



# Alternatives to Incarceration of Federal Offenders: Current Practice and Prospects for Diversion

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# Office of Research and Data

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Alternative Sentencing in the  
Federal Criminal Justice System



UNITED STATES SENTENCING COMMISSION



# Report Findings

## 2005 - 2014

- Overall decreasing trend in the imposition of alternative sentences
- Large number of *ineligible* offenders
  - deportable aliens
  - convictions under certain statutes
- Decrease in alternative sentences among *eligible* offenders despite
  - a steady overall increase downward departures and variances
  - overall consistency in offense severity
- Decrease, in part, due to the Commission's 2010 expansion of Zones B and C
- Alternative sentences imposed at notably different rates for offenders in different race categories
- Alternative sentences imposed at consistently low rates in Zone D

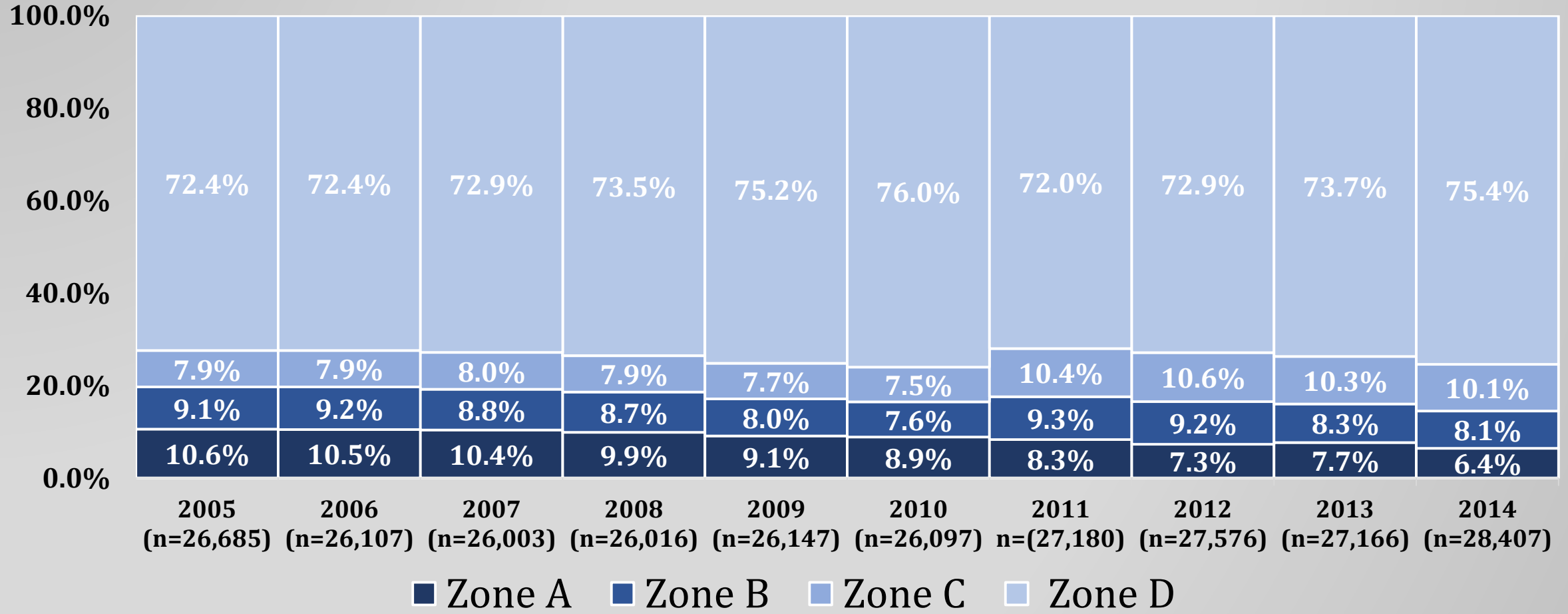


# Eligible Offenders and Alternative Sentences

- Eligible offenders
  - U.S. citizens
  - No mandatory minimum convictions
  - Zones A, B, or C
- Alternative Sentences
  - Zone A – any sentence of probation (including conditions of confinement)
  - Zone B, C, and D – any sentence involving probation, any split sentence



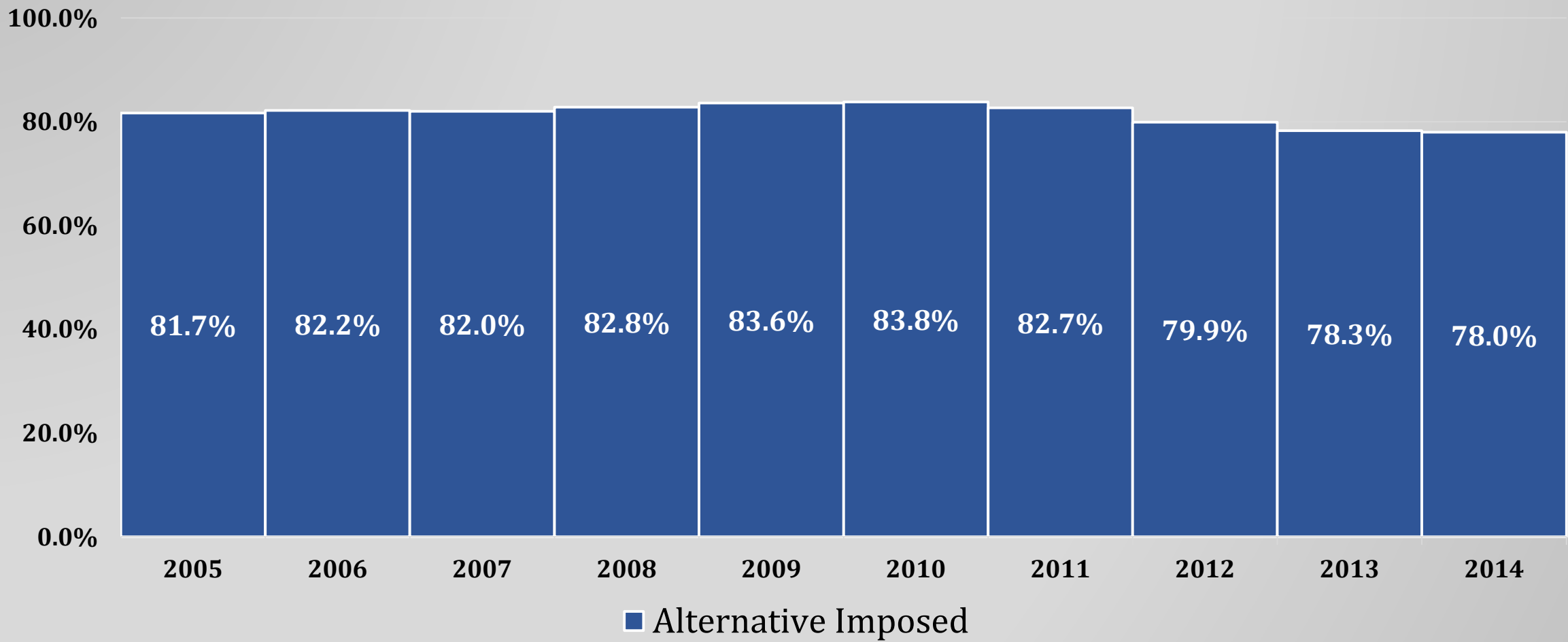
# Trend of U.S. Citizen Federal Offenders in Each Sentencing Table Zone Fiscal Years 2005-2014 (N=267,384)



SOURCE: U.S. Sentencing Commission FY2014 Datafile, USSCFY14. Of the 785,953 cases received by the Commission from fiscal years 2005 through 2014, a total of 237,052 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (201,975) or were missing information on statutory minimum (35,077). Of the remaining 548,901 cases, 49,580 were excluded due to incomplete (49,429) or missing guideline application information (151). An additional 986 cases were excluded because they did not involve sentences of prison or probation (823) or were missing information on sentence imposed (163). An additional 230,950 cases were excluded because they involved non-citizens (229,878) or were missing information on citizenship (1,072). One case was excluded because it was missing information on sentencing zone.

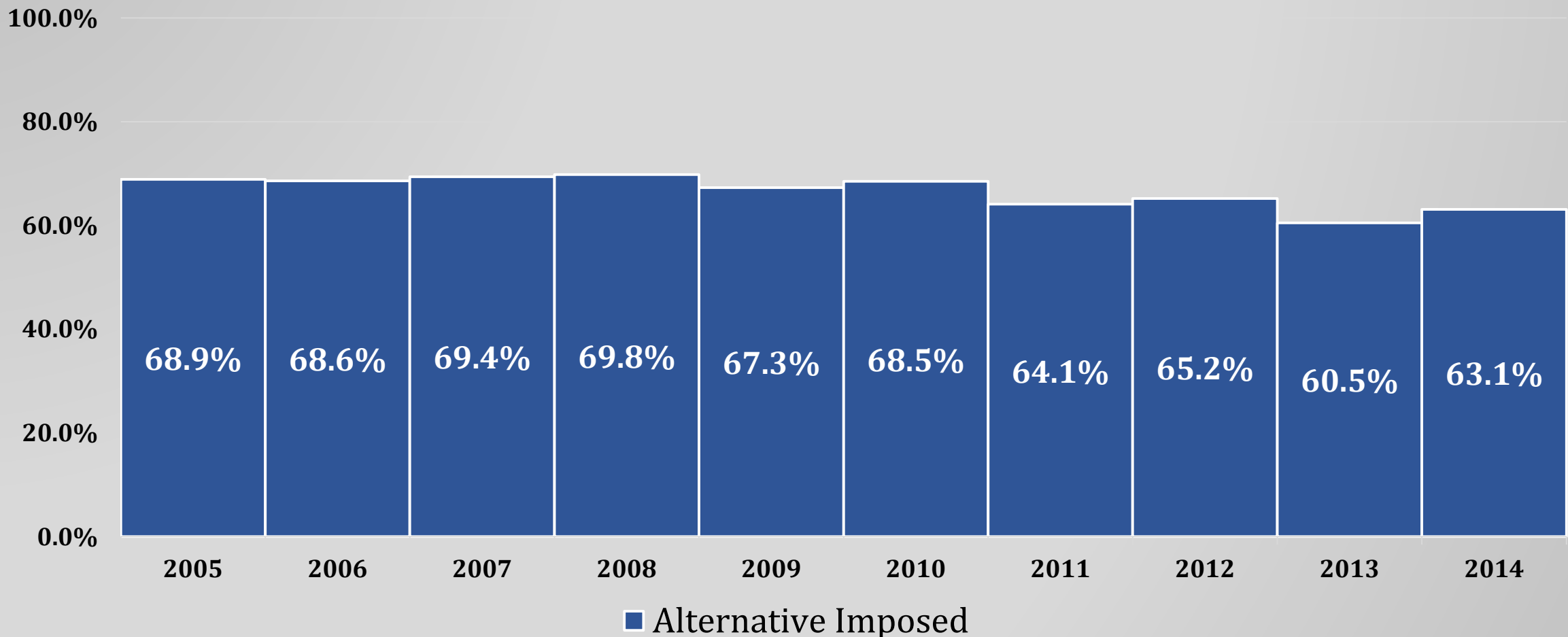


# Trend in Imposition of Alternative Sentences for Eligible U.S. Citizen Federal Offenders in Zone A Fiscal Years 2005-2014



SOURCE: *Alternative Sentencing in the Federal Criminal Justice System*

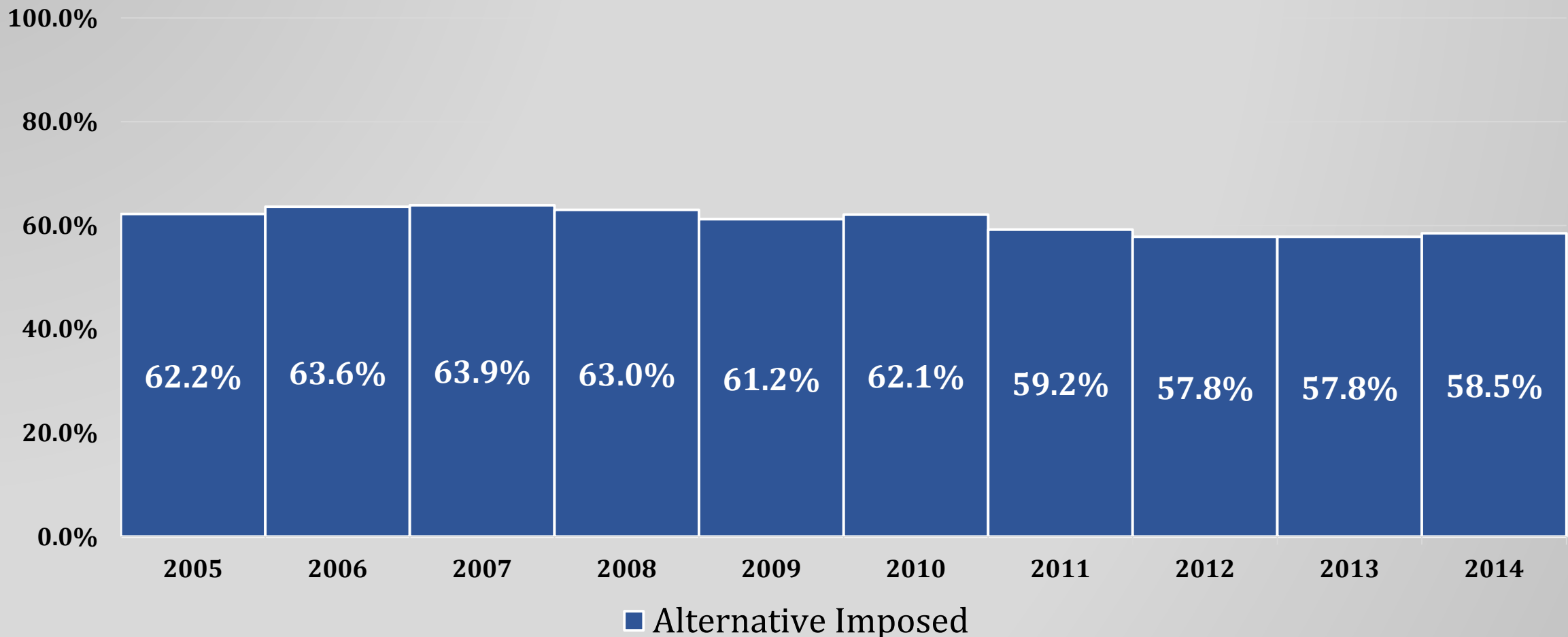
# Trend in Imposition of Alternative Sentences for Eligible U.S. Citizen Federal Offenders in Zone B Fiscal Years 2005-2014



SOURCE: *Alternative Sentencing in the Federal Criminal Justice System*



# Trend in Imposition of Alternative Sentences for Eligible U.S. Citizen Federal Offenders in Zone C Fiscal Years 2005-2014



SOURCE: *Alternative Sentencing in the Federal Criminal Justice System*

# Sentences Relative to the Guideline Range



# Rates of Alternatives to Incarceration Imposed for Each Category of Sentence Relative to the Guideline Range for Eligible U.S. Citizen Federal Offenders in Zones A, B, and C

## Fiscal Years 2005 and 2014

Sentence Relative to the Guideline Range	Alternative to Incarceration Imposed for Offenders in Zone A-C	
	2005 (n=5,261)	2014 (n=4,536)
Within Range	70.5%	59.7%
§5K1.1 Departure	84.9%	78.2%
Other Gov't Sponsored Below Range	65.1%	71.8%
Non-Gov't Sponsored Below Range	85.8%	76.7%

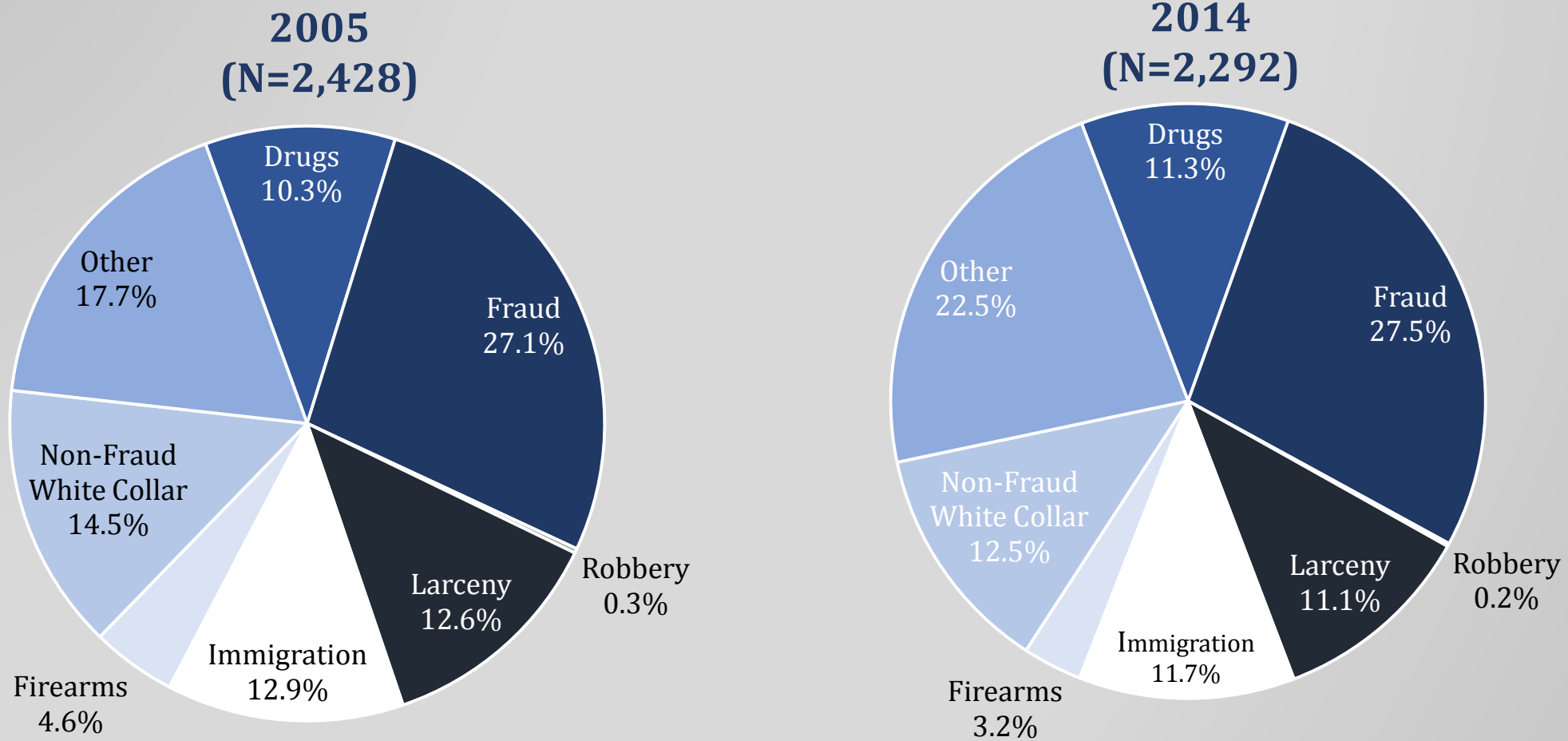
SOURCE: U.S. Sentencing Commission FY2014 Datafile, USSCFY14. Of the 148,298 cases received by the Commission in fiscal years 2005 and 2014, a total of 42,868 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (35,927) or were missing information on statutory minimum (6,941). Of the remaining 105,430 cases, 9,836 were excluded due to incomplete (6,790) or missing guideline application information (151). An additional 230 cases were excluded because they did not involve sentences of prison or probation (196) or were missing information on sentence imposed (34). An additional 40,271 cases were excluded because they involved non-citizens (40,006) or were missing information on citizenship (265). An additional 40,753 cases were excluded because they involved sentencing ranges in Zone D (40,752) or were missing information on sentencing zone (1). In addition, 1,302 cases were excluded because they involved sentences above the applicable guideline range (1,210) or were missing information on sentence relative to the guideline range (92).



# Offense Type and Offender Seriousness Zones B and C



# Zone B: Offense Types for U.S. Citizen Federal Offenders Fiscal Years 2005 and 2014



SOURCE: U.S. Sentencing Commission FY2005 and FY2014 Datafiles, USSCFY05 and USSCFY14. Of the 148,298 cases received by the Commission in fiscal years 2005 and 2014, a total of 42,868 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (35,927) or were missing information on statutory minimum (6,941). Of the remaining 105,430 cases, 9,836 were excluded due to incomplete (6,790) or missing guideline application information (151). An additional 230 cases were excluded because they did not involve sentences of prison or probation (196) or were missing information on sentence imposed (34). An additional 40,271 cases were excluded because they involved non-citizens (40,006) or were missing information on citizenship (265). An additional 50,373 cases were excluded because they involved sentencing ranges in Zones A, C, or D (50,372) or were missing information on sentencing zone (1).



# Zone B : Selected Data Comparing U.S. Citizen Federal Offenders<sup>14</sup> Fiscal Years 2005 and 2014

	Offenders with Sentencing Ranges in Zone B	
	2005 (n=2,423)	2014 (n=2,280)
<b>Alternative to Incarceration Imposed</b>	68.9%	63.1%
<b>Criminal History Category I</b>	65.1%	62.3%
<b>Drug Offenses Involving Marijuana</b>	45.7%	37.5%
<b>Class A or B Felony Conviction</b>	6.3%	6.0%
<b>Median Loss: Fraud Offenses</b>	\$18,000	\$23,832
<b>Median Loss: Non-Fraud White Collar Offenses</b>	\$15,000	\$10,144

SOURCE: U.S. Sentencing Commission FY2005 and FY2014 Datafiles, USSCFY05 and USSCFY14. Of the 148,298 cases received by the Commission in fiscal years 2005 and 2014, a total of 42,868 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (35,927) or were missing information on statutory minimum (6,941). Of the remaining 105,430 cases, 9,836 were excluded due to incomplete (6,790) or missing guideline application information (151). An additional 230 cases were excluded because they did not involve sentences of prison or probation (196) or were missing information on sentence imposed (34). An additional 40,271 cases were excluded because they involved non-citizens (40,006) or were missing information on citizenship (265). An additional 50,373 cases were excluded because they involved sentencing ranges in Zones A, C, or D (50,372) or were missing information on sentencing zone (1). An additional 17 cases were excluded because their alternative to incarceration involved a total sentence that was above the guideline range. Cases missing information for a variable were excluded from the analysis for that variable.



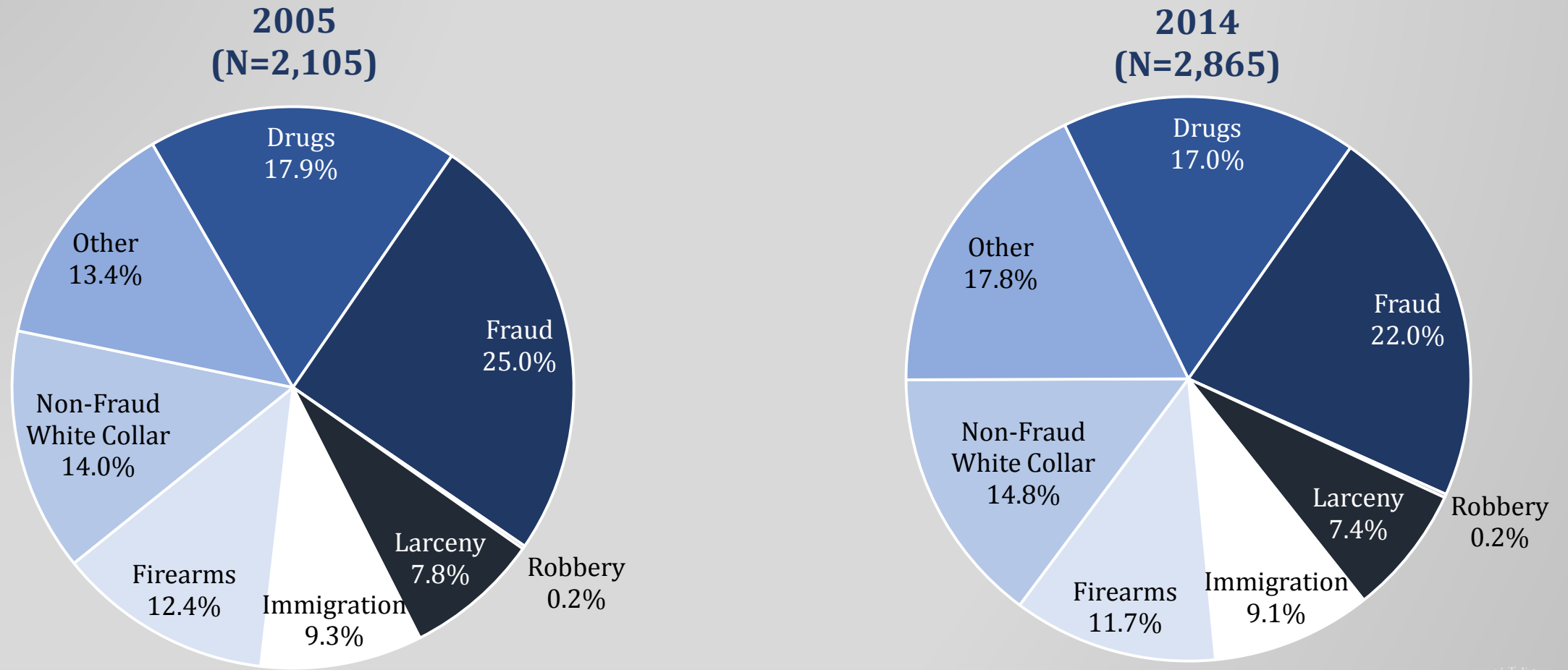
# Zone B: Selected Data Comparing U.S. Citizen Federal Offenders in Old and New Cells Fiscal Years 2011-2014

	Offenders with Sentencing Ranges in Zone B After Zone Expansion Effective November 1, 2010	
	Old Cells (n=6,957)	New Cells (n=2,082)
<b>Alternative to Incarceration Imposed</b>	65.1%	55.0%
<b>Class A or B Felony Conviction</b>	4.2%	11.4%
<b>Criminal History Category I</b>	66.5%	41.6%
<b>Drug Offenses Involving Marijuana</b>	48.1%	34.8%
<b>Median Loss: Fraud Offenses</b>	\$19,871	\$32,382
<b>Median Loss: Non-Fraud White Collar Offenses</b>	\$10,137	\$10,268

SOURCE: U.S. Sentencing Commission FY2011 and FY2014 Datafiles, USSCFY11 and USSCFY14 .Of the 326,245 cases received by the Commission from fiscal years 2011 through 2014, a total of 90,595 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (77,365) or were missing information on statutory minimum (13,230). Of the remaining 235,650 cases, 20,722 were excluded due to incomplete guideline application information. An additional 321 cases were excluded because they did not involve sentences of prison or probation (309) or were missing information on sentence imposed (12). An additional 104,278 cases were excluded because they involved non-citizens (104,093) or were missing information on citizenship (185). An additional 100,720 cases were excluded because they involved sentencing ranges in Zones A, C, or D. An additional 49 cases were excluded because their alternative sentence involved a total sentence that was above the applicable guideline range. An additional 521 cases were excluded because they were sentenced using a Guidelines Manual in effect prior to November 1, 2010. Cases missing information for a variable were excluded from the analysis for that variable.



# Zone C : Offense Types for U.S. Citizen Federal Offenders Fiscal Years 2005 and 2014



SOURCE: U.S. Sentencing Commission FY2005 and FY2014 Datafiles, USSCFY05 and USSCFY14. Of the 148,298 cases received by the Commission in fiscal years 2005 and 2014, a total of 42,868 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (35,927) or were missing information on statutory minimum (6,941). Of the remaining 105,430 cases, 9,836 were excluded due to incomplete (6,790) or missing guideline application information (151). An additional 230 cases were excluded because they did not involve sentences of prison or probation (196) or were missing information on sentence imposed (34). An additional 40,271 cases were excluded because they involved non-citizens (40,006) or were missing information on citizenship (265). An additional 50,123 cases were excluded because they involved sentencing ranges in Zones A, B, or D (50,122) or were missing information on sentencing zone (1).





# Zone C : Selected Data Comparing U.S. Citizen Federal Offenders<sup>17</sup> Fiscal Years 2005 and 2014

	Offenders with Sentencing Ranges in Zone C	
	2005 (n=2,105)	2014 (n=2,863)
<b>Alternative to Incarceration Imposed</b>	62.2%	58.5%
<b>Class A or B Felony Conviction</b>	9.7%	4.0%
<b>Criminal History Category I</b>	66.0%	75.5%
<b>Drug Offenses Involving Marijuana</b>	56.5%	45.6%
<b>Median Loss: Fraud Offenses</b>	\$44,267	\$70,544
<b>Median Loss: Non-Fraud White Collar Offenses</b>	\$45,058	\$61,733

SOURCE: U.S. Sentencing Commission FY2005 and FY2014 Datafiles, USSCFY05 and USSCFY14. Of the 148,298 cases received by the Commission in fiscal years 2005 and 2014, a total of 42,868 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (35,927) or were missing information on statutory minimum (6,941). Of the remaining 105,430 cases, 9,836 were excluded due to incomplete (6,790) or missing guideline application information (151). An additional 230 cases were excluded because they did not involve sentences of prison or probation (196) or were missing information on sentence imposed (34). An additional 40,271 cases were excluded because they involved non-citizens (40,006) or were missing information on citizenship (265). An additional 50,123 cases were excluded because they involved sentencing ranges in Zones A, B, or D (50,122) or were missing information on sentencing zone (1). An additional two cases were excluded because their alternative to incarceration involved a total sentence that was above the guideline range. Cases missing information for a variable were excluded from the analysis for that variable.



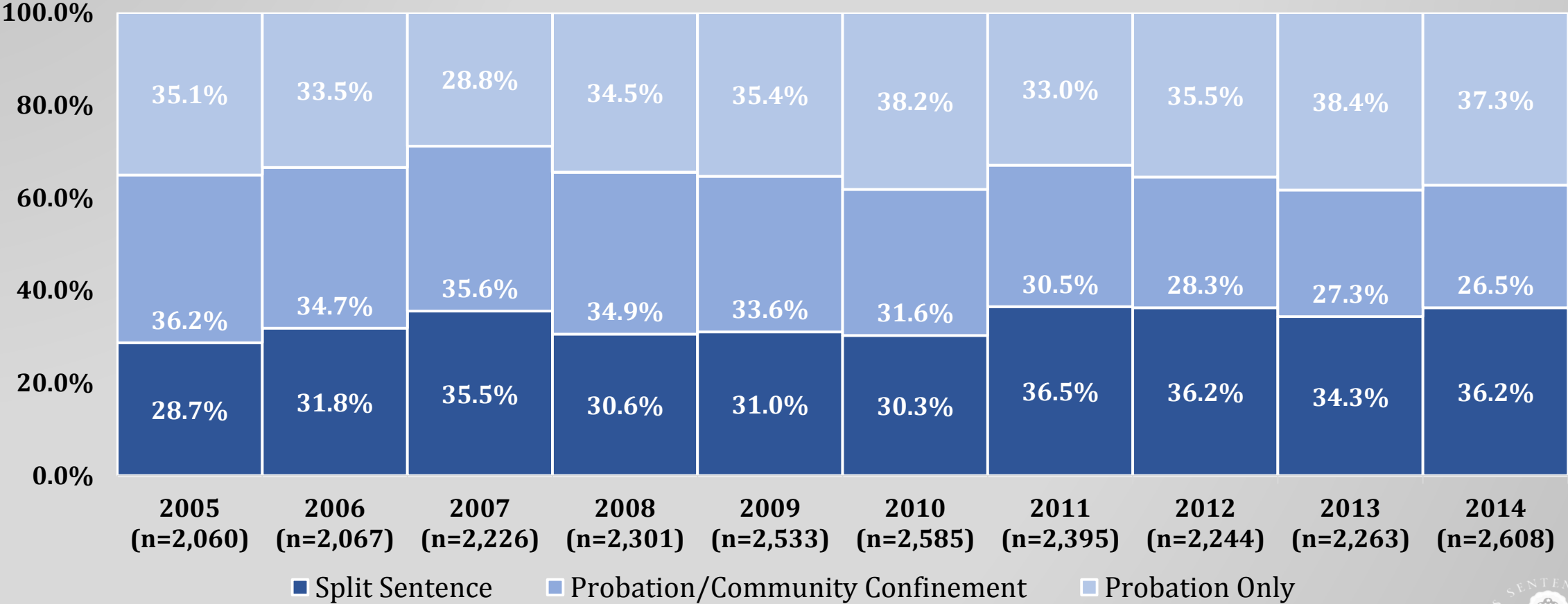
# Zone C: Selected Data Comparing U.S. Citizen Offenders in Old and New Cells Fiscal Years 2011-2014

	Offenders with Sentencing Ranges in Zone C After Zone Expansion Effective November 1, 2010	
	Old Cells (n=4,984)	New Cells (n=5,936)
<b>Alternative to Incarceration Imposed</b>	61.8%	55.1%
<b>Class A or B Felony Conviction</b>	1.4%	6.1%
<b>Median Loss: Fraud Offenses</b>	\$52,328	\$81,637
<b>Median Loss: Non-Fraud White Collar Offenses</b>	\$44,389	\$78,549
<b>Criminal History Category I</b>	75.8%	74.7%
<b>Drug Offenses Involving Marijuana</b>	50.0%	54.7%

SOURCE: U.S. Sentencing Commission FY2011 and FY2014 Datafiles, USSCFY11 and USSCFY14. Of the 326,245 cases received by the Commission from fiscal years 2011 through 2014, a total of 90,595 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (77,365) or were missing information on statutory minimum (13,230). Of the remaining 235,650 cases, 20,722 were excluded due to incomplete guideline application information. An additional 321 cases were excluded because they did not involve sentences of prison or probation (309) or were missing information on sentence imposed (12). An additional 104,278 cases were excluded because they involved non-citizens (104,093) or were missing information on citizenship (185). An additional 98,913 cases were excluded because they involved sentencing ranges in Zones A, B, or D. An additional 19 cases were excluded because their alternative to incarceration involved a total sentence that was above the guideline range. An additional 477 cases were excluded because they were sentenced using a *Guidelines Manual* in effect prior to November 1, 2010. Cases missing information for a variable were excluded from the analysis for that variable.



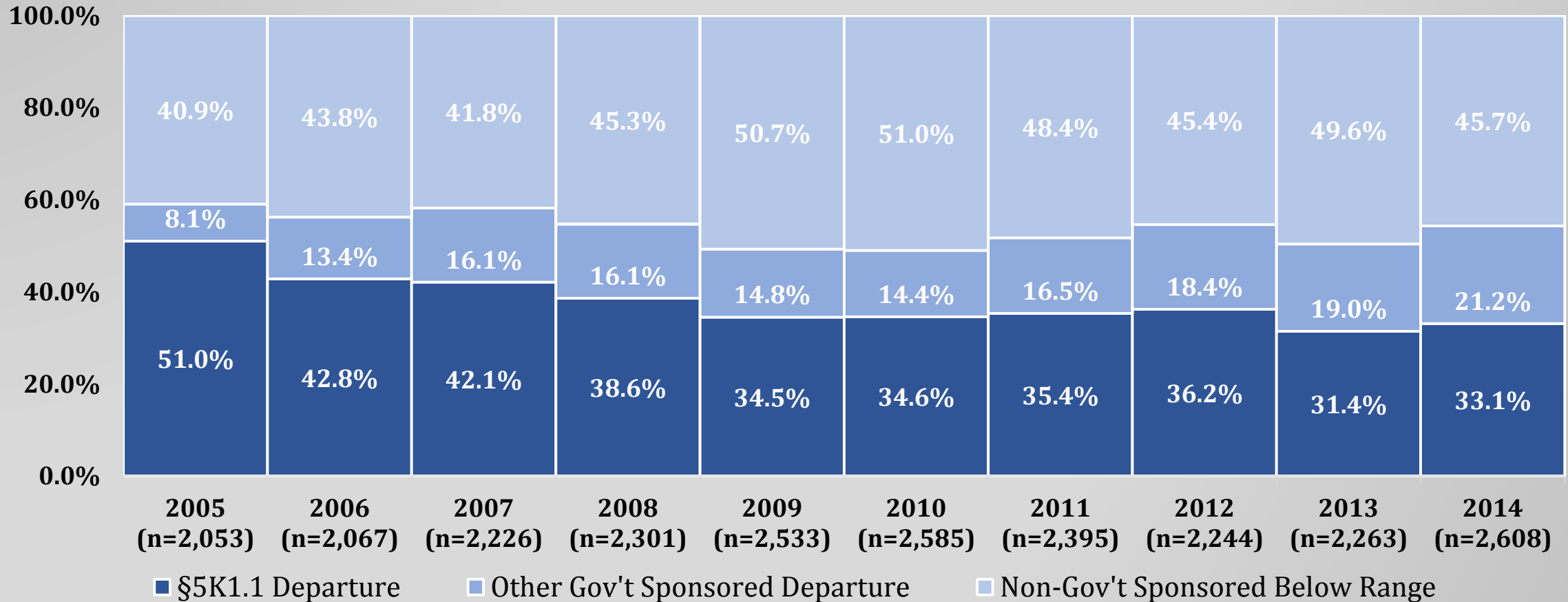
# Zone D: Trend in Types of Alternatives to Incarceration Imposed for U.S. Citizen Federal Offenders Fiscal Years 2005-2014



SOURCE: U.S. Sentencing Commission FY05-FY14 Datafiles, USSCFY05-USSCFY14. Of the 785,953 cases received by the Commission from fiscal years 2005 through 2014, a total of 237,052 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (201,975) or were missing information on statutory minimum (35,077). Of the remaining 548,901 cases, 49,580 were excluded due to incomplete (49,429) or missing guideline application information (151). An additional 986 cases were excluded because they did not involve sentences of prison or probation (823) or were missing information on sentence imposed (163). An additional 230,950 cases were excluded because they involved non-citizens (229,878) or were missing information on citizenship (1,072). An additional 70,453 cases were excluded because they involved sentencing ranges in Zones A, B, or C (70,452) or were missing information on sentencing zone (1). An additional 173,645 cases were excluded because they involved prison sentences.



# Zone D: Trend in Types of Below Range Sentences for U.S. Citizen Federal Offenders Sentenced to Alternatives Fiscal Years 2005-2014



SOURCE: U.S. Sentencing Commission FY05-FY14 Datafiles, USSCFY05-USSCFY14. Of the 785,953 cases received by the Commission from fiscal years 2005 through 2014, a total of 237,052 were excluded because they involved convictions under statutes requiring a mandatory minimum sentence (201,975) or were missing information on statutory minimum (35,077). Of the remaining 548,901 cases, 49,580 were excluded due to incomplete (49,429) or missing guideline application information (151). An additional 986 cases were excluded because they did not involve sentences of prison or probation (823) or were missing information on sentence imposed (163). An additional 230,950 cases were excluded because they involved non-citizens (229,878) or were missing information on citizenship (1,072). An additional 70,453 cases were excluded because they involved sentencing ranges in Zones A, B, or C (70,452) or were missing information on sentencing zone (1). An additional 173,645 cases were excluded because they involved prison sentences. An additional seven cases were excluded due to insufficient information in the case documentation to determine sentence relative to the guideline range.



# **Federal Offender Prospects for Alternatives or Diversion**



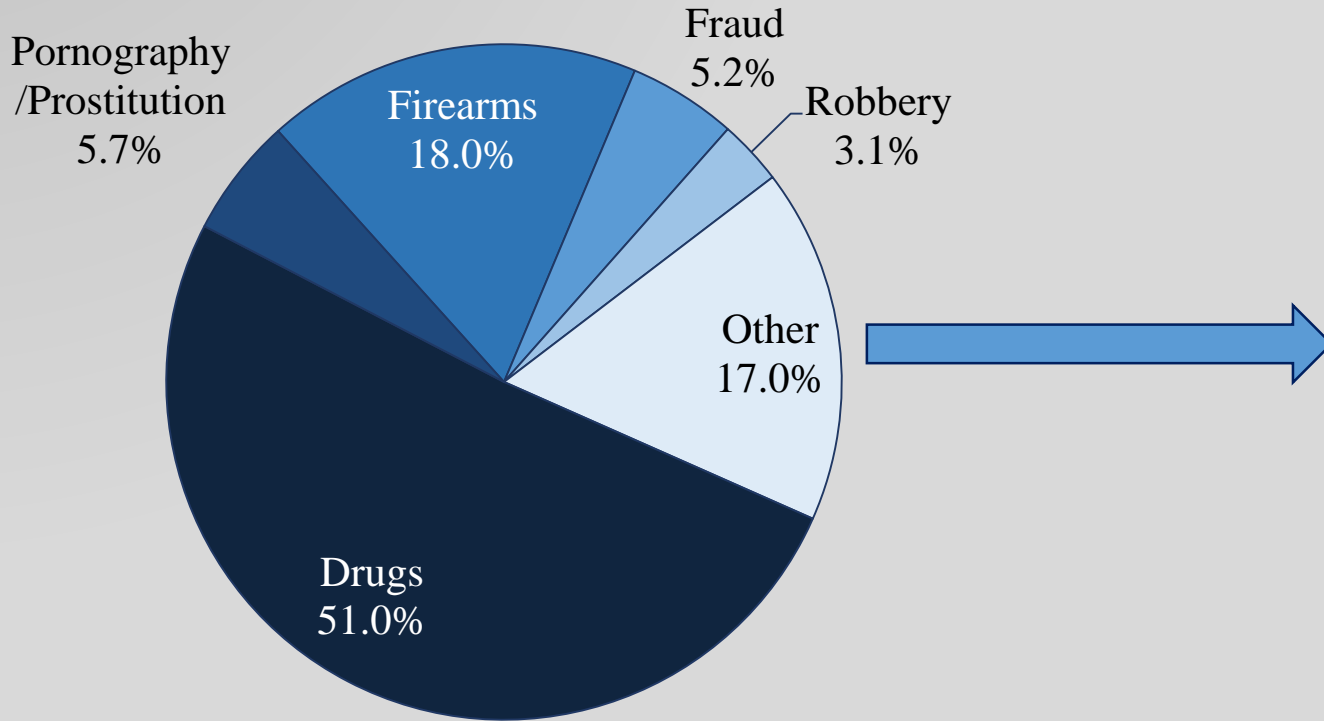
# Who is in Federal Prison Today?

- 207,000 as of August, 2015
- 93% male
- Average age is 40 years
  - Almost 20% are older than 50
- 42% are non-citizens
- 15.5% are Career Offenders or Armed Career Criminals
- 23.7% possessed a firearm or other weapon in connection with the federal offense
- Median loss for fraud offenders was \$696,295



# Who is in Federal Prison Today?

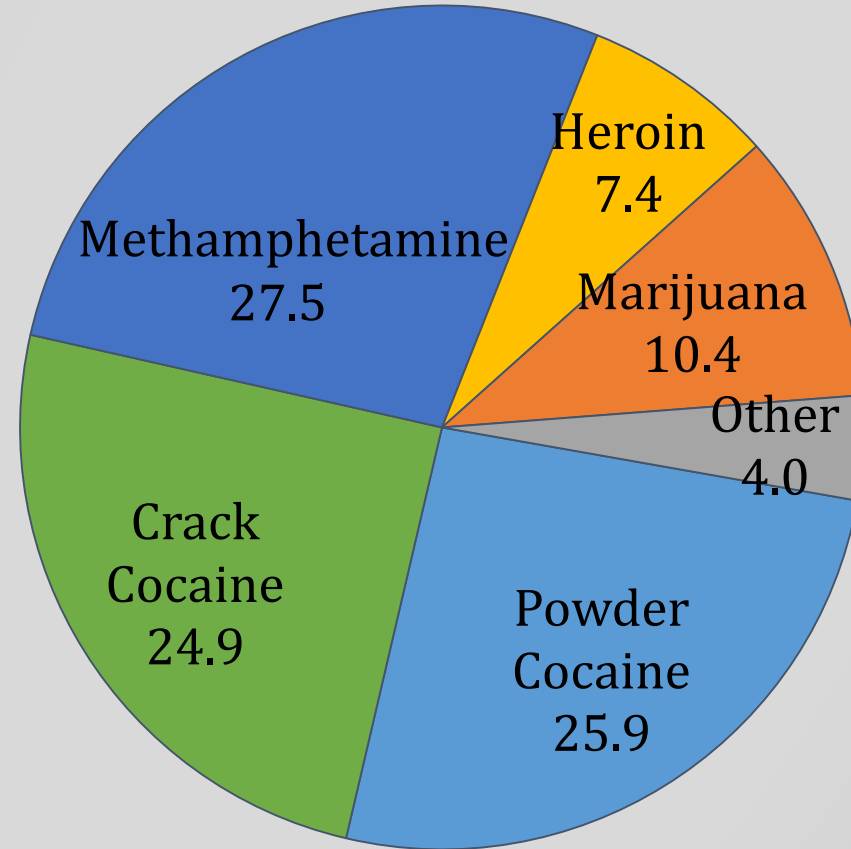
**Federal Offenders in Prison  
Most Common Offenses**



<b>Other Offenses (n=29,910)</b>	
Immigration	53.5%
Extortion/Racketeering	10.3%
Sexual Abuse	7.6%
Money Laundering	4.4%
Assault	3.5%
Murder	3.2%
Administration of Justice	3.1%
All Other Offenses	14.6%



# Who is in Federal Prison Today? Drug Types





# Who is in Federal Prison Today?

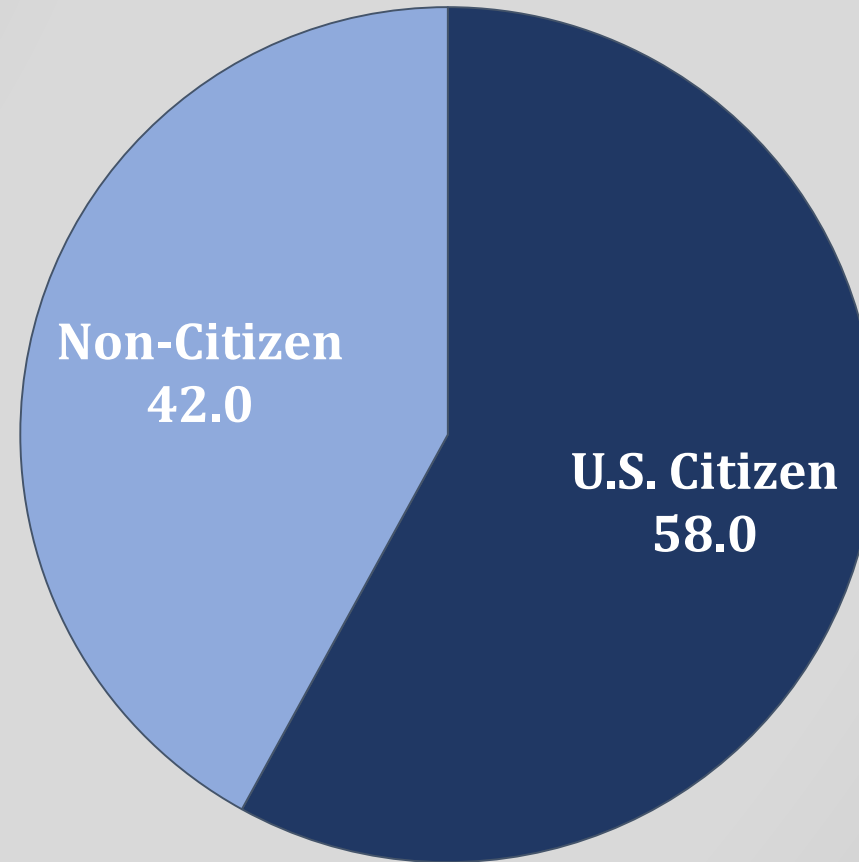
- 59.4% were convicted of an offense carrying a mandatory minimum
  - 26.6% of those received some form of relief from the mandatory penalty
- 50% were sentenced to more than ten years in prison
  - Slightly less than 25% were sentenced to less than five years in prison
- 24.9% received a government-sponsored below range sentence
- 19.1% received a court departure or variance



# Federal Offenders Sentenced in 2014

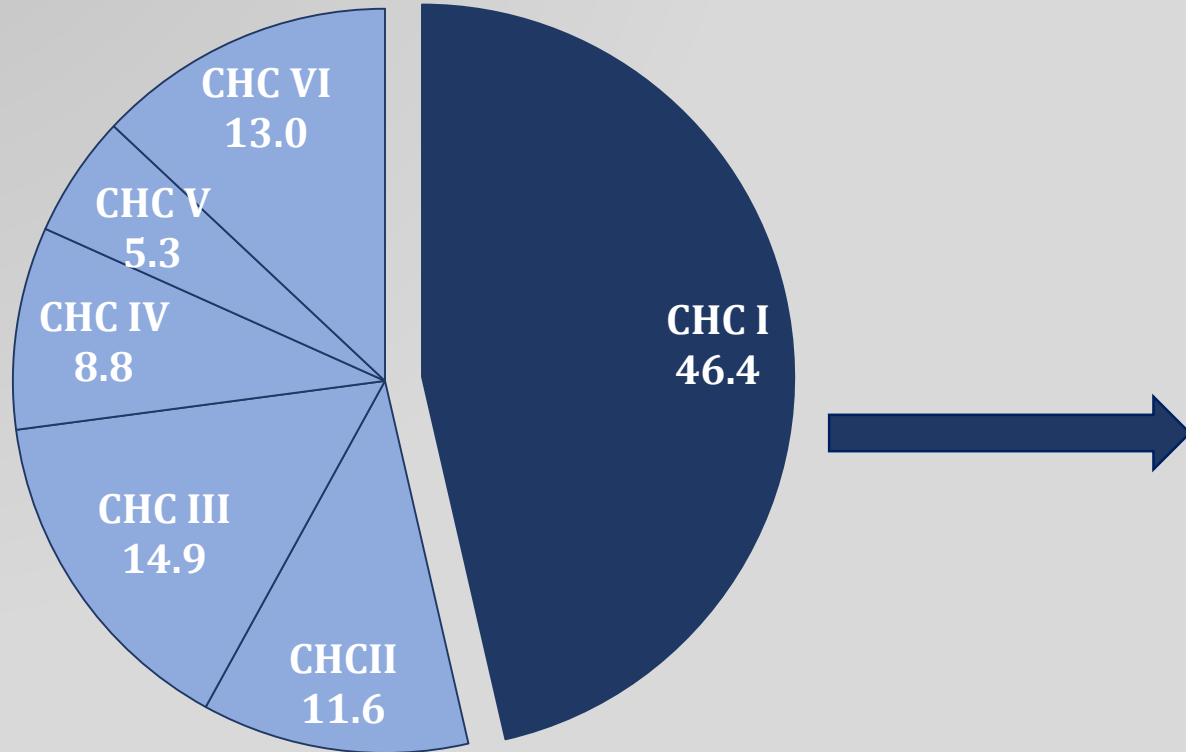


# Citizenship Status of Federal Offenders Fiscal Year 2014



# U.S. Citizen First Time Offenders Fiscal Year 2014

Criminal History Category



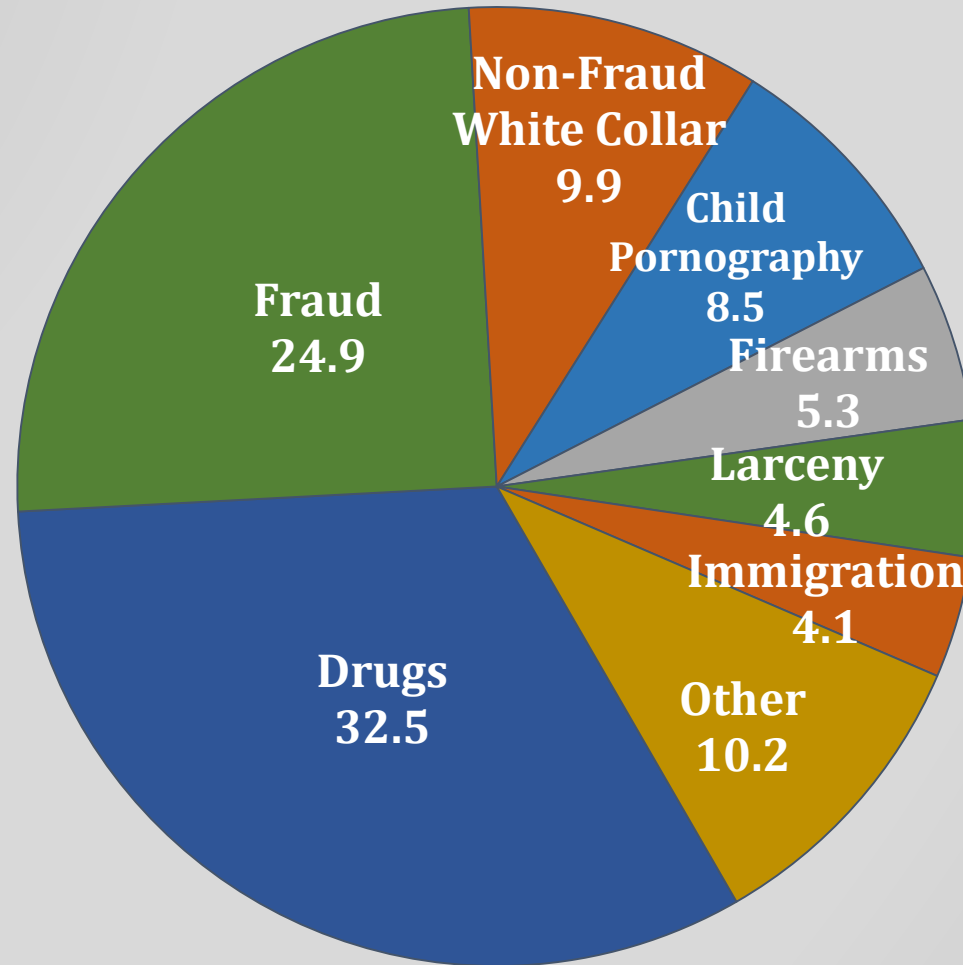
U.S. Citizen First Time Offenders Distribution of Offense Types (n=19,003)	
Drugs	33.0
Fraud	22.2
Non-Fraud White Collar	8.8
Child Pornography	7.5
Firearms	6.9
Larceny	4.1
Immigration	3.7
Other	13.8

**8.3% possessed a firearm or other weapon in connection with the offense**

SOURCE: U.S. Sentencing Commission, 2014 Datafile, USSCFY2014. Of the 75,836 cases, 32,357 were excluded that involved non-citizens or that were missing information on offender's citizenship status. An additional 2,533 cases were excluded due to incomplete guideline application information. The Drug category includes the following offense types: trafficking, use of a communication facility, and simple possession. The Non-Fraud White Collar category includes the following offense types: embezzlement, forgery/counterfeiting, bribery, money laundering, and tax. Descriptions of variables used in this figure are provided in Appendix A of the 2014 Sourcebook of Federal Sentencing Statistics.



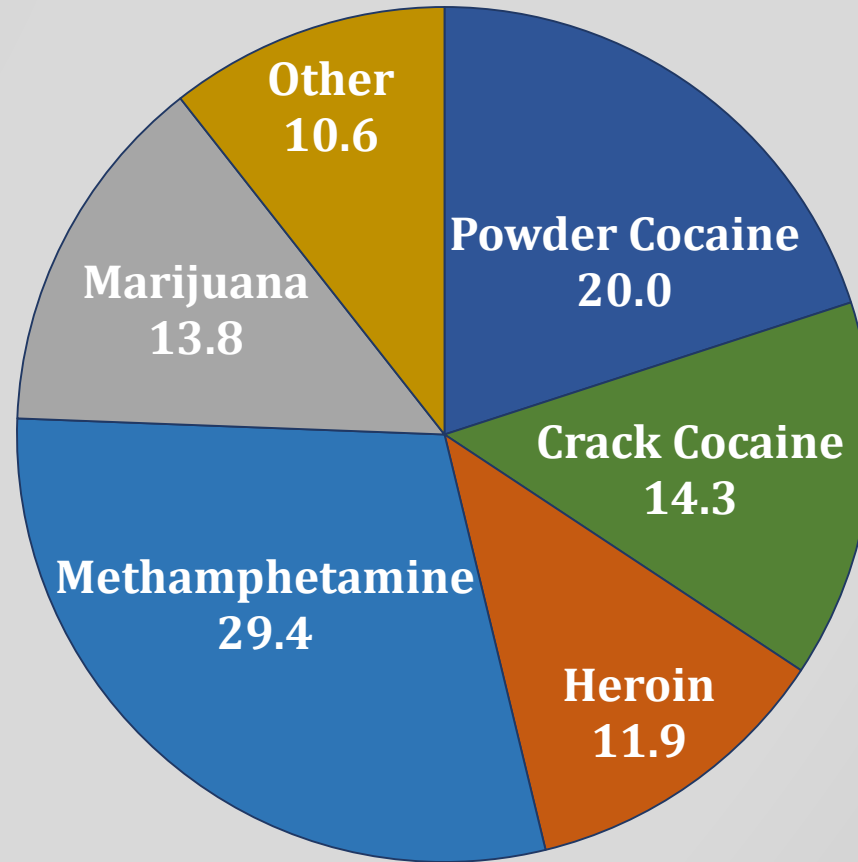
# U.S. Citizen First Time Non-Violent Offenders Fiscal Year 2014 (N=16,861)



SOURCE: U.S. Sentencing Commission, 2014 Datafile, USSCFY2014. Of the 75,836 cases, 32,357 were excluded that involved non-citizens or that were missing information on offender's citizenship status. An additional 2,533 cases were excluded due to incomplete guideline application information. In turn, an additional 21,943 cases were excluded that involved offenders in Criminal History Categories II-VI. Of the remaining 19,003 cases, 2,142 were excluded that involved murder, manslaughter, kidnapping/hostage taking, assault, robbery, arson, or extortion/racketeering or that involved the possession or use of a firearm or other weapon in connection with the offense. The Drug category includes the following offense types: trafficking, use of a communication facility, and simple possession. The Non-Fraud White Collar category includes the following offense types: embezzlement, forgery/counterfeiting, bribery, money laundering, and tax.



# U.S. Citizen Drug Trafficking Offenders Fiscal Year 2014 (n=14,166)



15.7% possessed a firearm or other weapon in connection with the offense

39.2% Criminal History Category I



SOURCE: U.S. Sentencing Commission, 2014 Datafile, USSCFY2014. Of the 75,836 cases, 32,357 were excluded that involved non-citizens or that were missing information on offender's citizenship status. An additional 2,533 cases were excluded due to incomplete guideline application information. Of the remaining 40,946 cases, 26,780 were excluded that involved primary offense type other than drug trafficking and were sentenced under a guideline other than USSG §2D1.1.

# U.S. Citizen Drug Trafficking Offenders Fiscal Year 2014

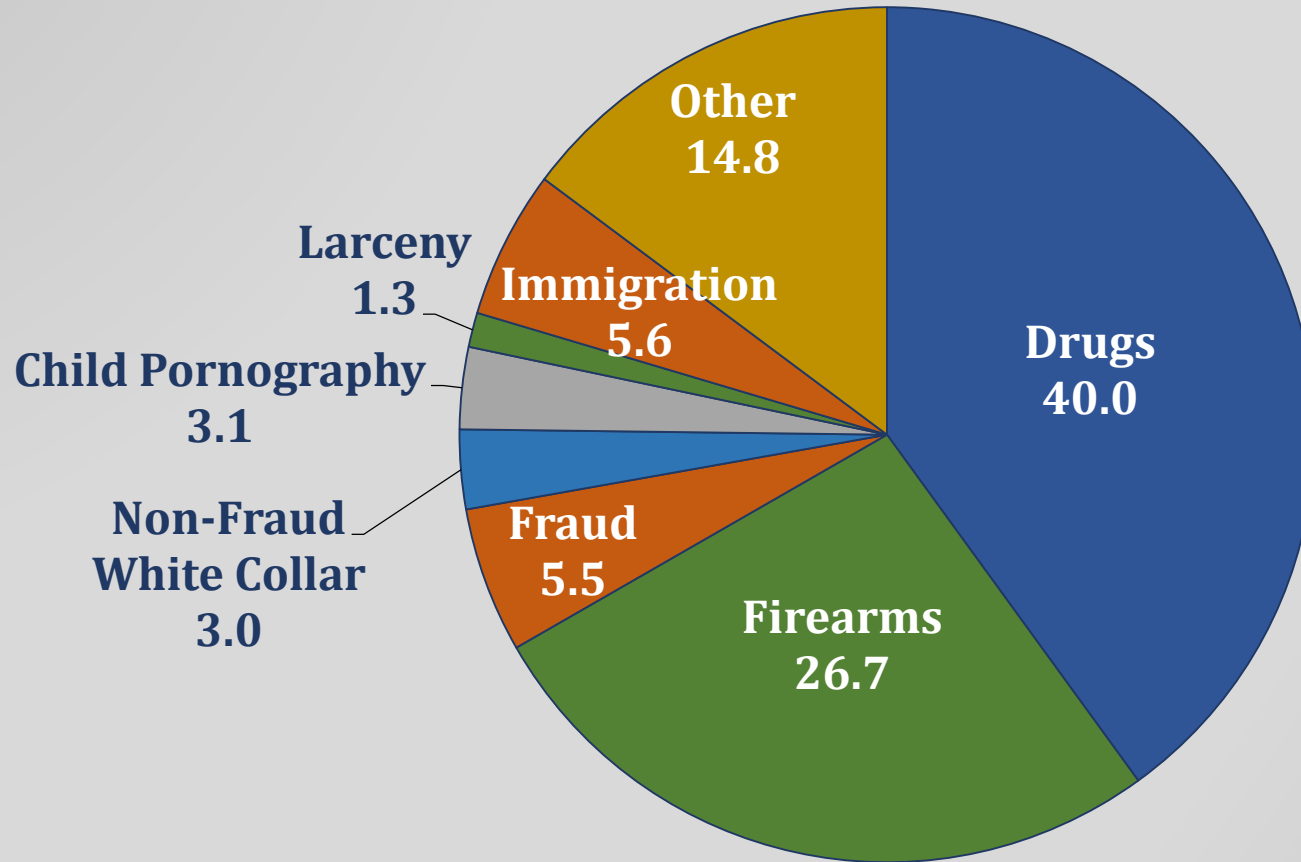
Possession or Use of Firearm or Other Weapon in Connection with the Offense	
Crack Cocaine	24.6%
Methamphetamine	16.7%
Powder Cocaine	16.3%
Heroin	12.8%
Marijuana	11.7%
Other	8.6%

Drug Trafficking Offenses with Base Offense Level 26 and Higher	
Methamphetamine (200g or more)	94.1%
Powder Cocaine (2Kg or more)	83.4%
Crack Cocaine (112g or more)	75.1%
Heroin (400g or more)	70.6%
Marijuana (400Kg or more)	48.1%



SOURCE: U.S. Sentencing Commission, 2014 Datafile, USSCFY2014. Of the 75,836 cases, 32,357 were excluded that involved non-citizens or that were missing information on offender's citizenship status. An additional 2,533 cases were excluded due to incomplete guideline application information. Of the remaining 40,946 cases, 26,780 were excluded that involved a primary offense type other than drug trafficking and were sentenced under a guideline other than USSG §2D1.1.

# U.S. Citizen Offenders Aged 25 Years and Younger Fiscal Year 2014 (N=6,572)



18.1% possessed a firearm or other weapon in connection with the offense

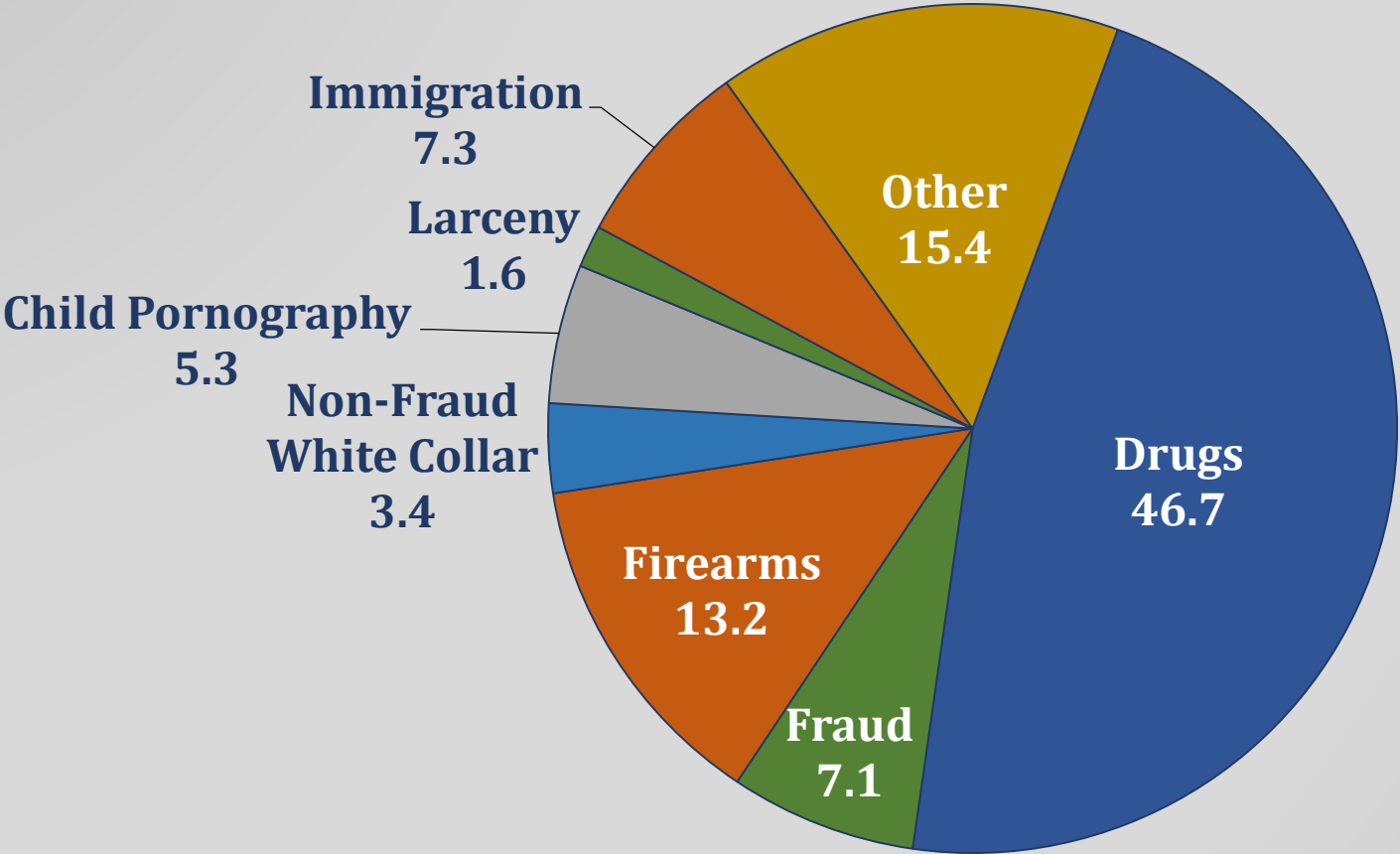
51.2% Criminal History Category I

SOURCE: U.S. Sentencing Commission, 2014 Datafile, USSCFY2014. Of the 75,836 cases, 32,357 were excluded that involved non-citizens or that were missing information on offender's citizenship status. An additional 2,533 cases were excluded due to incomplete guideline application information. Of the remaining 40,946 cases, 34,374 were excluded that involved offenders older than 25 years of age. The Drug category includes the following offense types: trafficking, use of a communication facility, and simple possession. The Non-Fraud White Collar category includes the following offense types: embezzlement, forgery/counterfeiting, bribery, money laundering, and tax.





# U.S. Citizen First Time Offenders Aged 25 Years and Younger Fiscal Year 2014 (N=3,367)



**15.0% possessed a firearm or other weapon in connection with the offense**



SOURCE: U.S. Sentencing Commission, 2014 Datafile, USSCFY2014. Of the 75,836 cases, 32,357 were excluded that involved non-citizens or that were missing information on offender's citizenship status. An additional 2,533 cases were excluded due to incomplete guideline application information. In turn, an additional 21,943 cases were excluded that involved offenders in Criminal History Categories II-VI. Of the remaining 19,003 cases, 15,636 were excluded that involved offenders older than 25 years of age. The Drug category includes the following offense types: trafficking, use of a communication facility, and simple possession. The Non-Fraud White Collar category includes the following offense types: embezzlement, forgery/counterfeiting, bribery, money laundering, and tax.

