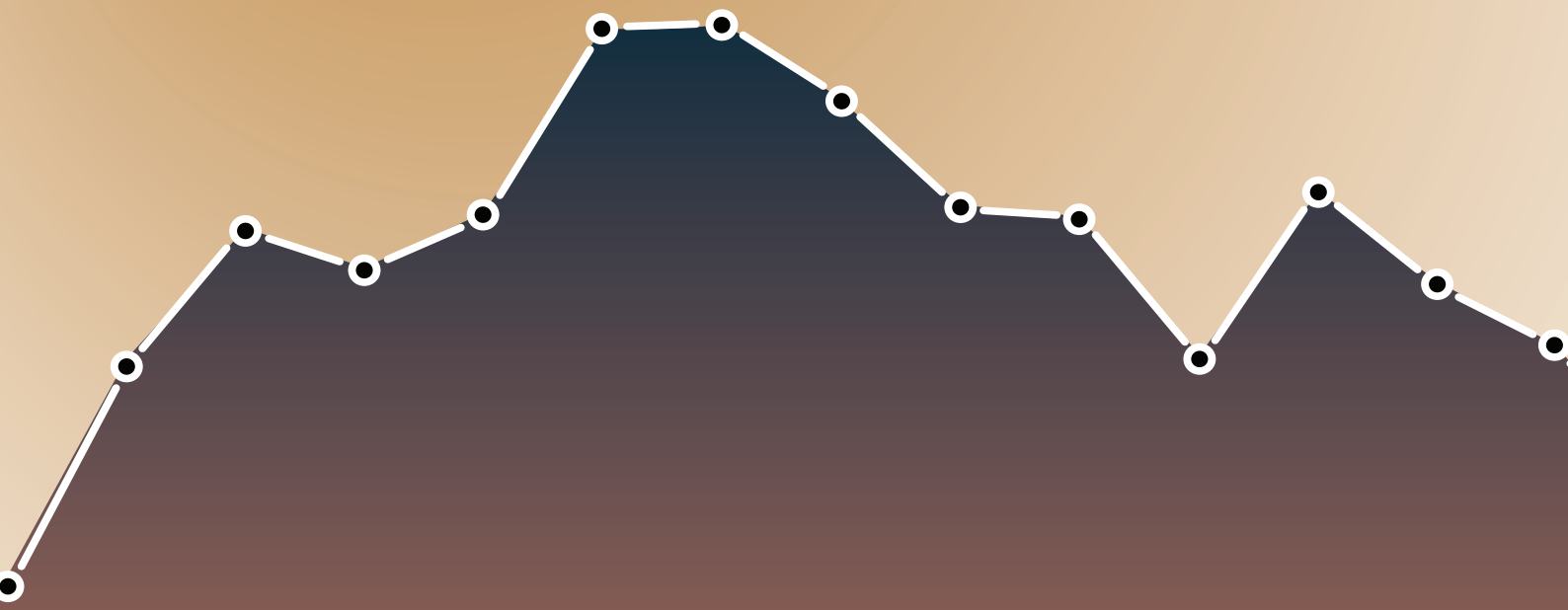
UNITED STATES SENTENCING COMMISSION

FEDERAL CRIMES IN INDIAN COUNTRY

RESEARCH REPORT

November 2026





FEDERAL CRIMES IN INDIAN COUNTRY

CARLTON W. REEVES
Chair

LUIS FELIPE RESTREPO
Vice Chair

LAURA E. MATE
Vice Chair

CLAIRE MURRAY
Vice Chair

CANDICE C. WONG
Commissioner

KELLY S. MILLIRON
Ex Officio

KENNETH P. COHEN
Staff Director

GLENN R. SCHMITT
Director, Office of Research and Data

November 2026

United States Sentencing Commission

TABLE OF CONTENTS

Introduction	1
Key Findings	2
Legal Context	4
Statutory Framework	*4*
The Guidelines Manual	*7*
Federal Indian Country Caseload and Geography	8
Methodology	*8*
Legal Sidebar	*10*
Types of Indian Country Offenses Sentenced in the Federal Courts	*11*
Individuals Sentenced Federally for Offenses Committed Within Indian Country	13
Demographic Characteristics	*13*
Crime Type and Offense Characteristics	*14*
Criminal History	*14*
Victims in Federal Indian Country Cases	15
Sentencing Outcomes	16
Application of Mandatory Minimum Penalties	*16*
Type of Sentence Imposed	*17*
Length of Sentence Imposed	*18*
Conclusion	22
Endnotes	*23*
Appendices	*27*

INDEX OF FIGURES

Figure	*Title*	*Page*
1	Number of Individuals Sentenced Federally for Offenses Committed Within Indian Country and Percentage of Overall Federal Caseload by Fiscal Year, Fiscal Years 2019–2023	8
2	Number of Cases in Each Federal Circuit Involving Offenses Committed Within Indian Country, Fiscal Years 2019–2023	9
3	Percentage of Federal District's Caseload Involving Offenses Committed Within Indian Country, Fiscal Years 2019–2023	9
4	Top Five Federal Districts—Percentage of Federal District's Caseload Involving Offenses Committed Within Indian Country Over Time, Fiscal Years 2019–2023	10
5	Crime Type for Individuals Sentenced Federally for Offenses Committed Within and Outside Indian Country, Fiscal Years 2019–2023	11
6	Most Common Crime Types for Individuals Sentenced Federally for Offenses Committed Within Indian Country by Fiscal Year, Fiscal Years 2019–2023	12
7	Regions Accounting for the Majority of Individuals Sentenced Federally for Offenses Committed Within Indian Country, Fiscal Years 2019–2023	12
8	Demographic Information for Individuals Sentenced Federally for Offenses Committed Within Indian Country, Fiscal Years 2019–2023	13
9	Crime Type and Offense Characteristics of Indian and Non-Indian Individuals Sentenced Federally for Offenses Committed Within Indian Country, Fiscal Years 2019–2023	14
10	Criminal History Categories of Indian and Non-Indian Individuals Sentenced Federally for Offenses Committed Within Indian Country, Fiscal Years 2019–2023	14
11	Victim Information in Cases Involving Individuals Sentenced Federally for Offenses Committed Within Indian Country, Fiscal Year 2023	15
12	Mandatory Minimum Penalties and Relief for Individuals Sentenced Federally for Offenses Committed Within Indian Country, Fiscal Years 2019–2023	16
13	Type of Sentence Imposed for Individuals Sentenced Federally for Offenses Committed Within Indian Country, Fiscal Years 2019–2023	17
14	Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for All Offenses Committed Within Indian Country, Fiscal Years 2019–2023	18
15	Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for Assault Offenses Committed Within Indian Country, Fiscal Years 2019–2023	18
16	Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for Drug Trafficking Offenses Committed Within Indian Country, Fiscal Years 2019–2023	19
17	Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for Sexual Abuse Offenses Committed Within Indian Country, Fiscal Years 2019–2023	20
18	Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for All Other Offenses Committed Within Indian Country, Fiscal Years 2019–2023	20
19	Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for Murder Offenses Committed Within Indian Country, Fiscal Years 2019–2023	21
20	Sentence Relative to Guideline Range for Individuals Sentenced Federally for Offenses Committed Within Indian Country, Fiscal Years 2019–2023	21

INDEX OF APPENDIX FIGURES

Figure	*Title*	*Page*
A	Primary Drug Type Among Individuals Sentenced Federally for Drug Trafficking Offenses Committed Within Indian Country, Fiscal Years 2019–2023	27
B-1	Age of Victims and Relationship Between Victims and Individuals Federally Sentenced for Offenses Committed Within Indian Country by Crime Type, Fiscal Year 2023	28
B-2	Type of Victim in Cases Involving Individuals Sentenced Federally for Fraud Offenses Committed Within Indian Country, Fiscal Year 2023	28

There has been little research on how individuals who commit offenses within Indian country are sentenced in federal court. In response to requests from federal judges and other stakeholders, this report provides the first in-depth analysis of individuals sentenced in the federal courts for federal felony or Class A misdemeanor offenses committed within Indian country.



INTRODUCTION

"[C]riminal jurisdiction over offenses committed in Indian country is governed by a complex patchwork of federal, state, and tribal law."[1] The applicable jurisdiction "varies by the type and seriousness of the crime, whether the offender or victim is a tribal member, and the location of the offense."[2] Federal involvement in cases occurring within Indian[3] country is due to the interplay of these factors and how jurisdiction is shared and structured under federal law. Many types of crimes prosecuted federally in Indian country are more commonly prosecuted in state courts when they occur elsewhere. Given the application of federal jurisdiction on such land, the *Guidelines Manual* applies to many individuals sentenced for an offense committed in Indian country.

How offenses occurring within Indian country are sentenced in federal court has long been discussed in the criminal justice system, but little research has been published about these offenses.[4] In response to requests from federal judges and the Commission's Tribal Issues Advisory Group[5] for more information about Indian country offenses sentenced in the federal courts, the Commission undertook a research project to examine those cases. This report provides the first in-depth analysis of individuals sentenced in the federal courts for offenses committed within Indian country. In this report, the Commission examines cases involving 6,455 individuals sentenced between fiscal years 2019 and 2023 for committing federal felony or Class A misdemeanor offenses within Indian country and, in particular, the location of those cases, the types of crimes involved, the sentences imposed, and the victims identified in those cases.

Authors

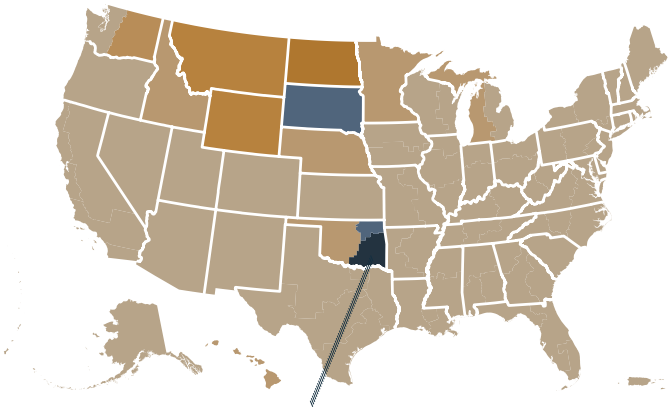
Amanda Kerbel, M.A.
Research Associate
Office of Research and Data

Steffan Jambon, J.D., M.B.A.
Assistant General Counsel
Office of General Counsel

KEY FINDINGS

1 Between fiscal years 2019 and 2023, 6,455 individuals were sentenced federally for an offense committed within Indian country, representing two percent of the total federal caseload.

2 The Eastern District of Oklahoma had the highest percentage of cases involving offenses committed in Indian country relative to its total caseload of any federal judicial district. Forty-five percent of the individuals sentenced federally in that district committed the offense in Indian country, with a notable increase in these cases after the Supreme Court's decision in *McGirt v. Oklahoma*.

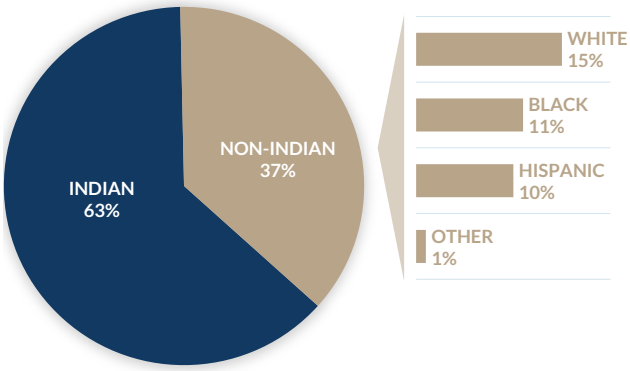


EASTERN DISTRICT OF OKLAHOMA
45%

3 The most common crime type for individuals sentenced federally for offenses committed within Indian country was assault (24%). By comparison, assault accounted for one percent of crimes for individuals sentenced federally for offenses committed outside Indian country. Violent crimes accounted for 53 percent of crimes for individuals sentenced federally for offenses committed within Indian country compared to eight percent of federal crimes that did not occur in Indian country.

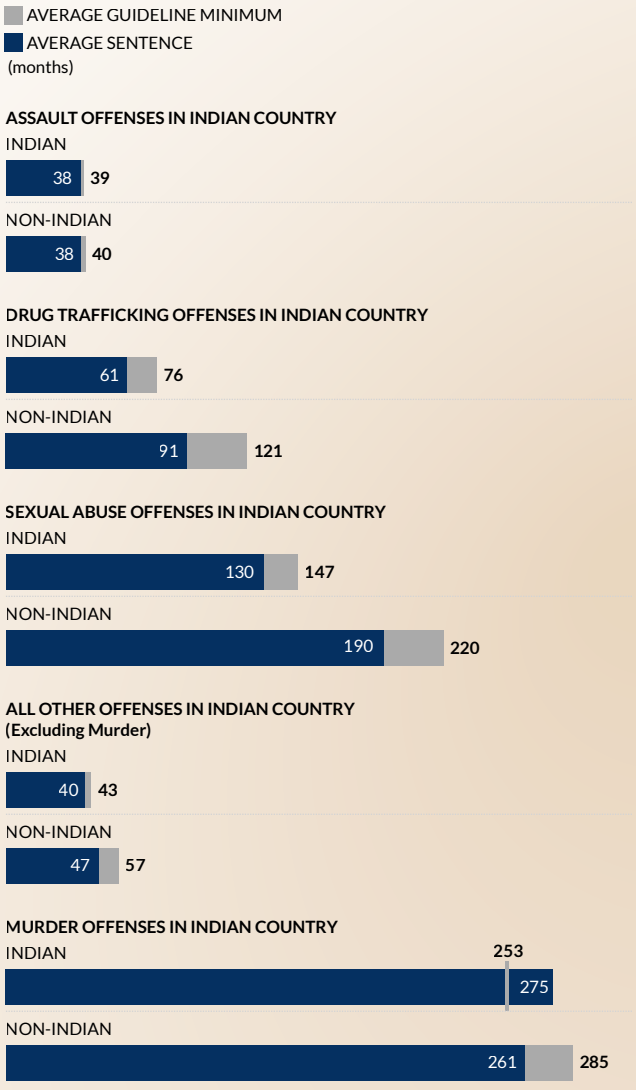
Crime Type	*Within Indian Country*	*Outside Indian Country*
Murder	4%	1%
Manslaughter	4%	0%
Sexual Abuse	12%	2%
Assault	24%	1%
Drug Trafficking	15%	29%
Firearms	7%	13%
Fraud/Theft/Embezzlement	9%	8%
Immigration	3%	34%
All Other Offenses	22%	13%

4 Indians accounted for almost two-thirds (63%) of the individuals sentenced federally for offenses committed within Indian country.



5 The proportion of Indians (71%) sentenced federally for a violent offense committed in Indian country was nearly three times that of Non-Indians in Indian country (27%).

6 When studying the crime type for individuals sentenced federally for offenses committed within Indian country, Indians sentenced in federal courts received similar or shorter sentences than Non-Indians for all crime types other than murder, while Non-Indians received larger reductions from the guideline minimums.



LEGAL CONTEXT

"[C]riminal jurisdiction over offenses committed in Indian country is governed by a complex patchwork of federal, state, and tribal law."[6] Two major laws govern federal jurisdiction over offenses committed in Indian country—the Major Crimes Act[7] and the Indian Country Crimes Act.[8] Additionally, federal criminal statutes with nationwide applicability—those in which the situs of the offense is not an element of the crime—apply "equally to everyone everywhere within the United States, including Indians in Indian country."[9] Still other federal laws apply specifically to offenses committed within Indian country. Each of the key statutory provisions is summarized below.

Statutory Framework

The two primary statutes conferring federal jurisdiction in this area are based upon the establishment of federal jurisdiction in "Indian country." Congress codified this term in 1948 "in an attempt to help clarify tribal jurisdiction" and to codify "a complicated series of court decisions."[10] Pursuant to federal statute, "Indian country" is defined as

> (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.[11]

Major Crimes Act (MCA)

Section 1153 of title 18 (commonly known as the Major Crimes Act) grants jurisdiction to federal courts, generally exclusive of the states, over Indians who commit any of a group of listed offenses within Indian country, regardless of whether the victim is Indian or Non-Indian. The MCA provides:

> (a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, a felony assault under section 113, an assault against an individual who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

> (b) Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.[12]

In short, the MCA applies when an Indian commits a statutorily enumerated offense against the person or property of another Indian or other person within Indian country. Unlike the term "Indian country," an individual's "Indian" status is not statutorily defined; rather, this classification is based on a two-part jurisprudential test that turns on an individual's lineage and membership in, or affiliation with, a federally recognized tribe.[13] Generally speaking, the federal definition of each enumerated offense applies in prosecutions under the MCA.[14] If an enumerated offense is not defined and punished by federal law, however, it is defined and punished in accordance with state law.[15]

Federal jurisdiction over offenses covered by the MCA generally is exclusive of state jurisdiction.[16] However, the Supreme Court has not resolved whether tribal courts have concurrent jurisdiction over such offenses.[17]

Indian Country Crimes Act (ICCA)

Like the MCA, the Indian Country Crimes Act (also known as the General Crimes Act), is a federal law that gives federal courts jurisdiction over certain crimes committed in Indian country. Under 18 U.S.C. § 1152, the "general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, . . . extend to the Indian country."[18] The ICCA applies in Indian country when the defendant *or* the victim of the offense is an Indian.[19] These "general laws" include criminal statutes that govern offenses committed in the "special maritime and territorial jurisdiction of the United States," as defined in 18 U.S.C. § 7.[20]

Courts also have applied the Assimilative Crimes Act (ACA)[21] under the ICCA to Indian and Non-Indian individuals for crimes occurring in Indian country.[22] The ACA is a gap-filling statute that allows federal courts to apply state criminal law in certain federal enclave areas—including those within the "special maritime and territorial jurisdiction of the United States"—when an individual's conduct has not been "made punishable by any enactment of Congress."[23]

There are four exceptions to the jurisdiction granted by the ICCA; three are statutory, and one is judicially recognized. First, the ICCA does not apply to offenses "committed by one Indian against the person or property of another Indian."[24] Second, the ICCA does not apply to any Indian who has committed any offense in Indian country and "has been punished by the local law of the tribe."[25] Third, the ICCA does not apply "to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively."[26] In *United States v. McBratney*, the Supreme Court recognized a fourth exception to jurisdiction under the ICCA: "The courts of the United States" have no jurisdiction over offenses committed in Indian country

that involve a Non-Indian defendant and a Non-Indian victim.[27] These four exceptions do not exempt Indians from the MCA or the general criminal laws of the United States. When an exception to the ICCA applies and no other federal law grants jurisdiction, the offense may instead fall under tribal, state, or local jurisdiction, depending on the circumstances.

Other Statutes Conveying Jurisdiction

There are other general and specific statutes that convey federal jurisdiction over offenses committed in Indian country. Generally, courts agree that federal criminal statutes "of nationwide applicability" apply "equally to everyone everywhere within the United States, including Indians in Indian country," unless exempted by treaty.[28] These statutes include those governing drug trafficking offenses,[29] firearms offenses,[30] and offenses involving damage to property used in interstate commerce.[31] Alternatively, some federal statutes apply expressly to specific offenses committed within Indian country or on Indian land. Examples of these offenses include domestic assault by a habitual offender;[32] unauthorized hunting, trapping, or fishing;[33] and gambling.[34]

State and Tribal Jurisdiction Over Offenses Committed in Indian Country

Although a full description of the "complex patchwork of federal, state, and tribal law"[35] governing offenses committed in Indian country is beyond the scope of this report, it is important to note that states and tribes play critical roles in this area.

In some circumstances, states have the authority to prosecute offenses committed within Indian country. This state jurisdiction can sometimes displace federal jurisdiction. For example, under 18 U.S.C. § 1162—sometimes called "Public Law 280"—several states "have jurisdiction over offenses committed by or against Indians" in designated areas of Indian country within their borders.[36] The MCA and ICCA generally do not apply when states have jurisdiction under Public Law 280.[37] In other situations, a state may exercise concurrent jurisdiction over offenses committed within Indian country. For example, some statutes grant particular states concurrent jurisdiction over offenses committed by or against Indians on Indian reservations within their borders, even when those offenses also fall within the scope of the MCA.[38] Additionally, the Supreme Court has ruled that federal and state authorities have concurrent jurisdiction under the ICCA to prosecute crimes committed by Non-Indians against Indians in Indian country.[39]

Likewise, tribes exercise criminal jurisdiction over many offenses committed in Indian country. For example, tribes generally retain exclusive jurisdiction over offenses committed by one Indian against another Indian that fall outside the MCA's list of enumerated crimes.[40] Further, some courts have concluded that tribes retain concurrent jurisdiction even over offenses covered by the MCA, but the Supreme Court has expressly declined to resolve that question.[41] Finally, Congress also has limited federal jurisdiction in some circumstances, such as by barring prosecution under the ICCA when an individual "has been punished by the local law of the tribe."[42]

Because the exercise of criminal jurisdiction in Indian country depends on numerous statutory and jurisdictional considerations, these examples are illustrative rather than exhaustive. The Commission receives sentencing information only for felony and Class A misdemeanor offenses prosecuted in federal court. Accordingly, the data

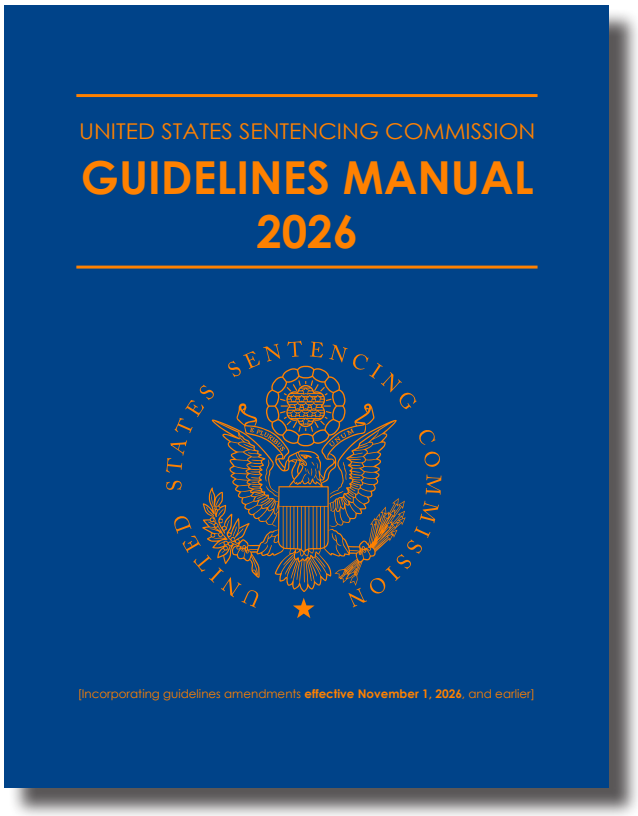
presented in this report reflects only those cases prosecuted federally and should not be understood to represent all criminal prosecutions arising from conduct occurring in Indian country.

The Guidelines Manual

Offense-Level Calculation

As a general matter, the *Guidelines Manual* instructs that courts must determine the guideline in Chapter Two (Offense Conduct) applicable to the offense of conviction through reference to the Statutory Index set forth in Appendix A.[43] As such, if an individual is convicted of an offense committed within Indian country that is referenced to a specific guideline, that guideline applies as in any other case.

As noted above, however, some crimes committed in Indian country are not specific federal crimes but instead are defined by reference to state law under the MCA or prosecuted under state law assimilated through the ICCA and the ACA. Such offenses are not listed in the Statutory Index or in any of the lists of Statutory Provisions that follow each offense guideline. Nonetheless, the specific guidelines that have been promulgated often can cover the type of criminal behavior that most such offenses proscribe. In these instances, §2X5.1 (Other Felony Offenses) instructs the court to determine whether there is a sufficiently analogous offense guideline, and, if so, to apply the guideline that is most analogous. In a case in which there is no sufficiently analogous guideline, the provisions of 18 U.S.C. § 3553 control.[44]



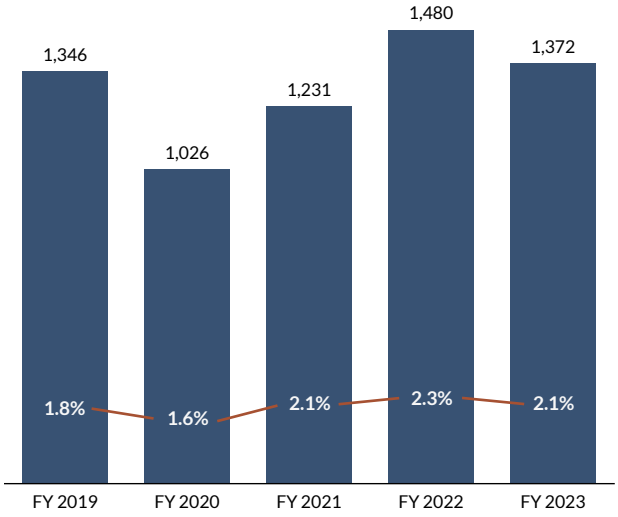
Criminal History

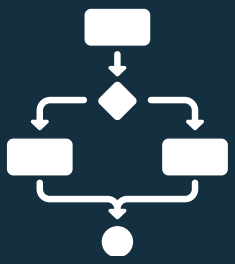
As a general matter, the criminal history score for an individual sentenced in federal court for a crime committed in Indian country is calculated in the same manner as any other federal crime. Sentences resulting from tribal court convictions, however, are not counted for criminal history purposes.[45] This limitation applies regardless of whether the instant offense occurred in Indian country.

FEDERAL INDIAN COUNTRY CASELOAD AND GEOGRAPHY

Between fiscal years 2019 and 2023, federal courts sentenced 326,634 individuals for a felony or Class A misdemeanor. Of these individuals, 6,455 (2%) were sentenced for an offense committed within Indian country. The proportion of cases sentenced for an offense within Indian country remained relatively stable between fiscal years 2019 and 2023, ranging from a low of 1.6 percent in fiscal year 2020 to a high of 2.3 percent in 2022 (Figure 1).

Figure 1. Number of Individuals Sentenced Federally for Offenses Committed Within Indian Country and Percentage of Overall Federal Caseload by Fiscal Year
Fiscal Years 2019–2023





METHODOLOGY

The Commission conducted a special data collection project to identify offenses occurring within Indian country that were sentenced in federal court.[46] The Commission selected cases referencing specific statutes in chapter 53 of title 18 and used optical recognition software to search Presentence Investigation Reports for key words that identify offenses occurring in Indian country.[47] Staff then examined the cases to verify that the offense occurred within Indian country. Through this review, the Commission identified 6,455 cases in which an individual was sentenced federally between fiscal years 2019 and 2023 where one or more of the offenses were committed in Indian country. In this report, these cases will be referred to as "Indian country cases" or "offenses within Indian country."

The Commission supplemented this analysis with data from a separate research project on the victims in all fiscal year 2023 cases. For that project, cases were selected for analysis based on sentencing factors that identify offenses with individual victims, such as cases where the court ordered restitution to be paid, or where the court applied a guideline in Chapter Two, Part A–Offenses Against the Person, a specific offense characteristic for death or serious bodily injury, or a victim-related adjustment in Chapter Three. The data collected from Indian country cases for that project was also used for this report.[48]

Offenses committed within Indian country and sentenced in federal court were primarily concentrated in the Eighth (n=1,503), Ninth (n=1,822), and Tenth (n=1,655) Circuits (Figure 2). These three circuits had the highest proportion of their criminal caseload involving offenses committed within Indian country.

Of individuals sentenced in the Eastern District of Oklahoma, 45 percent committed their offense in Indian country, the highest proportion among all federal judicial districts (Figure 3). The next highest proportion was in the District of South Dakota (where 32% of the cases involved offenses in Indian country), followed by the Northern District of Oklahoma (31%), the District of North Dakota (20%), and the District of Montana (17%).

Figure 2. Number of Cases in Each Federal Circuit Involving Offenses Committed Within Indian Country
Fiscal Years 2019–2023

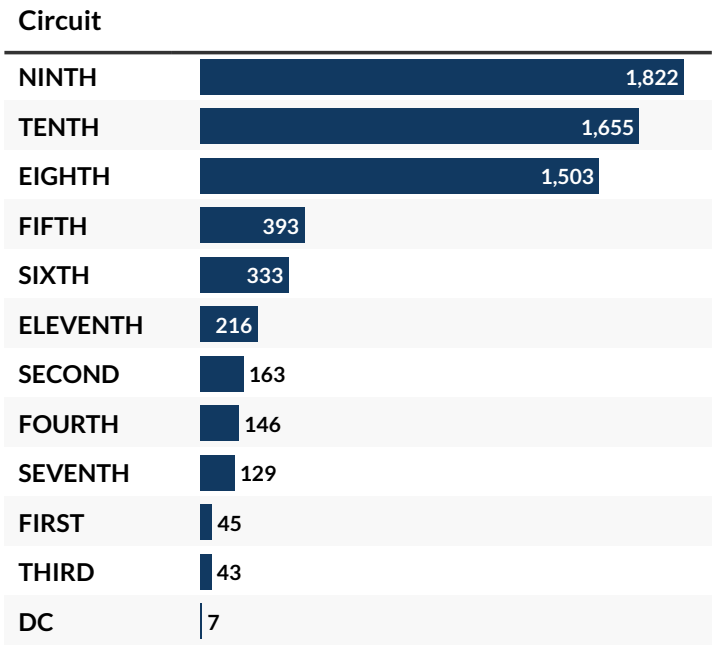
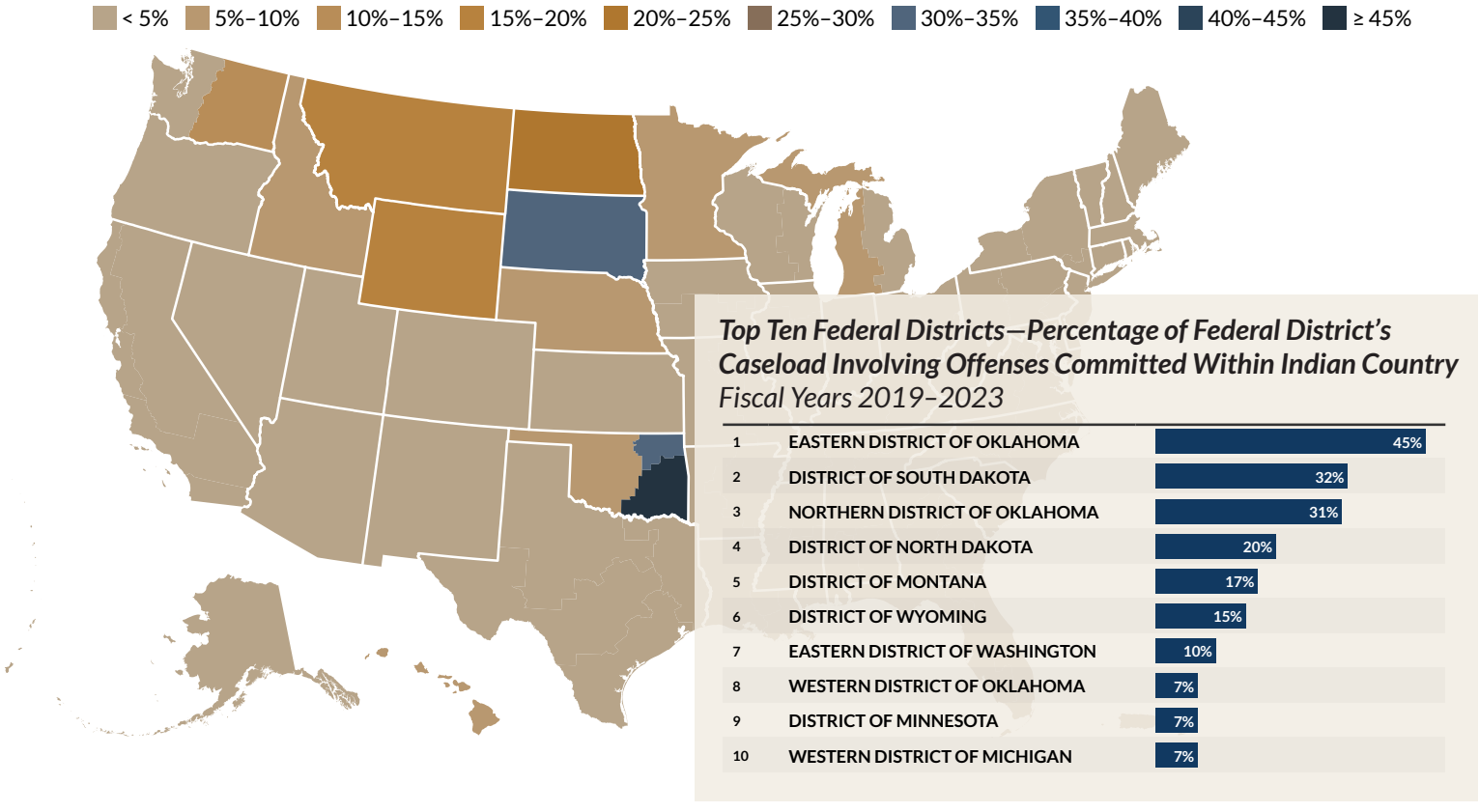


Figure 3. Percentage of Federal District's Caseload Involving Offenses Committed Within Indian Country
Fiscal Years 2019–2023

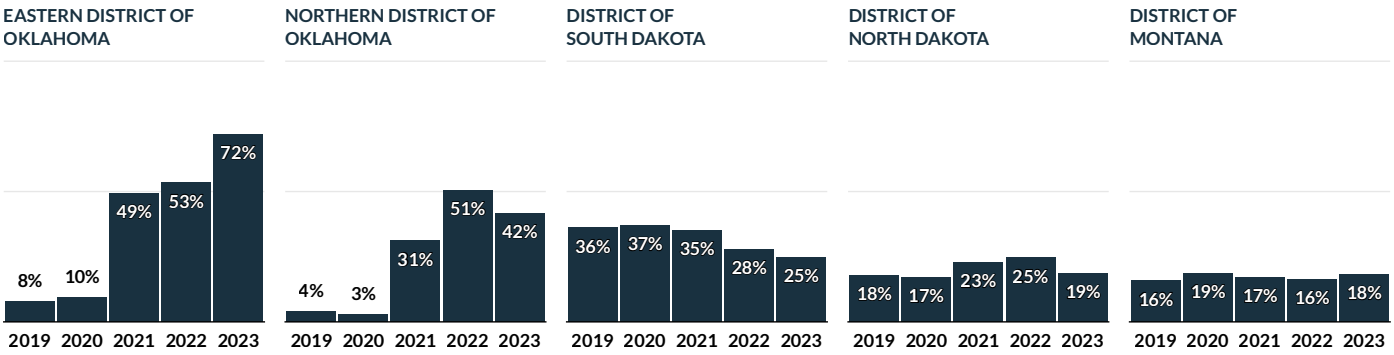


LEGAL SIDEBAR

In *McGirt v. Oklahoma*, 591 U.S. 894 (2020), the Supreme Court held that land reserved for the Creek Nation in Oklahoma since the 19th century remains "Indian country," thereby precluding Oklahoma from prosecuting under state law offenses committed by Indians that fall within the Major Crimes Act.

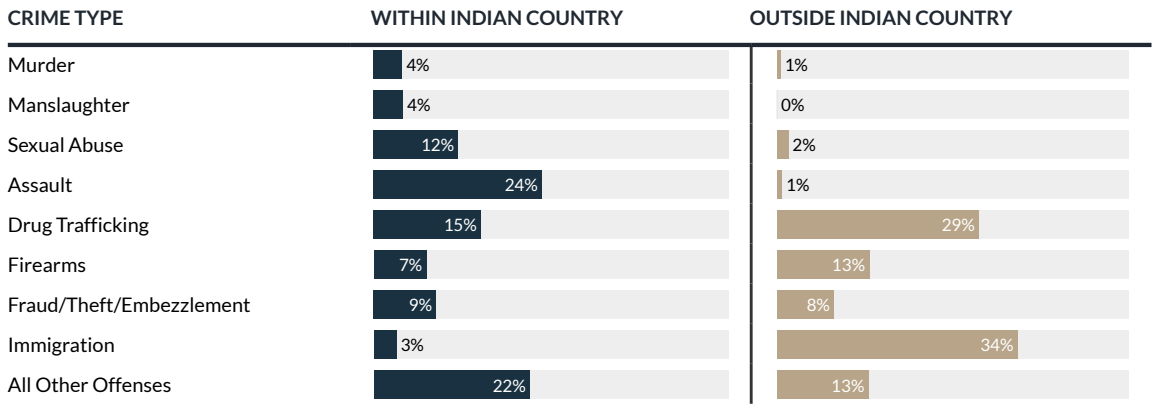
In *Oklahoma v. Castro-Huerta*, 597 U.S. 629 (2022), the Supreme Court ruled that federal and state authorities have concurrent jurisdiction under the Indian Country Crimes Act to prosecute crimes committed by Non-Indians against Indians in Indian country.

Figure 4. Top Five Federal Districts—Percentage of Federal District's Caseload Involving Offenses Committed Within Indian Country Over Time
Fiscal Years 2019–2023



Although the federal caseload has remained relatively stable over the past five fiscal years, two federal districts in Oklahoma experienced increased caseloads following the Supreme Court's 2020 decision in *McGirt v. Oklahoma*.[49] In the Eastern District of Oklahoma, the number of cases reported to the Commission increased from 101 in fiscal year 2019 to 215 in fiscal year 2023.[50] Indian country offenses in that district increased from eight percent of the overall caseload in fiscal year 2019 to 72 percent in fiscal year 2023 (Figure 4). Similarly, in the Northern District of Oklahoma, the number of cases increased from 217 in fiscal year 2019 to 400 in fiscal year 2023, and the percentage of those cases occurring in Indian country increased from four percent to 42 percent of the overall caseload in fiscal year 2023.[51]

Figure 5. Crime Type for Individuals Sentenced Federally for Offenses Committed Within and Outside Indian Country
Fiscal Years 2019–2023



Types of Indian Country Offenses Sentenced in the Federal Courts

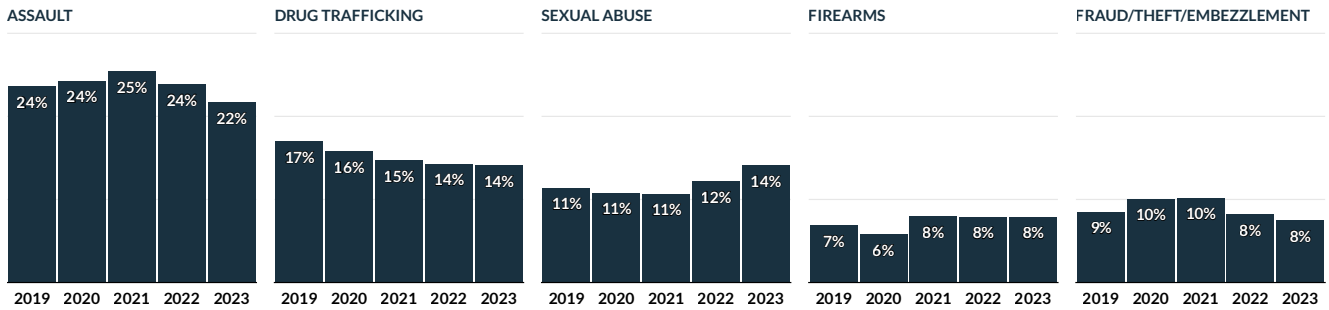
Jurisdictional differences impact the types of offenses occurring within Indian country that are sentenced in federal court, making them substantially different from federally sentenced offenses occurring outside Indian country. In particular, while many crimes in Indian country are prosecuted federally under specific statutes, the nature of the offenses often aligns more closely with state-level crimes that are assimilated into federal law.

Assault and sexual abuse offenses accounted for a larger proportion of Indian country cases sentenced in federal court than of federal cases for offenses committed outside Indian country. The most common crime among Indian country cases was assault (24%), which, by comparison, accounted for one percent of offenses outside Indian country (Figure 5). Sexual abuse offenses accounted for 12 percent of all offenses sentenced in federal court that occurred within Indian country, but only two percent of offenses outside Indian country.

Drug trafficking, immigration, and firearms offenses accounted for a smaller proportion of Indian country cases sentenced in federal court than of federal cases for offenses committed outside Indian country. Immigration offenses accounted for three percent of all offenses committed within Indian country and sentenced in federal court, compared to one-third (34%) of all offenses outside of Indian country. The rates of drug trafficking (15%) and firearms offenses (7%) occurring within Indian country and sentenced in federal court were about half the rates of these federal offenses outside of Indian country (29% and 13%, respectively).[52]

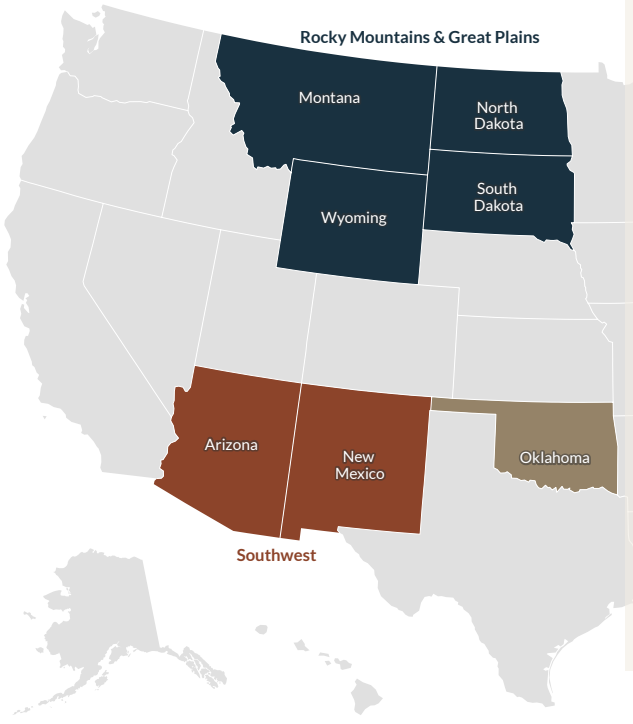
Indian country crimes generally were more violent than other federal crimes in the cases reported to the Commission. During the period studied, violent crimes accounted for 53 percent of Indian country cases sentenced in federal courts, compared to eight percent of federal cases outside Indian country.

Figure 6. Most Common Crime Types for Individuals Sentenced Federally for Offenses Committed Within Indian Country by Fiscal Year
Fiscal Years 2019–2023



Examining all districts, the crime types committed in Indian country and sentenced federally did not vary substantially over time (Figure 6). However, the types of crimes committed in Indian country did vary somewhat across the three regions that account for a majority of the federal crimes occurring in Indian country: the Rocky Mountains and Great Plains, the Southwest, and Oklahoma (Figure 7).[53] In these three regions—as in Indian country more generally—the most common offense occurring in Indian country and sentenced in federal court was assault. However, the rates of murder, robbery, and firearms offenses were higher in Oklahoma compared to the other two regions.[54]

Figure 7. Regions Accounting for the Majority of Individuals Sentenced Federally for Offenses Committed Within Indian Country
Fiscal Years 2019–2023



Crime Types for Individuals Sentenced Federally for Offenses Committed Within Indian Country by Region
Fiscal Years 2019-2023

	Rocky Mountains & Great Plains (ND, SD, MT, WY)	Southwest (AZ, NM)	Oklahoma (OK N, OK E, OK W)
Murder	3%	6%	9%
Manslaughter	4%	9%	4%
Sexual Abuse	17%	14%	14%
Robbery	2%	3%	8%
Assault	26%	36%	28%
Drug Trafficking	15%	9%	3%
Firearms	5%	5%	8%
Fraud/Theft/Embezzlement	6%	3%	6%
Administration of Justice	6%	2%	1%
Other Sex Offense	7%	3%	2%
All Other Offenses	9%	11%	17%

INDIVIDUALS SENTENCED FEDERALLY FOR OFFENSES COMMITTED WITHIN INDIAN COUNTRY

This section of the report examines the individuals sentenced federally for offenses committed within Indian country between fiscal years 2019 and 2023, providing a comparison between Indian (n=4,019) and Non-Indian individuals (n=2,404). There were key differences between Indians and Non-Indians; most notably, these groups varied with regard to demographics, crime types, and sentencing outcomes. As discussed more fully below, Indians were generally sentenced to similar or shorter sentences than Non-Indians for similar crimes, but Non-Indians received larger reductions from the guideline minimum for those crimes than Indians.

Demographic Characteristics

Indians accounted for almost two-thirds (63%) of the individuals sentenced federally within Indian country in fiscal years 2019 to 2023 (Figure 8). The remaining individuals (37%) were White (15%), Black (11%), Hispanic (10%), or other races (1%).

The average age of individuals sentenced federally for offenses within Indian country was 36 years old, and the majority were male (85%). Most individuals sentenced federally for offenses within Indian country were U.S. Citizens (95%).

Citizenship and age varied among the Indians and Non-Indians sentenced within Indian country. All but one Indian sentenced were U.S. citizens, compared to 87 percent of Non-Indians. The average age of Indians was slightly younger (35 years old) compared to Non-Indian individuals (38 years old). Education and gender did not vary substantially between Indians and Non-Indians. The only notable difference observed was in the proportion who were college graduates, as two percent of Indians graduated from college compared to nine percent of Non-Indians.

Figure 8. Demographic Information for Individuals Sentenced Federally for Offenses Committed Within Indian Country
Fiscal Years 2019–2023

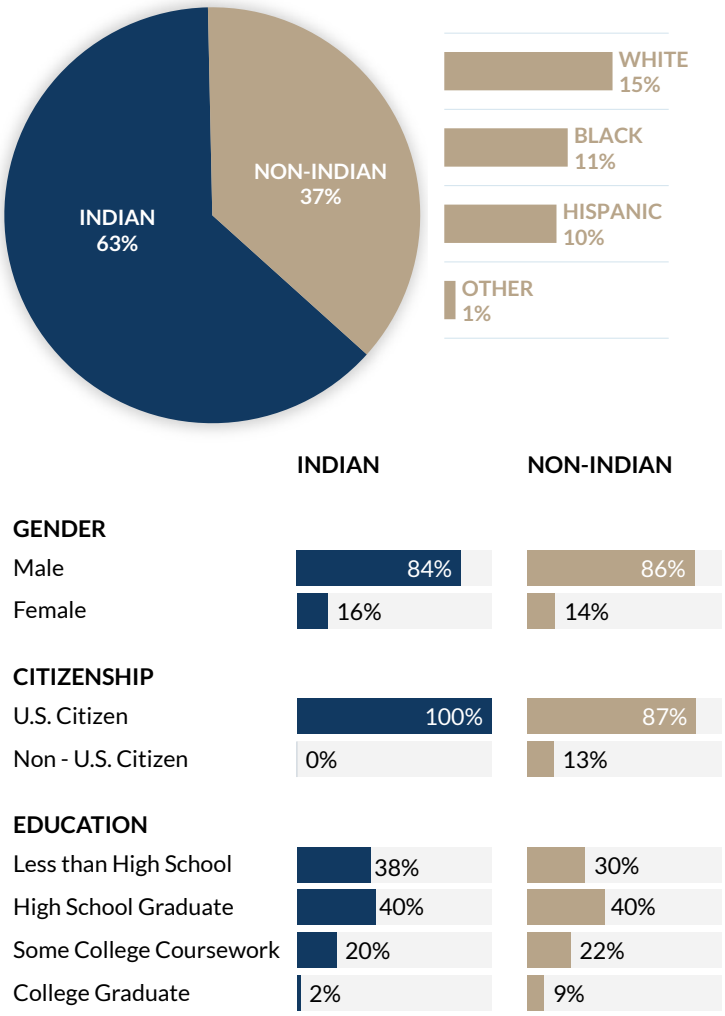


Figure 9. Crime Type and Offense Characteristics of Indian and Non-Indian Individuals Sentenced Federally for Offenses Committed Within Indian Country
Fiscal Years 2019–2023

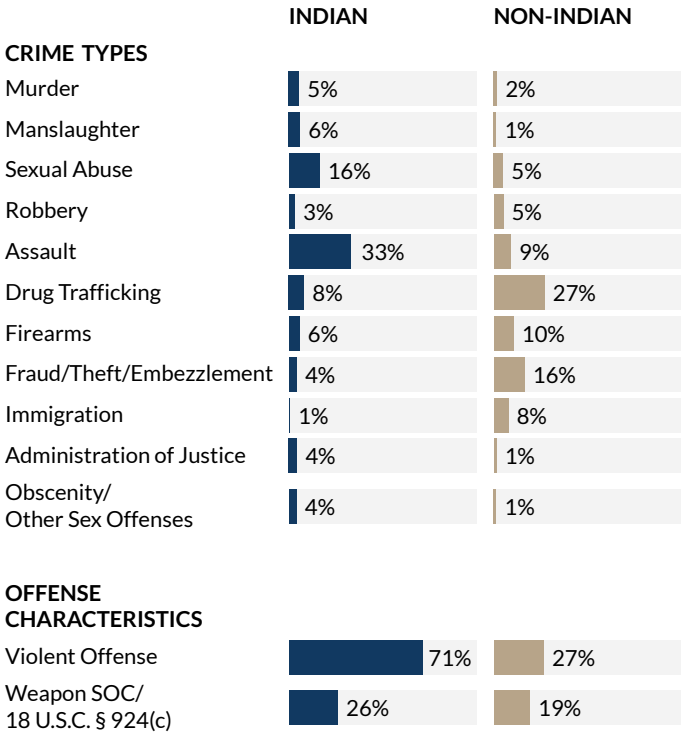
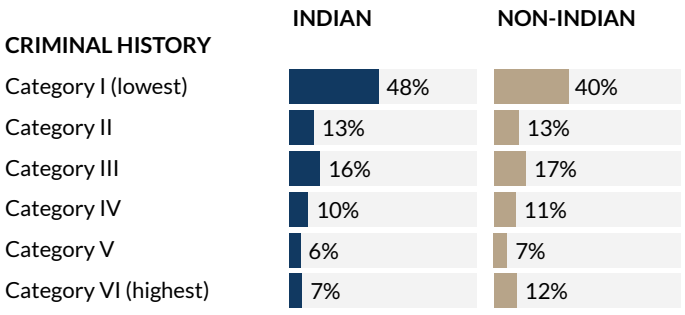


Figure 10. Criminal History Categories of Indian and Non-Indian Individuals Sentenced Federally for Offenses Committed Within Indian Country
Fiscal Years 2019–2023



Crime Type and Offense Characteristics

The proportion of Indians sentenced federally for assault (33%) and sexual abuse (16%) was more than three times that of Non-Indians (9% and 5%, respectively) (Figure 9). Within Indian country, 11 percent of Indians were sentenced federally for either manslaughter (6%) or murder (5%), compared to three percent of Non-Indians.

In Indian country, non-violent offenses such as drug trafficking (27%), fraud (16%), and immigration offenses (8%) were more prevalent among federally sentenced Non-Indians, compared to Indians.[55] Specifically, for federal crimes occurring within Indian country, eight percent of Indians were sentenced for drug trafficking, four percent for fraud, and one percent for an immigration offense.[56]

A higher proportion of Indian individuals were sentenced federally for a violent offense committed in Indian country than Non-Indian individuals (71% and 27%, respectively). A higher proportion of Indians also possessed a weapon during the commission of a federal offense in Indian country. Roughly one-quarter (26%) of Indians received an enhancement for possession of a dangerous weapon (including a firearm) when sentenced for a federal offense committed within Indian country.[57] By comparison, 19 percent of Non-Indians received a weapon enhancement.

Criminal History

Indians sentenced federally for offenses within Indian country had slightly less extensive criminal histories compared to Non-Indians sentenced federally within Indian country (Figure 10).[58] Nearly half of Indians in this study (48%) were in Criminal History Category I (CHC), the lowest category, compared to 40 percent of Non-Indians. Conversely, a greater proportion of Non-Indians (12%) were in the highest criminal history category (CHC VI) as compared to Indians (7%).

VICTIMS IN FEDERAL INDIAN COUNTRY CASES

This section of the report presents data from a separate research project about the victims in federal cases in fiscal year 2023.[59] Data from that research provides insight into the victims of Indian country offenses sentenced in the federal courts, including the number of victims, age of the victim, relationship between the victim and the sentenced individual, and harm to the victim.

Almost three-quarters (73%) of offenses committed within Indian country and sentenced federally in fiscal year 2023 involved identifiable victims (Figure 11).[60] Most of the victims were individuals (88%), followed by businesses (8%), and the Government (4%). There was an average of two victims per case. Of the cases with victims, 41 percent involved a juvenile victim and 59 percent involved an adult victim.[61]

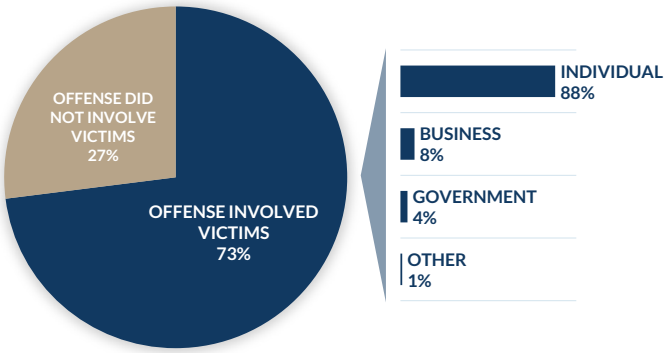
Of the cases with victims, over half (52%) involved harm perpetrated against a person known to the sentenced individual (*i.e.*, a spouse/intimate partner, other family member, or friend/acquaintance). By contrast, only 28 percent of cases involved harm perpetrated against a stranger.

A majority of offenses with victims involved force (62%), followed by coercion, deception, or fraud (9%); an accident (*e.g.*, a car crash) (8%); threat to a person (7%); or another means of victimization (16%).

In a majority of cases involving a victim (58%), the harm involved bodily injury, and 15 percent of victims died as a result of the offense. Financial harm occurred in 13 percent of the cases.

Almost three-quarters of cases involving identifiable victims (73%) were concentrated among five crime types: assault (29%), sexual abuse (21%), murder (9%), manslaughter (8%), and fraud (7%).[62]

Figure 11. Victim Information in Cases Involving Individuals Sentenced Federally for Offenses Committed Within Indian Country
Fiscal Year 2023



RELATIONSHIP TO SENTENCED INDIVIDUAL	
Spouse/Intimate Partner	13%
Other Family Member	20%
Friend/Acquaintance	29%
Customer/Coworker	4%
LEO/Other Gov't Employee	5%
Criminal Suspect/Inmate	1%
Stranger	28%
Co-Conspirator	0.4%
MANNER OF VICTIMIZATION	
Force	62%
Threat to Person	7%
Cocercion/Deception/Fraud	9%
Accident	8%
Other	16%
TYPE OF HARM	
Death	15%
Bodily Injury	58%
Child Pornography	9%
Psychological/Emotional	2%
Financial	13%
Other	4%
CRIME TYPE IN CASES WITH IDENTIFIABLE VICTIMS	
Murder	9%
Manslaughter	8%
Sexual Abuse	21%
Assault	29%
Fraud/Theft/Embezzlement	7%

SENTENCING OUTCOMES FOR INDIVIDUALS SENTENCED FEDERALLY FOR OFFENSES COMMITTED WITHIN INDIAN COUNTRY

In this section of the report, the Commission will discuss the federal sentences imposed in all Indian country cases in fiscal years 2019 through 2023 and analyze these sentences by providing a comparison between Indian and Non-Indian individuals. The Commission will first discuss the rate at which statutory mandatory minimum penalties established a minimum sentence of incarceration in those cases. Then, the Commission will present the type of federal sentences imposed in Indian country cases. Finally, the length of the federal sentences imposed will be discussed, comparing the sentences for Indians and Non-Indians among all Indian country cases, and then examining how those sentences varied based on the type of crime for which the sentence was imposed.

Application of Mandatory Minimum Penalties

The rate at which federal mandatory minimum penalties applied in Indian country cases differed among Indians and Non-Indians (Figure 12). Within Indian country, a smaller proportion of Indians (10%) were convicted of a federal offense carrying a mandatory minimum penalty compared to Non-Indians (30%). This distinction is due, in large part, to the different mix of crime types for which Indians were sentenced federally compared to Non-Indians, as discussed above. Most notably, while eight percent of Indians were convicted of drug trafficking, an offense that often carries a mandatory minimum penalty,[63] over one-quarter of Non-Indians (27%) were convicted of drug trafficking.

Figure 12. Mandatory Minimum Penalties and Relief for Individuals Sentenced Federally for Offenses Committed Within Indian Country
Fiscal Years 2019–2023

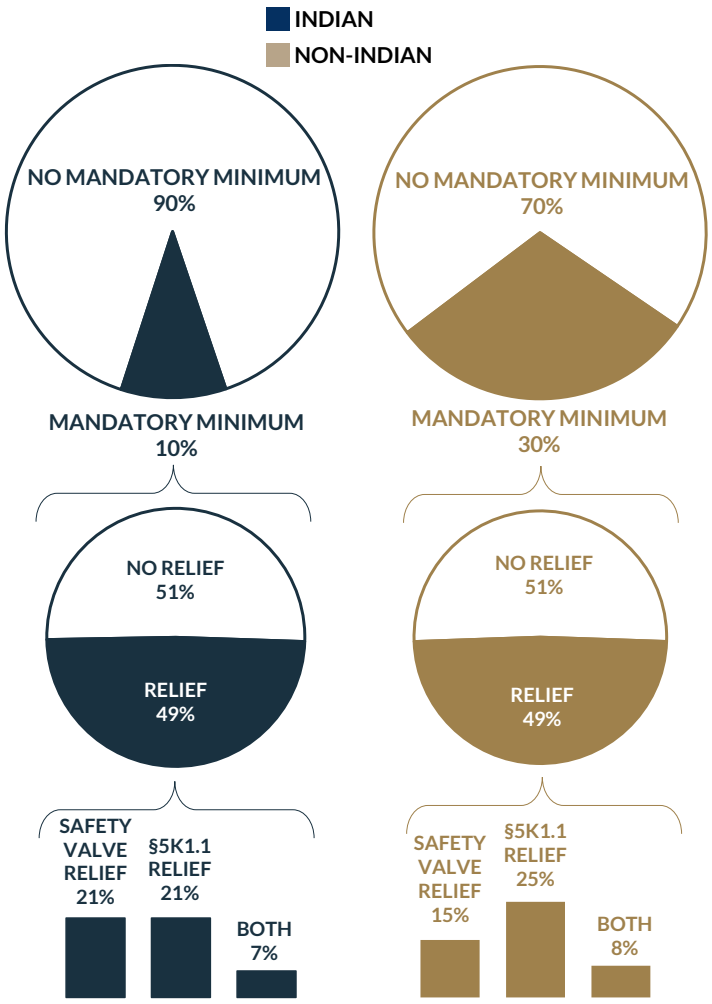
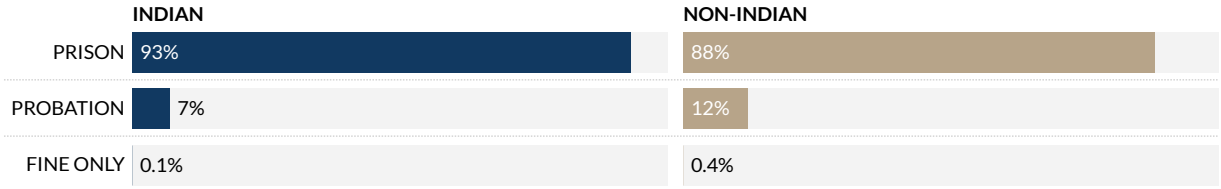


Figure 13. Type of Sentence Imposed for Individuals Sentenced Federally for Offenses Committed Within Indian Country
Fiscal Years 2019–2023



In some instances, although a defendant has been convicted of an offense that carries a mandatory minimum penalty, the court is authorized to impose sentence without regard to that minimum penalty (*i.e.*, a sentence below the penalty) when certain conditions are met.[64] Indians and Non-Indians received "relief" from mandatory minimum penalties at the same rates (49%). However, there was a difference in the manner of obtaining relief from a mandatory minimum penalty. Indians received relief through 18 U.S.C. § 3553(f), the statutory safety valve, in 21 percent of cases involving a mandatory minimum penalty, compared to 15 percent for Non-Indians. When relief from the mandatory minimum penalty was obtained by providing substantial assistance to the government, or from both providing substantial assistance and through the safety valve provision, the rates of relief were similar for both groups.

Type of Sentence Imposed

Large majorities of both Indians (93%) and Non-Indians (88%) were sentenced to a term of imprisonment; however, the percentage of Indians who received a term of probation (7%) was lower than that of Non-Indians (12%) (Figure 13). This difference is likely attributable to the fact that, among all federal cases for offenses committed within Indian country, Indians were sentenced for a violent offense more often than Non-Indians. In those cases with violent crimes, 96 percent of Indians received an imprisonment sentence compared to 93 percent for Non-Indians. When the crime was not violent, Indians received an imprisonment sentence in 87 percent of cases compared to 86 percent for Non-Indians. However, because Indians were more likely to be sentenced federally for a violent offense committed within Indian country, the higher incarceration rates generally in violent crimes resulted in a higher incarceration rate overall for Indians compared to Non-Indians.

Figure 14. Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for All Offenses Committed Within Indian Country
Fiscal Years 2019–2023

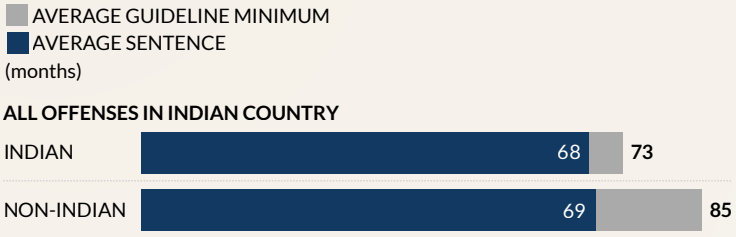
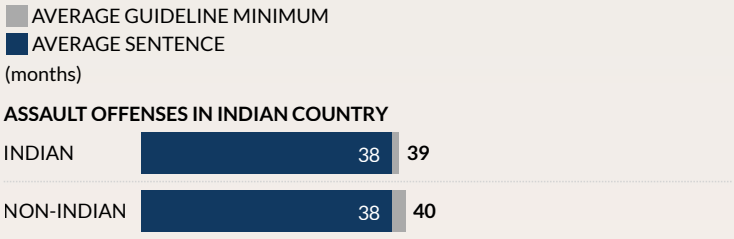


Figure 15. Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for Assault Offenses Committed Within Indian Country
Fiscal Years 2019–2023



Length of Sentence Imposed

The average sentence of imprisonment imposed in federal Indian country cases overall was similar for Indian and Non-Indian individuals, at 68 and 69 months, respectively (Figure 14). However, within crime types, average sentence lengths varied considerably. For almost all federal offenses within Indian country, the sentences imposed on Indians were equal to or shorter, on average, than the sentences imposed on Non-Indians. Additionally, in federal Indian country cases, the average guideline minimum was lower for Indians (73 months) than Non-Indians (85 months). Consequently, the sentences for Non-Indians represented a larger reduction from the guideline minimum than the sentences for Indians: a reduction of 16 months, or 19 percent from the guideline range, for Non-Indians, compared to a reduction of five months, or seven percent, for Indians. With one exception, this pattern was consistent across all of the most common crimes committed in Indian country and sentenced federally.

As discussed above, the most common federal crime type for offenses committed within Indian country was assault. The average sentence imposed in those cases was the same for both Indians and Non-Indians, at 38 months (Figure 15). However, Non-Indians had a slightly higher guideline minimum than Indians, at 40 months compared to 39 months. As a result, the sentences imposed in Non-Indian cases resulted in a slightly larger reduction from the guideline minimum than those in Indian cases.

Among federal drug trafficking offenses within Indian country, the sentences imposed on Indians were substantially shorter, on average, than those imposed on Non-Indians, at 61 months compared to 91 months (Figure 16). However, the sentences for Non-Indians represented larger reductions from the guideline minimum than those for Indians. The average guideline minimum in Non-Indian cases was 121 months compared to 76 months in Indian cases. Therefore, the average sentences imposed represented a 25 percent reduction from the guideline minimum in Non-Indian cases compared to a 21 percent reduction in Indian cases.

This overall pattern continued to be observed when looking to the two most common drug types within Indian country—methamphetamine and powder cocaine—which, together, accounted for approximately two-thirds (66%) of all federal drug trafficking cases in Indian country.[65] For example, in methamphetamine cases, which accounted for over half (57%) of all federal drug trafficking cases in Indian country, the sentences imposed on Indians were shorter, at 70 months compared to 117 months, but the sentences for Non-Indians represented larger reductions from the guideline minimum, at 24 percent compared to 18 percent.

Similarly, in powder cocaine cases, the next most common drug type (accounting for 10% of all federal drug trafficking cases in Indian country), the federal sentences imposed in Indian cases were shorter on average, at 27 months compared to 68 months, while the sentences for Non-Indians represented larger reductions from the guideline minimum (27% to 10%).[66] Among the remaining major drug types, Indians had shorter sentences in heroin, fentanyl, crack cocaine, and "other" drug cases. In marijuana cases, Indians had slightly longer sentences at 25 months, compared to 21 months for Non-Indians.

Figure 16. Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for Drug Trafficking Offenses Committed Within Indian Country
Fiscal Years 2019–2023

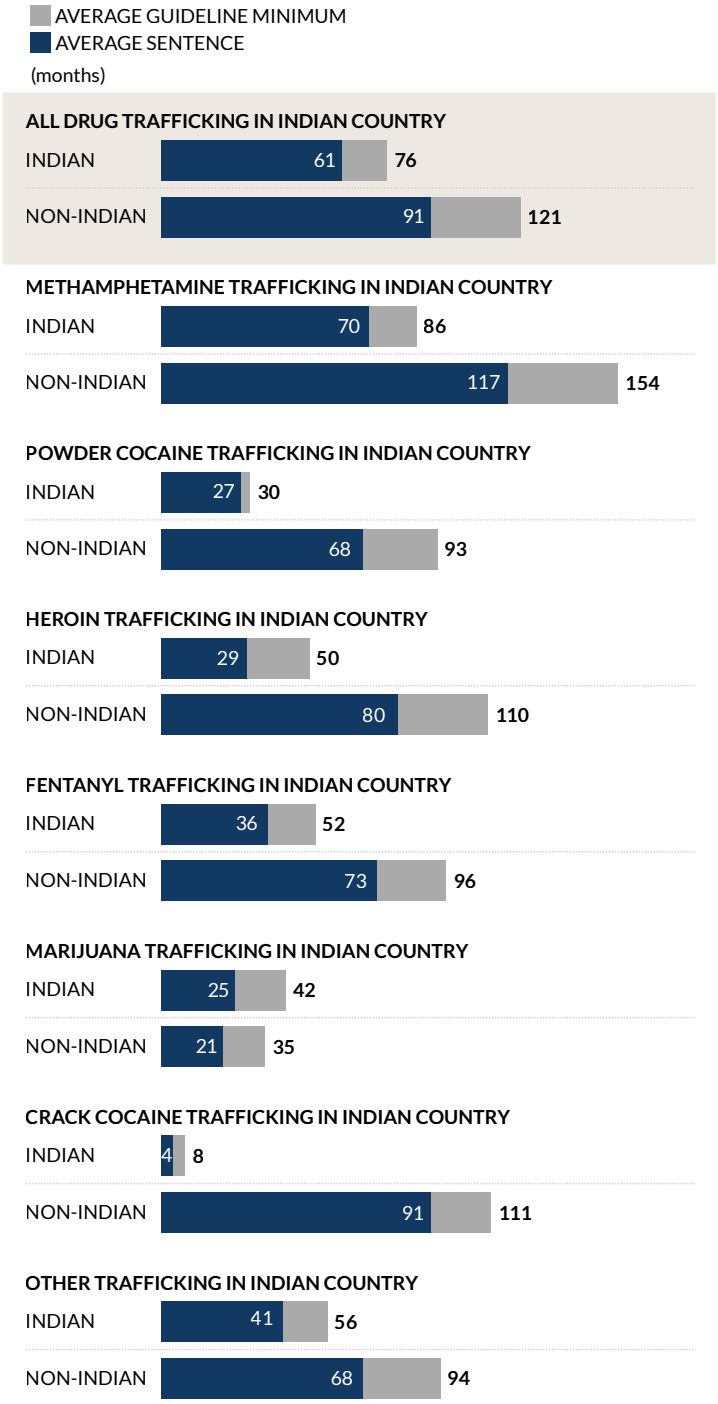


Figure 17. Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for Sexual Abuse Offenses Committed Within Indian Country
Fiscal Years 2019–2023

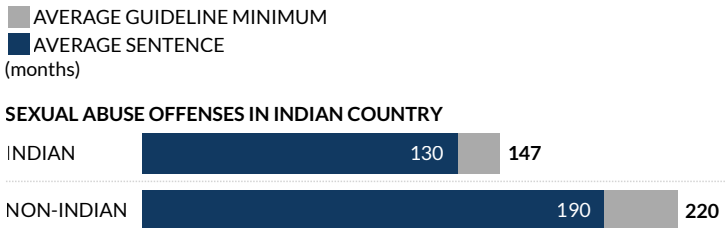
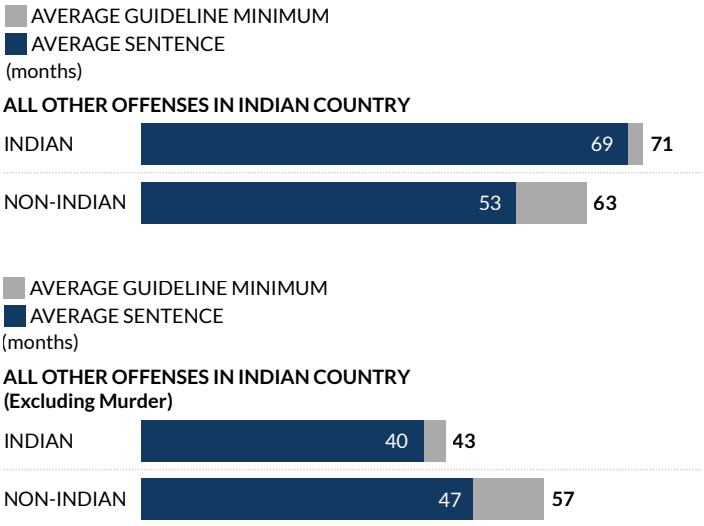


Figure 18. Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for All Other Offenses Committed Within Indian Country
Fiscal Years 2019–2023



Among sexual abuse cases, the third largest federal crime type in Indian country, Indians had shorter average sentences than Non-Indians, at 130 months compared to 190 months (Figure 17). But, as in the other common crime type categories, the sentences imposed on Non-Indians represented larger reductions from the guideline minimum, at 14 percent compared to 12 percent.

When looking at all other crime types for Indian country cases sentenced in federal court combined, the sentencing pattern observed above did not hold. In these remaining cases, Indians were sentenced to longer terms of imprisonment than Non-Indians, at 69 months compared to 53 months (Figure 18).

As the "All Other Offenses" group comprises almost half of all Indian country cases, the Commission undertook further examination of the sentences in these cases to determine why the pattern observed in the most common Indian country cases appeared to not hold in the remaining Indian country cases. The Commission found that a single crime type—murder—primarily accounted for this difference in sentencing outcomes. When cases involving murder were excluded from the analysis of "All Other Offenses," the average sentence and guideline minimum of all remaining cases again followed the pattern observed among the largest three crime types discussed above: Indians received shorter sentences, and Non-Indians received larger reductions from the guideline minimum.

When examining individuals sentenced federally for murder offenses committed within Indian country, Indians had longer sentences than Non-Indians (Figure 19). This is contrary to the pattern observed in the three most common federal crime types and in the "All Other" Indian country cases not involving murder. Also, unlike every other group of cases studied, Indians were sentenced above the guideline minimum in cases involving a murder committed in Indian country and sentenced in the federal courts.

In summary, the pattern of Indians receiving shorter sentences but Non-Indians receiving greater reductions from the guideline ranges was consistent among all federal crimes in Indian country cases, with the exception of murder. This pattern is reflected in the data on the position of the sentences relative to the guideline range (Figure 20). Non-Indians (53%) were sentenced below the guideline minimum more frequently than Indians (42%). Conversely, Indians received within-range and above-range sentences more often.

Figure 19. Average Guideline Minimum and Sentence in Months for Individuals Sentenced Federally for Murder Offenses Committed Within Indian Country
Fiscal Years 2019–2023

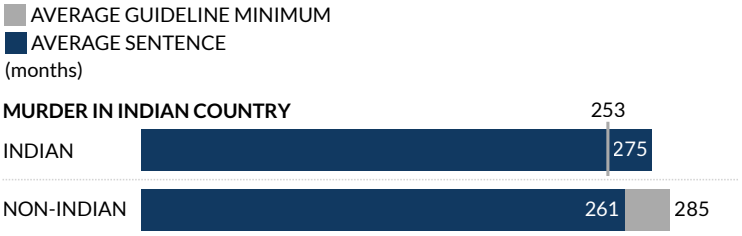
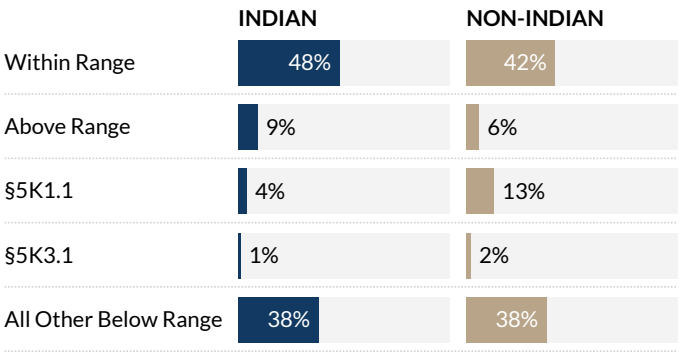


Figure 20. Sentence Relative to Guideline Range for Individuals Sentenced Federally for Offenses Committed Within Indian Country
Fiscal Years 2019–2023



CONCLUSION

Federal offenses inside Indian country are substantially different from those occurring outside Indian country. In contrast to the overall federal caseload, which is predominated by drug trafficking and immigration offenses, the most common crime type within Indian country was assault. Additionally, over half of the offenses occurring in Indian country and sentenced in federal court were violent, compared to eight percent of all other federal crimes.

Almost three-quarters of the federal cases within Indian country in fiscal year 2023 involved an identifiable victim. In those cases, 33 percent involved harm perpetrated against a spouse, intimate partner, or other family member; 29 percent involved a friend or acquaintance; and 28 percent involved a stranger.

Approximately two-thirds of individuals sentenced federally for offenses committed in Indian country were Indians, and approximately one-third were Non-Indians. Across all federal crime types studied except murder, Indians received similar or shorter sentences than Non-Indians, while Non-Indians received larger reductions from the guideline minimums.

Endnotes

1 Negonsott v. Samuels, 507 U.S. 99, 102 (1993) (internal quotation marks and citations omitted).

2 U.S. Bureau of Just. Stat., U.S. Dep't of Just., *Tribal Crime and Justice*, https://bjs.ojp.gov/topics/tribal-crime-and-justice (last visited Oct. 27, 2026).

3 Like others who have performed research in this area, the Commission "acknowledge[s] the controversy around the term 'Indian.'" Utah State Univ., *Bureau of Indian Affairs: Terminology and Language* (Oct. 31, 2025), https://perma.cc/996D-Z8P6 (last visited Oct. 27, 2026). However, "Indian" is "an official term of the Federal Government" used throughout the United States Code. *Id.*; *see*, *e.g.*, 18 U.S.C. § 1151 (defining "Indian country"); 25 U.S.C. § 1301(4) (defining "Indian" as "any person who would be subject to the jurisdiction of the United States as an Indian under section 1153, title 18, if that person were to commit an offense listed in that section in Indian country to which that section applies"). The methodology used to create the data analyses in this report is dependent upon that statutory framework. Therefore, the Commission has determined that using the terms "Indian" and "Indian country" in this report best comports with the terminology used in the federal criminal justice system.

4 *See generally* Steven W. Perry, Bureau of Just. Stat., Tribal Crime Data Collection Activities, 2025 (2025), https://bjs.ojp.gov/document/tcdca25.pdf; Brittany Ripper & Todd D. Minton, Bureau of Just. Stat., Jails in Indian Country, 2024 (2025), https://bjs.ojp.gov/document/jic24.pdf (last visited Oct. 27, 2026).

5 The Tribal Issues Advisory Group (the "TIAG") is a standing advisory group to the Commission under 28 U.S.C. § 995 and the Commission's Rules of Practice and Procedure. The TIAG provides to the Commission its views on federal sentencing issues relating to Indian defendants, victims, and to offenses in Indian country and engages in consultation and outreach with tribes, tribal governments, and tribal organizations on such issues. *See* U.S. Sent'g Comm'n, *Advisory Groups*, https://www.ussc.gov/about/who-we-are/advisory-groups (last visited Oct. 27, 2026).

6 *Negonsott*, 507 U.S. at 102 (internal quotation marks and citations omitted).

7 18 U.S.C. § 1153.

8 *Id*. § 1152 (also sometimes called the General Crimes Act).

9 United States v. Begay, 42 F.3d 486, 499 (9th Cir. 1994) (but noting an exception where "some treaty right . . . exempts the Indian from the operation of the particular statutes in question").

10 Univ. of Alaska Fairbanks, *Tribal Governance — Indian Country Statute (1948)*, https://perma.cc/TYG6-GCNJ (last visited Jan. 30, 2025).

11 18 U.S.C. § 1151.

12 *Id*. § 1153.

13 *See*, *e.g.*, United States v. Antelope, 430 U.S. 641 (1977); United States v. Zepeda, 792 F.3d 1103, 1113 (9th Cir. 2015).

14 *See*, *e.g.*, United States v. Welch, 822 F.2d 460, 463, 465 (4th Cir. 1987) (applying the federal definition of rape in a prosecution under the MCA).

15 18 U.S.C. § 1153(b).

16 Negonsott v. Samuels, 507 U.S. 99, 103 (1993).

17 *See* Oliphant v. Suquamish Indian Tribe, 435 U.S. 191, 203 n.14 (1978) ("We have no reason to decide today whether jurisdiction under the Major Crimes Act is exclusive [of tribal jurisdiction].").

18 18 U.S.C. § 1152.

19 *See id.* § 1152 (exempting crimes committed "by one Indian against the person or property of another Indian"); United States v. McBratney, 104 U.S. 621, 624 (1881) (holding that "[t]he courts of the United States" have no jurisdiction over offenses committed in Indian country which involve a Non-Indian defendant and Non-Indian victim); *see also* Oklahoma v. Castro-Huerta, 597 U.S. 629, 656 (2022) (holding that "the Federal Government and the State have concurrent jurisdiction [under the ICCA] to prosecute crimes committed by Non-Indians against Indians in Indian country").

20 These basic offenses are located throughout the federal criminal code and include arson (18 U.S.C. § 81), larceny (18 U.S.C. § 661), murder (18 U.S.C. § 1111), kidnapping (18 U.S.C. § 1201), robbery (18 U.S.C. § 2111), and sexual abuse (18 U.S.C. §§ 2241–2248).

21 18 U.S.C. § 13.

22 *See, e.g.*, United States v. Billadeau, 275 F.3d 692 (8th Cir. 2001); United States v. Marcyes, 557 F.2d 1361 (9th Cir. 1977).

23 18 U.S.C. § 13(a); *see* Lewis v. United States, 523 U.S. 155, 160 (1998) ("The ACA's basic purpose is one of borrowing state law to fill gaps in the federal criminal law that applies on federal enclaves.").

24 18 U.S.C. § 1152.

25 *Id.*

26 *Id.*

27 104 U.S. 621, 624 (1881). The federal government and the states have concurrent jurisdiction under the ICCA to prosecute crimes committed by Non-Indians against Indians in Indian country. *See* Oklahoma v. Castro-Huerta, 597 U.S. 629, 656 (2022).

28 United States v. Begay, 42 F.3d 486, 499 (9th Cir. 1994) (applying 18 U.S.C. § 371, the general conspiracy statute). Only the Second Circuit has explicitly called this conclusion into question, using a different framework that asks whether "such offenses constitute 'peculiarly Federal' crimes." United States v. Markiewicz, 978 F.2d 786, 800 (2d Cir. 1992). A leading treatise has called "[t]he utility of this distinction . . . not obvious." Felix Cohen, Handbook of Federal Indian Law § 9.02 (2024). It notes that because the federal government "does not possess a general power to enact criminal statutes in the same manner as states," "if Congress did not have a federal interest [in enacting a criminal statute], it did not have the power to enact the statute." *Id.*

29 *See, e.g.*, United States v. Drapeau, 414 F.3d 869 (8th Cir. 2005); United States v. Brisk, 171 F.3d 514 (7th Cir. 1999).

30 *See, e.g.*, United States v. Gallaher, 275 F.3d 784 (9th Cir. 2001); United States v. Yannott, 42 F.3d 999 (6th Cir. 1994).

31 *See, e.g.*, United States v. Funmaker, 10 F.3d 1327 (7th Cir. 1993).

32 18 U.S.C. § 117.

33 *Id.* § 1165.

34 *Id.* § 1166.

35 Duro v. Reina, 495 U.S. 676, 680 n.1 (1990).

36 18 U.S.C. § 1162(a) (listing Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin and the corresponding portions of Indian country committed to state jurisdiction).

37 *Id.* § 1162(c).

38 *See, e.g.*, 18 U.S.C. § 3243 (granting Kansas this jurisdiction, but noting that "[t]his section shall not deprive the courts of the United States of jurisdiction over offenses defined by the laws of the United States committed by or against Indians on Indian reservations"); Negonsott v. Samuels, 507 U.S. 99, 105 (1993) ("Strictly speaking,

then, federal courts retain their exclusive jurisdiction to try individuals for offenses covered by the Indian Major Crimes Act, and in this sense, the Kansas Act in fact confers only concurrent 'legislative' jurisdiction on the State to define and prosecute similar crimes.").

39 Oklahoma v. Castro-Huerta, 597 U.S. 629 (2022).

40 *See* U.S. Dep't of Just., Crim. Res. Manual § 689 (1997). Although the MCA confers federal jurisdiction over "[a]ny Indian who commits [a listed offense] against the person or property of another Indian or other person . . . within the Indian country," 18 U.S.C. § 1153(a), the ICCA expressly does "not extend to offenses committed by one Indian against the person or property of another Indian," 18 U.S.C. § 1152.

41 *See*, *e.g.*, Wetsit v. Stafne, 44 F.3d 823, 825 (9th Cir. 1995) ("That the tribes retain jurisdiction over crimes within the Major Crimes Act is the conclusion already reached by distinguished authorities on the subject."). *But see* Oliphant v. Suquamish Indian Tribe, 435 U.S. 191, 203 n.14 (1978) ("We have no reason to decide today whether jurisdiction under the Major Crimes Act is exclusive [of tribal jurisdiction].").

42 18 U.S.C. § 1152.

43 U.S. Sent'g Comm'n, Guidelines Manual §1B1.2(a) (Nov. 2026) [hereinafter USSG].

44 USSG §2X5.1; *see also* USSG §2X5.1, comment. (backg'd.) (expressly noting that the guidelines apply to convictions under the Assimilative Crimes Act, 18 U.S.C. § 13, and the Major Crimes Act, 18 U.S.C. § 1153).

45 USSG §4A1.2(i). During the study period, sentences resulting from tribal court convictions could be considered as the basis for a departure under §4A1.3 (Departure Based on Inadequacy of Criminal History Category (Policy Statement)). At the time, the Commission identified certain factors as relevant to departure considerations for tribal court convictions, including whether the individual was afforded certain constitutional and due process protections, the type of jurisdiction that a tribal court exercised, and the conduct and nature of the offense adjudicated in tribal court. The Commission's 2025 simplification amendment deleted most departure provisions from the *Guidelines Manual*, however. *See* USSG App. C, amend. 836 (effective Nov. 1, 2025).

46 The Commission collects and analyzes data on federal sentences for every federal felony and Class A misdemeanor individual sentenced each fiscal year. *See* 28 U.S.C. § 995(a)(12), (14)–(16); *see also* USSG §1B1.9. Courts are statutorily required to submit five sentencing documents to the Commission within 30 days of entry of judgment in a criminal case: (1) the charging document; (2) the plea agreement (if applicable); (3) the Presentence Investigation Report (PSR); (4) the Judgment and Commitment Order; and (5) the Statement of Reasons form. *See* 28 U.S.C. § 994(w). The Commission routinely extracts and codes data from these documents, including sentencing data, demographic variables, statutory information, guideline application decisions, and departure and variance information. The Commission does not ordinarily collect information on whether the offense was committed in Indian country.

47 Chapter 53 is entitled "Indians." The sections in that chapter (18 U.S.C. §§ 1151–1170) define Indian country, provide for which laws that apply there, and specifically proscribe certain conduct occurring in Indian country.

48 For more information about the data collected for that project, see U.S. Sent'g Comm'n, *Crime Victims Fact Sheets* (Dec. 18, 2025), https://www.ussc.gov/research/crime-victims-fact-sheets (last accessed Oct. 27, 2026).

49 591 U.S. 894 (2020).

50 U.S. Sent'g Comm'n, 2019 Sourcebook of Federal Sentencing Statistics 36 tbl. 1 (2020); U.S. Sent'g Comm'n, 2023 Sourcebook of Federal Sentencing Statistics 13 tbl. 1 (2024) [hereinafter 2023 Sourcebook].

51 See Figure 4 for more information on district caseloads over time.

52 Limited to categories where at least one group accounted for greater than 4%.

53 The Rocky Mountains and Great Plains include North Dakota, South Dakota, Montana, and Wyoming and comprise, among others, the Blackfeet, Crow, Standing Rock, and Oglala Sioux reservations or trust-lands. The Southwest region encompasses Arizona and New Mexico and includes the Navajo Nation, the Hopi people, and the Tohono O'odham Nation, and other federally entrusted lands. Oklahoma contains Okmulgee, Chickasaw, Shawnee, and other tribal groups, as well as the Osage reservation. These regions correspond generally to those used by the Bureau of Indian Affairs when reporting data. Bureau of Indian Affs., U.S. Dep't of the Interior, *Indian Lands of Federally Recognized Tribes of the United States* (2016), https://www.doi.gov/sites/doi.gov/files/uploads/12_bia_regions.pdf (last accessed Oct. 27, 2026).

54 Limited to categories where at least one group accounted for greater than 4%.

55 For information on the type of drug involved in the offense, see Appendix A.

56 For information on the type of drug in drug trafficking offenses committed within Indian country and sentenced in federal court, see Appendix A.

57 Weapon enhancement is defined as either a guideline specific offense characteristic relating to a weapon (*e.g.*, §2D1.1(b)(1)) or a conviction for a weapons offense (*e.g.*, 18 U.S.C. § 924(c)) for using or carrying a firearm during and in relation to, or possessing a firearm in furtherance of, a "crime of violence" or "drug trafficking crime"). The specific offense characteristic at §2D1.1 results in a 2-level increase in the offense level. *See* USSG §2D1.1(b)(1). In the case of a section 924(c) conviction, the court must impose a consecutive statutory minimum penalty of 5, 7, 10, 25, or 30 years, depending on the conduct involved. *See* 18 U.S.C. § 924(c).

58 The criminal history guidelines provide a list of factors that determine an individual's Criminal History Category (CHC), which is a measure of the individual's prior criminal behavior. The Commission has stated that "To protect the public from further crimes of [a] particular defendant, the likelihood of recidivism and future criminal behavior must be considered. Repeated criminal behavior is an indicator of a limited likelihood of successful rehabilitation." USSG Ch.4, Pt.A intro. comment. Courts determine an individual's CHC based on a point system which accounts for such factors as the length of a sentence imposed for a prior conviction and whether the individual was still serving a sentence in another case when committing the instant offense (*e.g.*, the individual was on probation or parole). *See* USSG §4A1.1.

59 *See supra* note 48 and accompanying text.

60 There were 992 offenses committed within Indian country and sentenced federally in fiscal year 2023 that involved 1,391 identifiable victims.

61 See Appendix B for more information on cases with victims.

62 See Appendix B for more information on the victims in Indian country by the type of crime.

63 *See* 2023 Sourcebook, *supra* note 50, at 97 fig. D-2 (62.1% of all drug trafficking cases reported in fiscal year 2023 carried a mandatory minimum penalty).

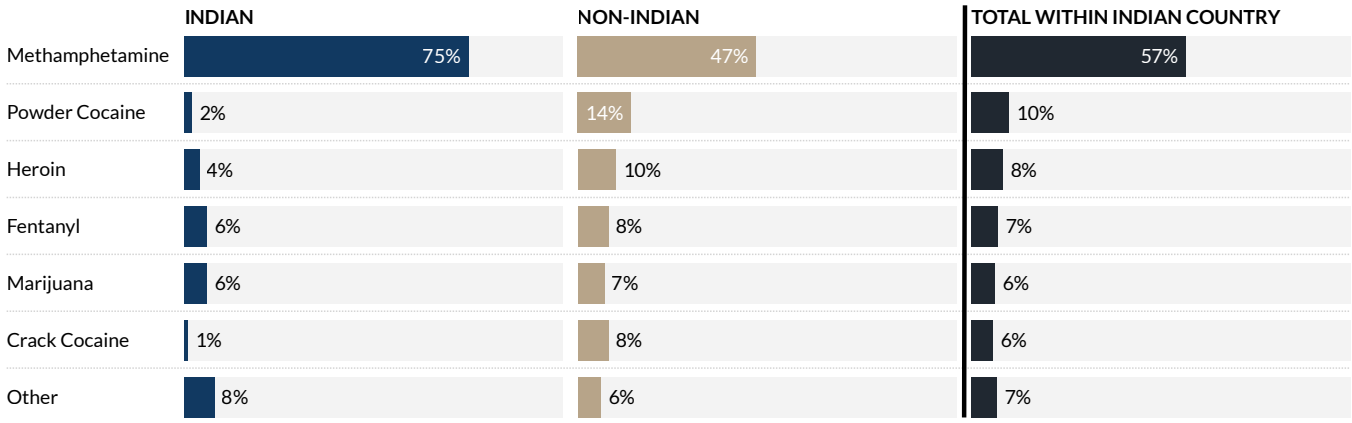
64 A sentencing court can impose a sentence below an otherwise applicable statutory mandatory minimum penalty if: (1) the prosecution files a motion based on the defendant's "substantial assistance" to authorities in the investigation or prosecution of another person, pursuant to 18 U.S.C. § 3553(e); or (2) in certain drug trafficking cases, the defendant qualifies for the statutory "safety valve" in 18 U.S.C. § 3553(f). *See* USSG §§5C1.2, 5K1.1.

65 For more information on the prevalence of the type of drug in drug trafficking offenses committed within Indian country and sentenced in federal court, see Appendix A.

66 A full table of the average guideline minimums and average sentences by drug type can be found in Figure 16.

Appendix A provides additional information on offenses committed within Indian country and sentenced in federal court.

Figure A. Primary Drug Type Among Individuals Sentenced Federally for Drug Trafficking Offenses Committed Within Indian Country
Fiscal Years 2019–2023



Appendix B provides information on victimization for all offenses committed within Indian country and sentenced in federal court.

Figure B-1. Age of Victims and Relationship Between Victims and Individuals Sentenced Federally for Offenses Committed Within Indian Country by Crime Type
Fiscal Year 2023

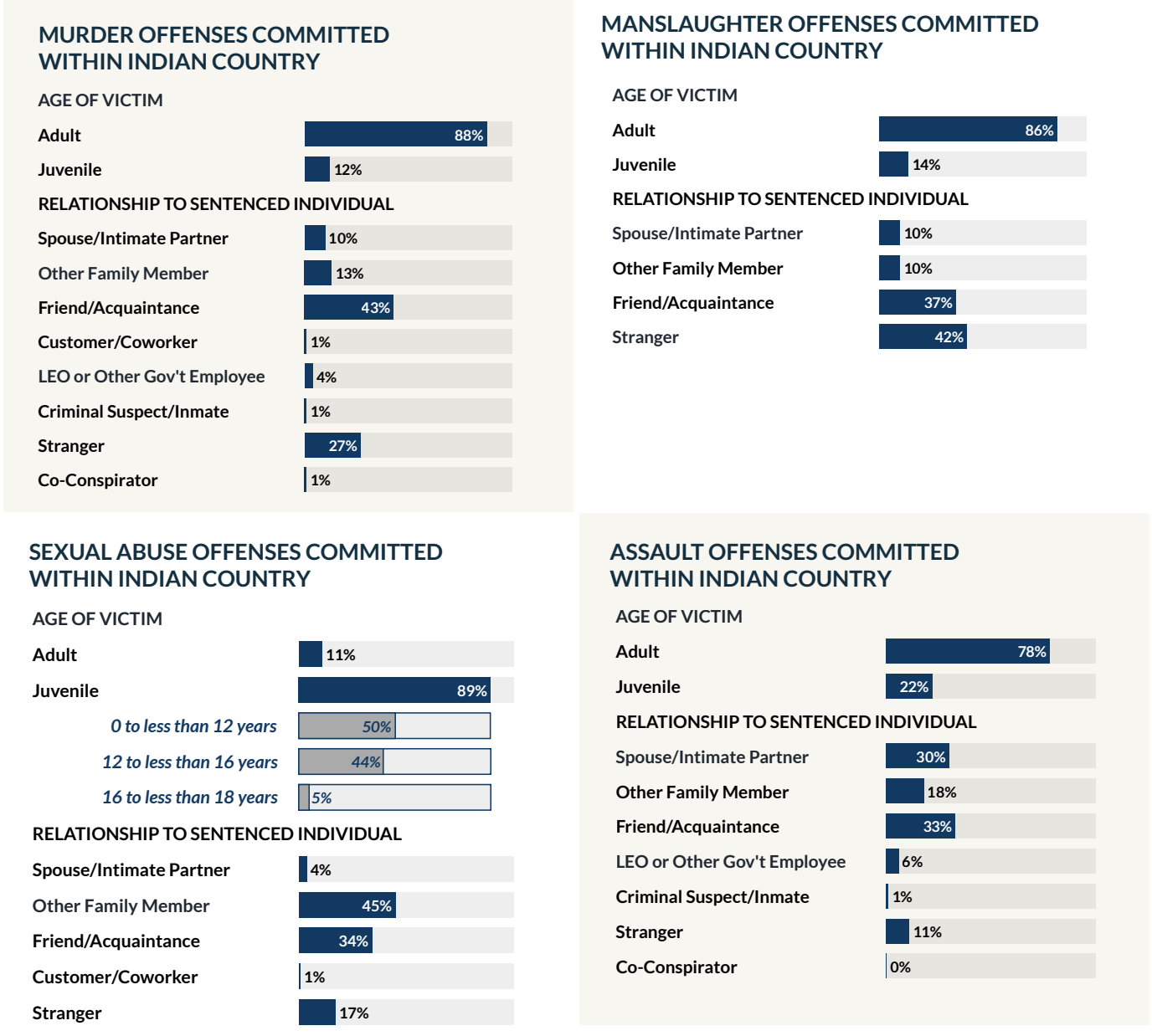
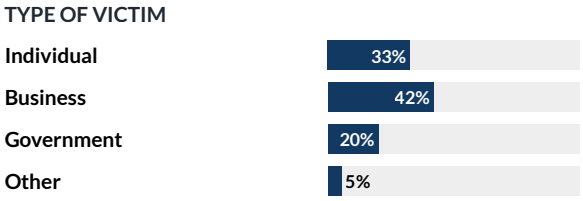


Figure B-2. Type of Victim in Cases Involving Individuals Sentenced Federally for Fraud Offenses Committed Within Indian Country
Fiscal Year 2023



United States Sentencing Commission
www.ussc.gov

THURGOOD MARSHALL FEDERAL JUDICIARY BUILDING
ONE COLUMBUS CIRCLE, N.E.
SUITE 2-500, SOUTH LOBBY
WASHINGTON, DC 20002-8002

This document was produced and published at U.S. taxpayer expense.

