



Fiscal Year 2020

Overview of Federal Criminal Cases

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Table of Contents



Federal Caseload at a Glance	2
Federal Offenders by Type of Crime.....	4
Individual Offender Characteristics	6
Case Disposition and Sentence Imposed	8
The Most Common Crimes.....	11
<i>Immigration Offenses</i>	12
<i>Drug Offenses</i>	13
<i>Firearms Offenses</i>	18
<i>Economic Offenses</i>	20
Organizational Offenses.....	21
Resentencings and Other Modifications	22



Fiscal Year 2020

Overview of Federal Criminal Cases

By

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The United States Sentencing Commission¹ received information on 64,659 federal criminal cases in which the offender was sentenced in fiscal year 2020.² Among these cases, 64,565 involved an individual offender and 94 involved a corporation or other “organizational” offender. The Commission also received information on 5,859 cases in which the court resentenced the offender or otherwise modified the sentence that had been previously imposed. This publication provides an overview of these cases.



Federal Caseload at a Glance

The number of cases reported to the Commission in fiscal year 2020 reflects the impact of the COVID-19 pandemic on the work of the courts. The 64,565 individual original cases reported to the Commission in fiscal year 2020 represent a decrease of 11,973 cases (15.6%) from fiscal year 2019. The number of offenders sentenced in the federal courts reached its peak in fiscal year 2011³ and had declined each year afterward until reversing direction in fiscal year 2018.

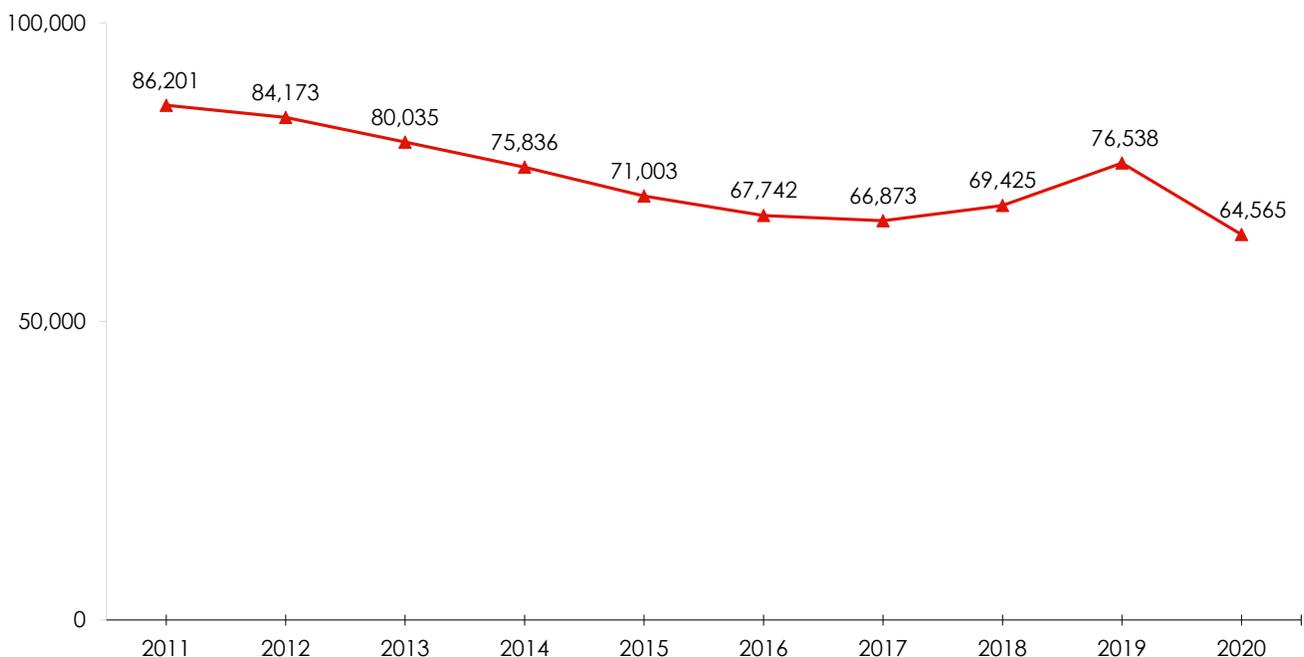
The number of cases in almost every crime type decreased in fiscal year 2020. The largest decrease occurred in the number of drug trafficking cases, which fell by 3,440 (17.3 %) from the year before. As a percentage, manslaughter cases decreased the most, by 48.6 percent. Among the other major crime types, immigration cases fell by 9.5 percent, firearms cases by 11.1 percent, and fraud, theft, and embezzlement cases by 24.5 percent. Only two crime types, individual rights and stalking/harassing, did not decrease in fiscal year 2020.

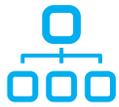
The number of cases reported to the Commission in FY20 decreased 16%, reflecting at least in part the impact of the COVID-19 pandemic.

Five judicial districts accounted for 43.8 percent of all individual offenders sentenced in fiscal year 2020. The Western District of Texas reported 13.2 percent of the total number of individual offenders sentenced, as did the Southern District of Texas. The next highest districts were the District of Arizona (7.1%), the Southern District of California

(5.4%), and the District of New Mexico (4.9%). The higher numbers of offenders in these five districts were driven largely by immigration cases, ranging from 52.2 percent of the cases in the Southern District of California to 85.0 percent of all cases in the Southern District of Texas.

Number of Federal Offenders Over Time

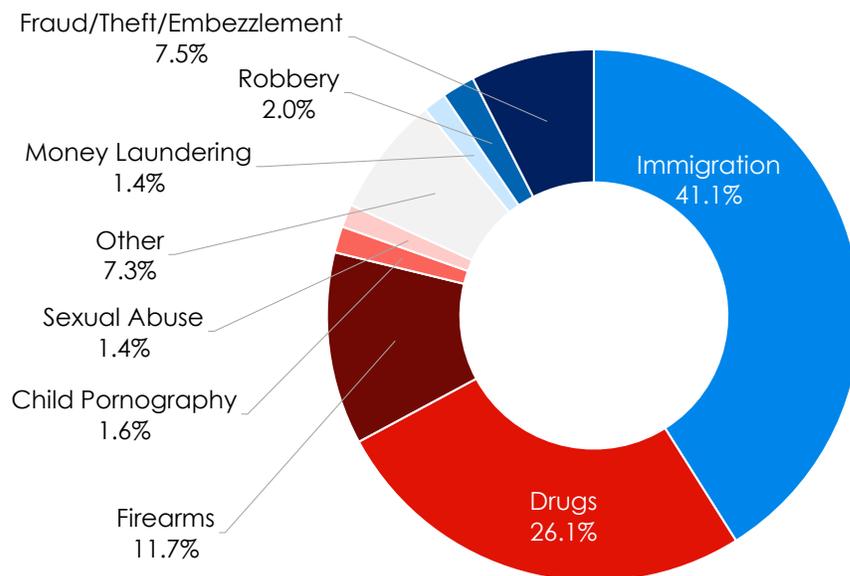




Federal Offenders by Type of Crime

For more than 25 years, four crime types have comprised the majority of federal felonies and Class A misdemeanors: drugs, immigration, firearms, and fraud, theft, or embezzlement. This trend continued in fiscal year 2020, as these crime types accounted for 86.4 percent of all cases reported to the Commission. Felony offenses were 97.0 percent of all the cases reported.

Federal Offenders by Type of Crime



» Immigration

Immigration offenses continued to be the most common federal crime in fiscal year 2020, accounting for 41.1 percent of the total caseload, a slight increase from the proportion in fiscal year 2019. Even so, the 26,561 immigration cases represented a 9.5 percent decrease from the 29,354 cases reported in fiscal year 2019.

» Drugs

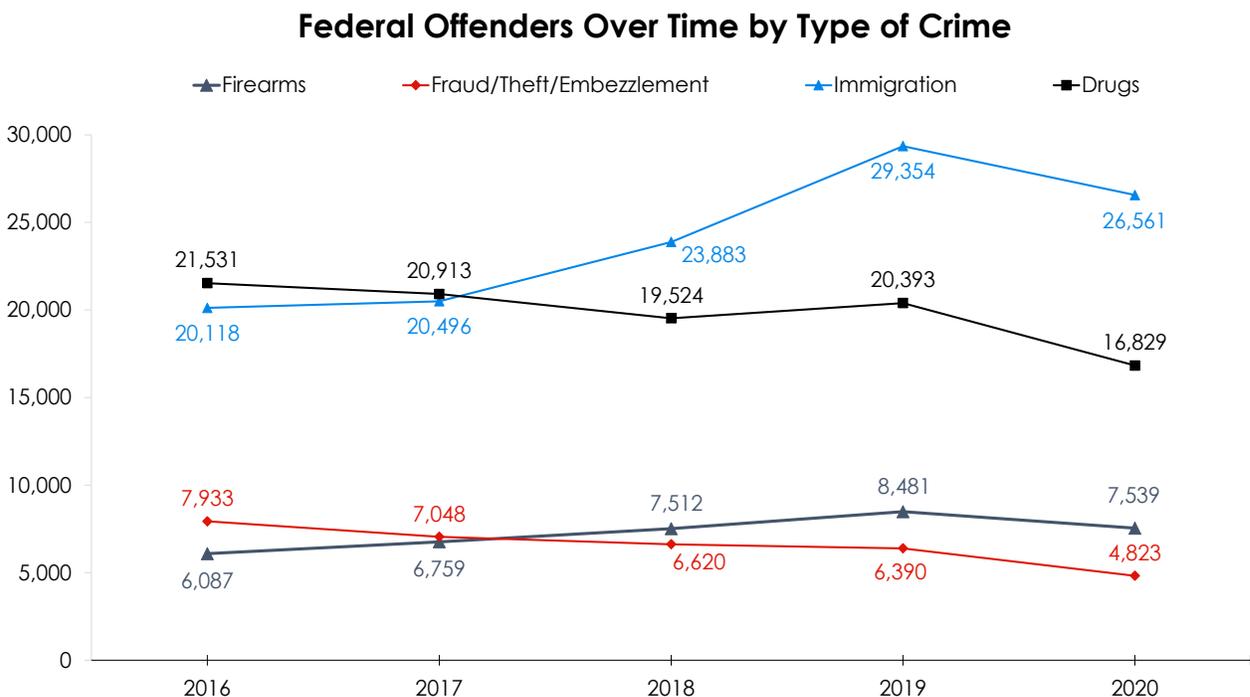
Drug offenses of all types were the second most common federal crime in fiscal year 2020. The 16,829 total drug cases reported to the Commission accounted for 26.1 percent of all cases, a decrease of 3,564 cases (17.5%) from the year before.

» Firearms

Firearms cases represented the third most common federal offense in fiscal year 2020. There were 7,539 firearms cases reported to the Commission, accounting for 11.7 percent of all cases; a slightly higher portion than the year before. The number of firearms cases decreased by 942 cases from fiscal year 2019, an 11.1 percent decrease.

» Fraud, Theft, or Embezzlement

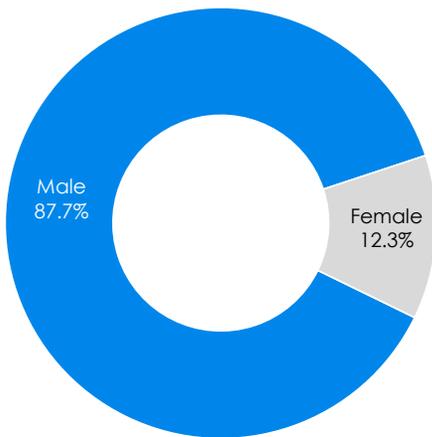
Cases involving fraud, theft, or embezzlement accounted for 7.5 percent of the total federal caseload. This group of cases accounted for the largest percentage decrease of the four major crime types, as the 2,793 case decrease in this crime type was 24.5 percent lower than the number reported in fiscal year 2019.





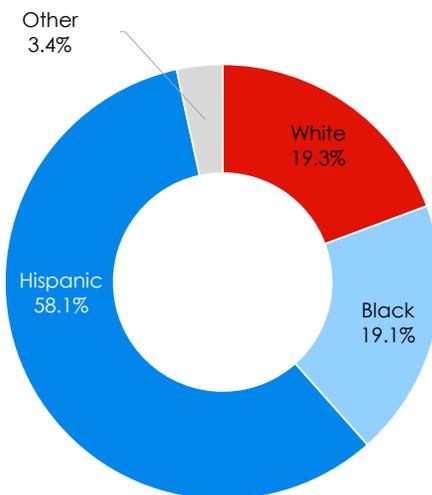
Individual Offender Characteristics

Gender



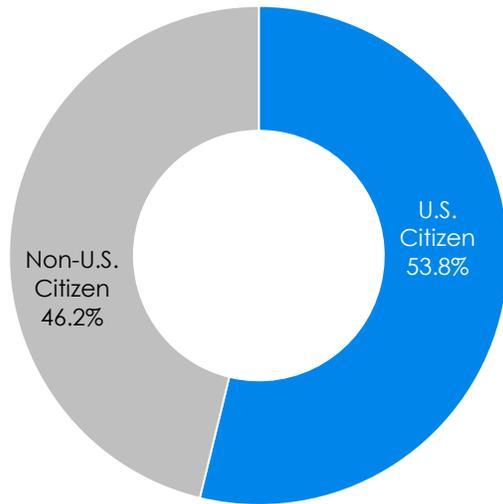
Men accounted for 87.7 percent of offenders in fiscal year 2020. Male offenders most commonly were sentenced for an immigration offense (43.5% of all men sentenced), while female offenders most commonly were involved in drug trafficking offenses (36.2% of all women sentenced).

Race



More than half of all federal offenders (58.1%) were Hispanic, while 19.3 percent were White, and 19.1 percent were Black.⁴ The racial distribution of offenders varied greatly across offense types. For example, Hispanic offenders made up 96.7 percent of immigration offenders, while White offenders accounted for the majority of child pornography cases (81.3%). Hispanic offenders were most commonly sentenced for immigration offenses (68.4% of all Hispanic offenders), while White and Black offenders were most commonly sentenced for drug trafficking (34.6% and 36.0%, respectively).

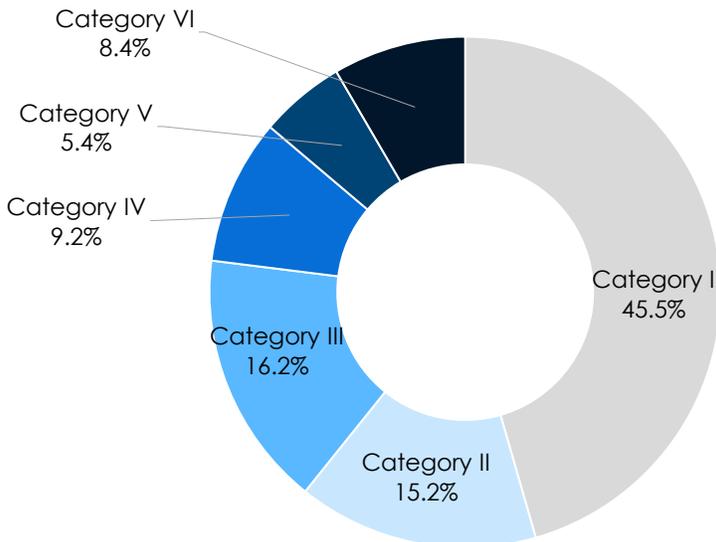
Citizenship



Just over half of all federal offenders were United States citizens (53.8%). Most non-citizen offenders committed an immigration offense (80.7% of non-citizens), while citizens most commonly committed a drug trafficking offense (37.8% of citizens). Non-citizens receive prison-only sentences 96.3 percent of the time, more often than citizens (83.4%).

The average age of offenders in fiscal year 2020 was 36, similar to prior years. More than one in ten offenders (10.8%) were over the age of 50 at sentencing, while just 3.3 percent were under 21. Offenders in all age groups, except those over 60, were most likely to commit an immigration offense, followed by drug trafficking. Offenders over the age of 60 were most likely to commit a fraud, theft, or embezzlement offense, followed by drug trafficking and immigration offenses. Almost half of all federal offenders sentenced in fiscal year 2020 (48.6%) had not completed high school while 5.2 percent of offenders were college graduates.

Criminal History Category



The largest group of federal offenders were assigned to Criminal History Category (CHC) I (45.5%), the lowest category. About one-third of fiscal year 2020 offenders were assigned to CHC II (15.2%) or CHC III (16.2%). The remaining 23.0 percent fell into CHC IV (9.2%), CHC V (5.4%) and CHC VI (8.4%). In fiscal year 2020, 1,216 offenders were deemed to be “career offenders”⁵ and 261 offenders were sentenced as “armed career criminals.”⁶

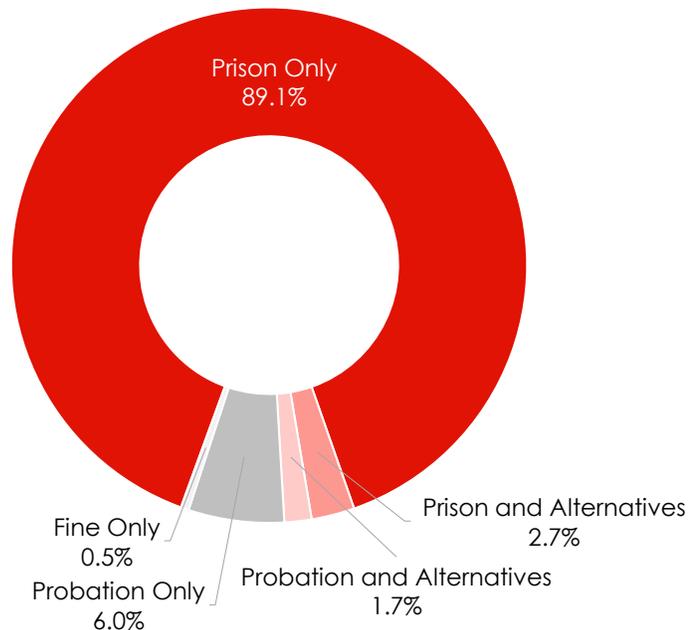


Case Disposition and Sentence Imposed

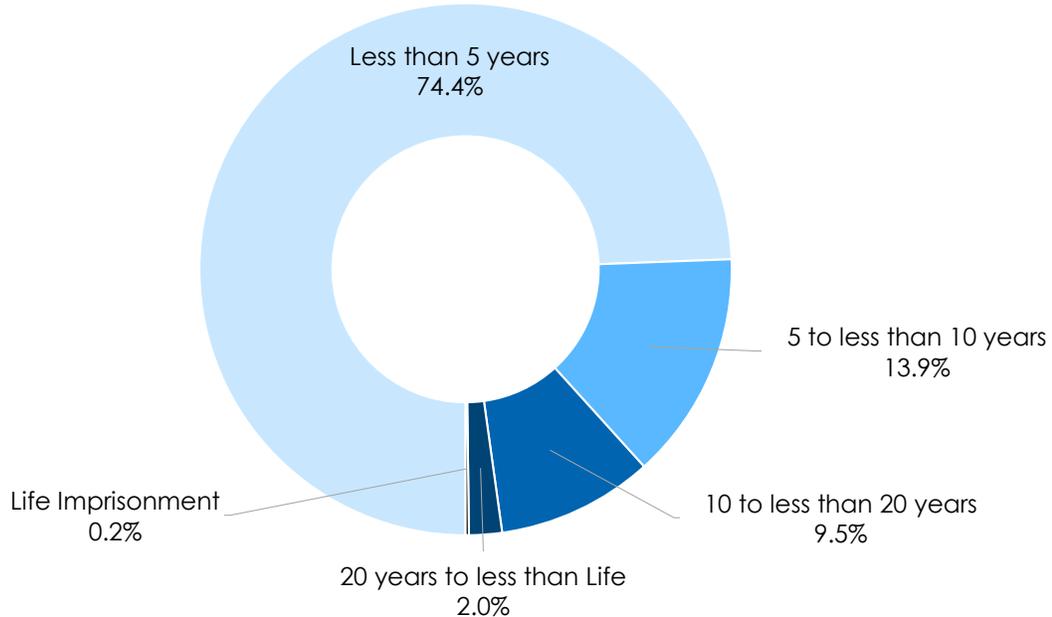
In fiscal year 2020, the vast majority of offenders (97.8%) pleaded guilty. This rate has been consistent for more than 20 years.⁷ In general, offenders charged with more serious crimes pleaded guilty less often; those who were convicted of kidnaping, murder, arson, manslaughter and sexual abuse went to trial in more than 10 percent of those cases.

Most federal offenders received a sentence of incarceration. In fiscal year 2020, a prison-only sentence was imposed on 89.1 percent of all offenders. Another 6.0 percent of offenders received a sentence of probation only (*i.e.*, where no type of confinement was imposed). An additional 1.7 percent of offenders were sentenced to periods

Sentence Imposed



Average Length of Imprisonment



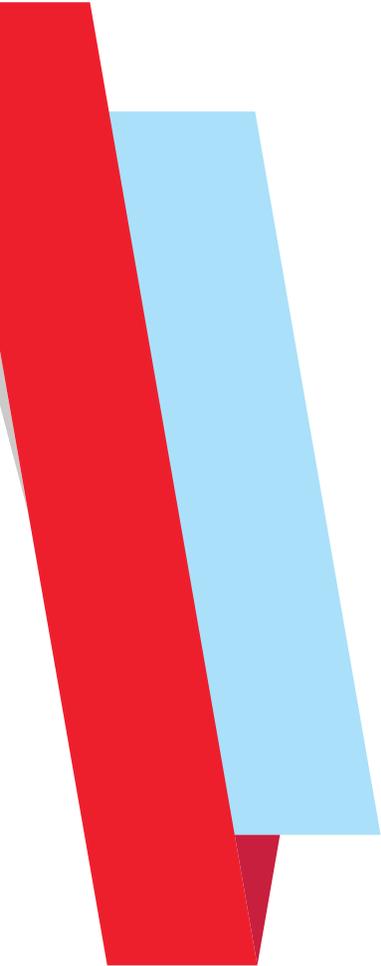
of probation and some type of alternative confinement, and 2.7 percent were sentenced to a combination of imprisonment and alternative confinement, such as in a half-way house or home confinement.⁸ Finally, 0.5 percent of offenders received a fine-only sentence.

The average sentence imposed in federal cases in fiscal year 2020 was 40 months, a slight decrease from 2019. This decrease can be attributed largely to the increase of immigration cases as a portion of the total caseload. The length of sentence varied greatly by the seriousness of the offense.⁹ Offenders convicted of murder received the longest terms of confinement at 255 months on average while drug possession was punished least severely, receiving sentences of three months, on average.

The average sentence has increased for some offenses. Drug trafficking offenders, for example, received an average sentence of 76

months in fiscal year 2020—10 months longer than the average sentence in 2016 for that offense. Sexual abuse offenders averaged 201 months' confinement, an increase of 13 months over their average sentence five years ago. However, the average sentence for many offense types continued a five-year downward trend. The average drug possession sentences fell one month from 2016 to an average of three months, firearms sentences fell seven months to an average of 48, and immigration sentences fell five months to an average of eight months.¹⁰

Overall, 74.4 percent of offenders received a sentence of less than five years, 13.9 percent of offenders received a sentence of five years or longer but less than ten years, and 11.5 percent received a sentence of ten years or longer, excluding life imprisonment. In fiscal year 2020, 97 federal offenders were sentenced to life imprisonment and one offender was sentenced to death.



Courts imposed fines in 6.6 percent of all cases in which an individual offender was sentenced in fiscal year 2020, either as the sole punishment or combined with some other sanction. Fines were most commonly imposed in antitrust (81.8%), environmental (66.5%), and food and drug (42.5%) cases. When the offender was an organization, courts imposed a fine in more than two-thirds of the cases (69.2%).

Courts ordered restitution to be paid to the victim of the crime in 10.9 percent of all cases in which an individual was the offender. Restitution was most commonly ordered in cases involving tax (89.3%), burglary and trespass (76.9%), fraud, theft, or embezzlement (70.9%), robbery (68.3%), and forgery, counterfeit, or copyright (65.2%). The total amount of restitution ordered was \$6,307,733,734. Restitution was ordered in 28.8 percent of the cases where the offender was an organization for a total of \$209,005,171.

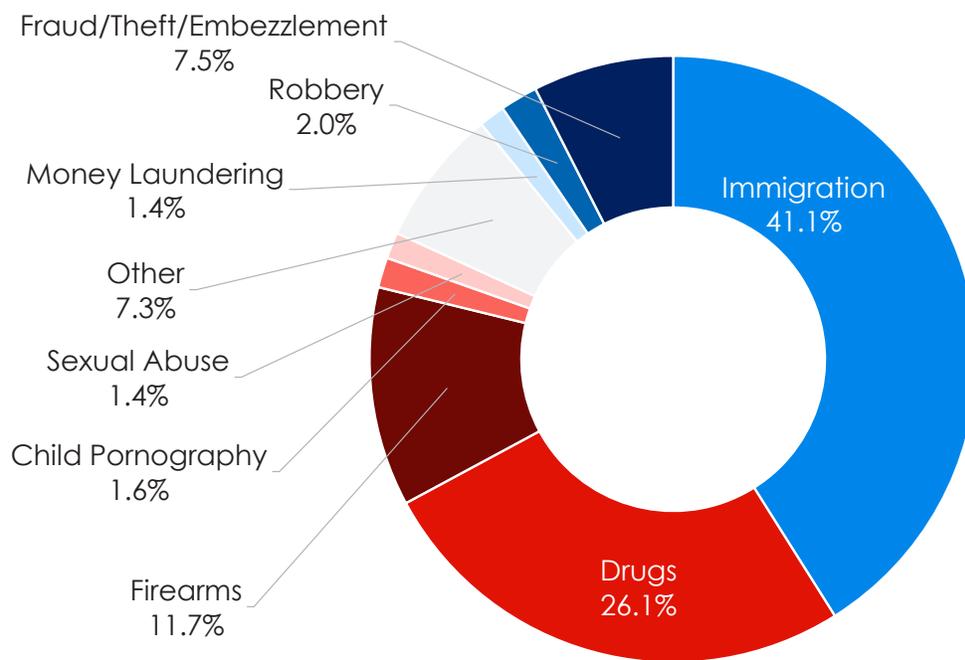
Most offenders were sentenced to serve a period of supervised release—72.9 percent of all offenders sentenced in fiscal year 2020. In immigration cases, however, supervised release was imposed in 54.5 percent of the cases, reflecting the fact that many immigration offenders are ordered deported from the United States once they complete their incarceration sentence.¹¹ Supervised release was imposed in 85.8 percent of all cases not involving immigration.

The average length of supervised release imposed was 43 months, and the median length was 36 months. Sexual abuse and child pornography offenders were sentenced to substantially longer periods of supervised release than other offenders. The average length of supervised release imposed in sexual abuse cases was 220 months and was 180 months for child pornography cases. The median supervised release sentence for both offenses was 120 months.



The Most Common Crimes

Federal Offenders by Type of Crime





Immigration Offenses

As discussed above, immigration cases were the most common felony and Class A misdemeanor federal crimes in fiscal year 2020. The 26,561 immigration offenses represented 41.1 percent of the cases reported to the Commission, a larger percentage of the overall caseload than in any prior year. However, the number of these cases is a 9.5 percent decrease from fiscal year 2019.

Offenders sentenced under the immigration guidelines were more likely to be non-citizens, Hispanic, less educated, and male than non-immigration offenders. Non-citizens accounted for 89.5 percent of immigration offenses. Similarly, while Hispanics accounted for only 31.2 percent of non-immigration offenders, they comprised 96.7 percent of immigration offenders. Immigration offenders more often had less than a high school education (79.0%) compared with offenders convicted of other crimes (31.2%). Finally, while men committed a majority (84.2%) of non-immigration offenses, they committed an even higher proportion of immigration crimes (92.8%).

Of the 26,561 immigration offenders, 89.5 percent were sentenced under one of the four primary immigration guidelines.¹² Most of these offenses involved either the unlawful reentry into the United States or unlawfully remaining in the United States without authority (82.7%). Another 14.3 percent were alien smuggling offenses.



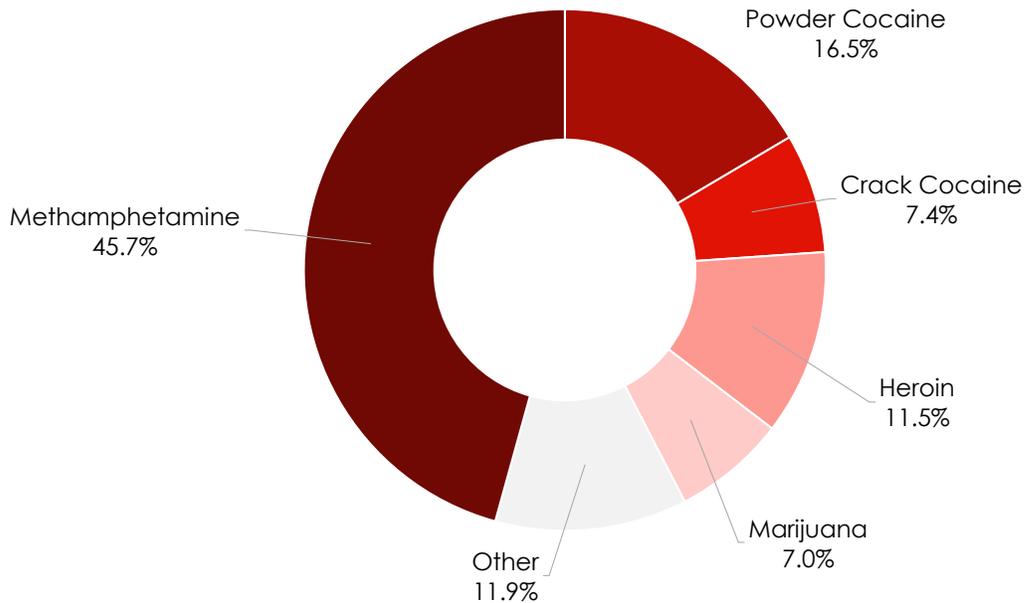
Drug Offenses

Drug offenses were the second most common federal crimes in fiscal year 2020. Most of the 16,829 drug cases reported to the Commission involved the manufacture, sale, or transportation of a drug,¹³ although 439 involved a conviction for drug possession.¹⁴ Drug possession cases continued a five-year downward trend, decreasing 22.0 percent from fiscal year 2019, while the number of drug trafficking cases reversed a slight upward trend from 2019—falling 17.3 percent.¹⁵

Methamphetamine remained the most prevalent drug type in these cases. The 7,537 methamphetamine cases accounted for 45.7 percent of all drug crimes. The proportion of methamphetamine cases has increased steadily over the last five years, when those cases accounted for 33.3 percent of all drug cases.

Offenses involving cocaine, in either powder form or base (crack) form, were the second most common drug crimes. The 2,717 powder cocaine cases accounted for 16.5 percent of all drug cases while the 1,224 crack cocaine cases accounted for 7.4 percent. The number of crack cocaine cases has fallen by 80.2 percent since fiscal year 2008, the year in which the largest number of those cases was reported to the Commission.¹⁶ That year, the 6,168 crack cocaine cases represented 24.3 percent of all drug cases.

Primary Drug Type in Federal Drug Cases

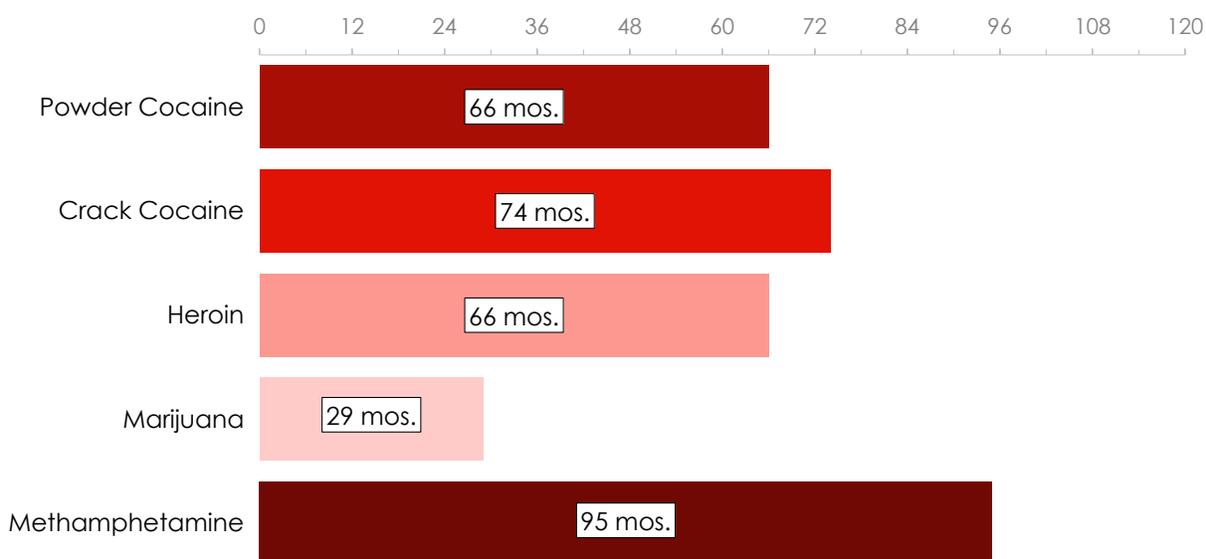


Of the remaining drug cases, heroin cases accounted for 11.5 percent of the cases, marijuana for 7.0 percent, and cases involving “other” drugs, mostly synthetic or semi-synthetic drugs such as fentanyl and oxycodone, accounted for 11.9 percent of all drug offenses. The proportion of the drug caseload that were heroin and marijuana cases has steadily decreased over the last five years.¹⁷

Of the 16,829 drug offenders, almost all (16,287 offenders) were sentenced under one of the seven primary drug trafficking guidelines.¹⁸ Most drug trafficking offenders were United States citizens (80.1%), although citizenship varied depending on the type of drug involved in the offense. For example, United States citizens accounted for 95.6 percent of drug trafficking offenses involving crack cocaine, but only 59.7 percent of those involving marijuana.

The race of drug trafficking offenders varied even more widely by the type of drug involved in the offense. The largest racial group of drug trafficking offenders convicted in federal court were Hispanic (43.8%), followed by Black offenders (27.0%) and White offenders (26.1%). The higher percentage of Hispanic offenders was driven largely by powder cocaine and marijuana trafficking offenses, of which they accounted for 64.6 and 62.4 percent, respectively. In contrast, Black offenders were the most common racial group in crack cocaine offenses (76.8%). Methamphetamine trafficking offenses were split almost evenly between Hispanic (41.9%) and White (39.9%) offenders.

Average Sentence Length of Drug Trafficking Offenders (in months)



Most drug trafficking offenders (82.6%) were male. Men outnumbered women most often in convictions for trafficking crack cocaine (90.8% compared to 9.2%). Of the 2,837 female drug traffickers, over half (59.5%) were involved in trafficking methamphetamine. More than half (51.0%) of all drug trafficking offenders were 35 or younger.

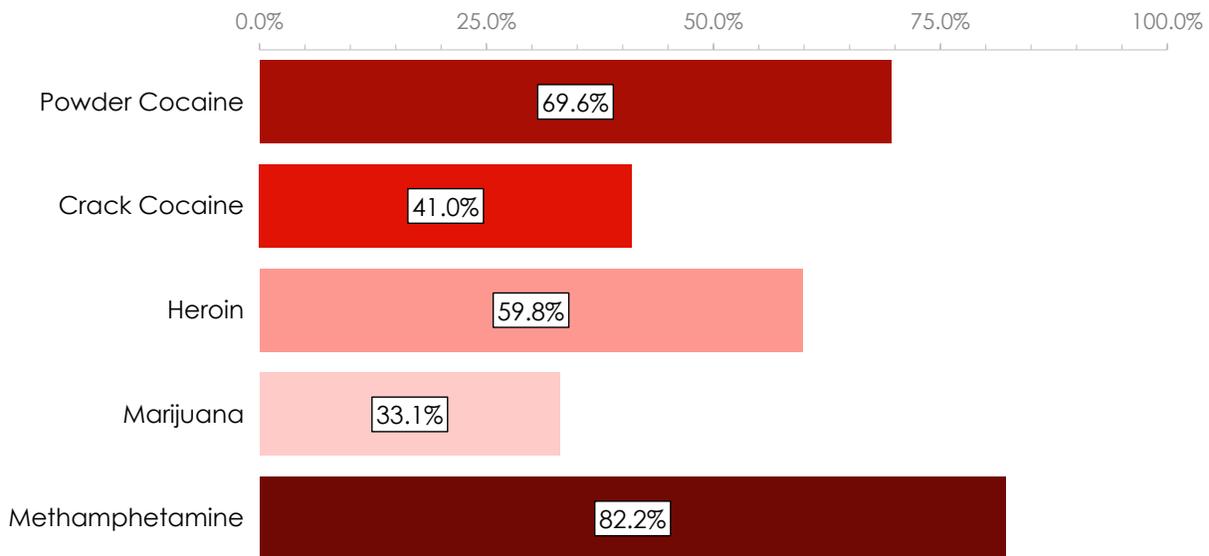
Weapons were involved in 24.8 percent of all drug trafficking offenses. As with the other aspects of these cases, the rate of weapon involvement varied depending on the type of drug involved, ranging from 38.9 percent in crack cocaine cases to 18.4 percent in marijuana and powder cocaine cases.

Sentences were highest for trafficking offenses involving methamphetamine (95 months on average) and lowest for those involving marijuana (29 months on average). The average length of drug trafficking

sentences decreased from 2019 for all drug types except methamphetamine, although the average sentences for methamphetamine, heroin, marijuana, and other drugs remained higher than they were five years ago.

Several factors can affect the sentence imposed in drug trafficking offenses, including statutory mandatory minimum penalties, the quantity of the drugs involved in the case, the prior criminal history of the offender, and whether the offender assisted the government in the investigation of his or her crime and other crimes. Mandatory minimum penalties enacted by Congress¹⁹ play a large part in determining the sentence for drug trafficking offenders, either outright or through the impact of these statutes on the structure of the guidelines.²⁰ In fiscal year 2020, over half (66.9%) of all drug trafficking offenders were convicted of an offense carrying a mandatory minimum penalty.

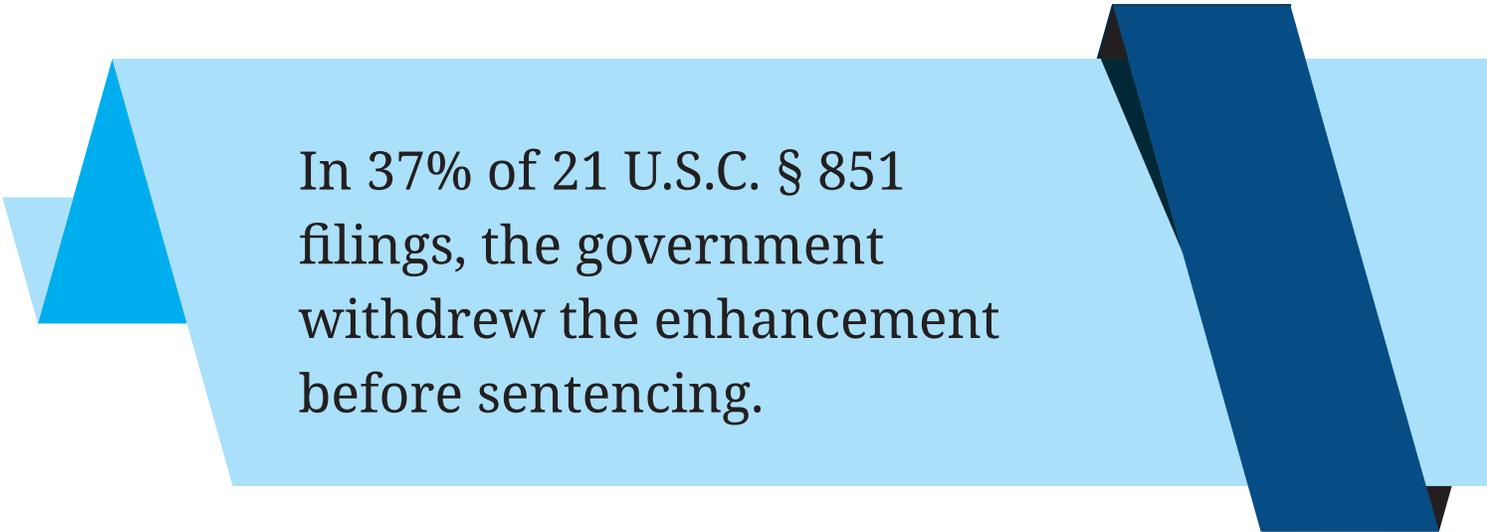
Application of Mandatory Minimum Penalties in Drug Trafficking Cases



In fiscal year 2020, methamphetamine and powder cocaine drug trafficking offenders were convicted of an offense that carried a mandatory minimum penalty at the highest rates—82.2 percent in methamphetamine cases and 69.6 percent in powder cocaine cases. Mandatory minimum penalties were least common in drug trafficking cases involving marijuana, applying in 33.1 percent of those cases.

In fiscal year 2020, enhanced penalties under 21 U.S.C. § 851 were sought by the government in 921 drug trafficking cases where the offender had been convicted previously of one or more predicate offenses. However, in 36.7 percent of those cases the government eventually withdrew the enhancement prior to sentencing.²¹ The 583 cases in which the enhancement did apply at sentencing represented just 3.5 percent of all drug trafficking cases.

Among all drug trafficking offenders convicted under a statute carrying a mandatory minimum penalty, 56.5 percent received relief from that penalty in fiscal year 2020, either through the “safety valve” exception to such sentences or by providing substantial assistance to the government.²² Many offenders (41.7%) convicted of an offense carrying a mandatory minimum penalty obtained relief from that penalty through the safety valve, which requires courts to sentence the offender without regard to any otherwise applicable mandatory minimum punishment when certain conditions are met.²³ Marijuana drug trafficking offenders obtained relief from a mandatory minimum sentence through the safety valve exception most often, in 65.0 percent of all marijuana trafficking cases in which the offender was convicted under a statute carrying a mandatory minimum penalty. In contrast, only 13.2 percent of crack cocaine drug trafficking offenders obtained this relief.



In 37% of 21 U.S.C. § 851 filings, the government withdrew the enhancement before sentencing.

This difference is due largely to the differing criminal histories of marijuana and crack cocaine drug trafficking offenders. To be eligible for the statutory safety valve, offenders must meet specific limits on the extent and nature of their past criminal history.²⁴ In fiscal year 2020, 89.8 percent of all marijuana drug trafficking offenders were assigned to one of the three lowest criminal history categories (with 65.6 percent of all marijuana drug trafficking offenders assigned to CHC I). This compares with 53.7 percent of crack cocaine drug trafficking offenders assigned to the three lowest CHCs, and just 19.7 percent of crack cocaine offenders assigned to CHC I.

Overall, crack cocaine offenders had more serious criminal histories than any other group of drug traffickers.²⁵ Of crack cocaine drug trafficking offenders, 23.0 percent

were assigned to the most serious criminal history category (CHC VI). In contrast, marijuana drug trafficking offenders were assigned to CHC VI in only 3.4 percent of cases. By comparison, 17.0 percent of methamphetamine drug trafficking offenders and 14.7 percent of heroin drug trafficking offenders were assigned to CHC VI.

An offender's role in the offense also can affect the guideline range. In fiscal year 2020, the applicable guideline range was lowered in 19.2 percent of all drug trafficking cases because of the offender's minor or minimal role in the offense.²⁶ This adjustment applied in 37.1 percent of marijuana cases compared to only 4.1 percent of crack cocaine cases. In 6.1 percent of all drug trafficking cases, the applicable guideline range was increased because of the offender's role as an organizer, leader, manager, or supervisor.²⁷

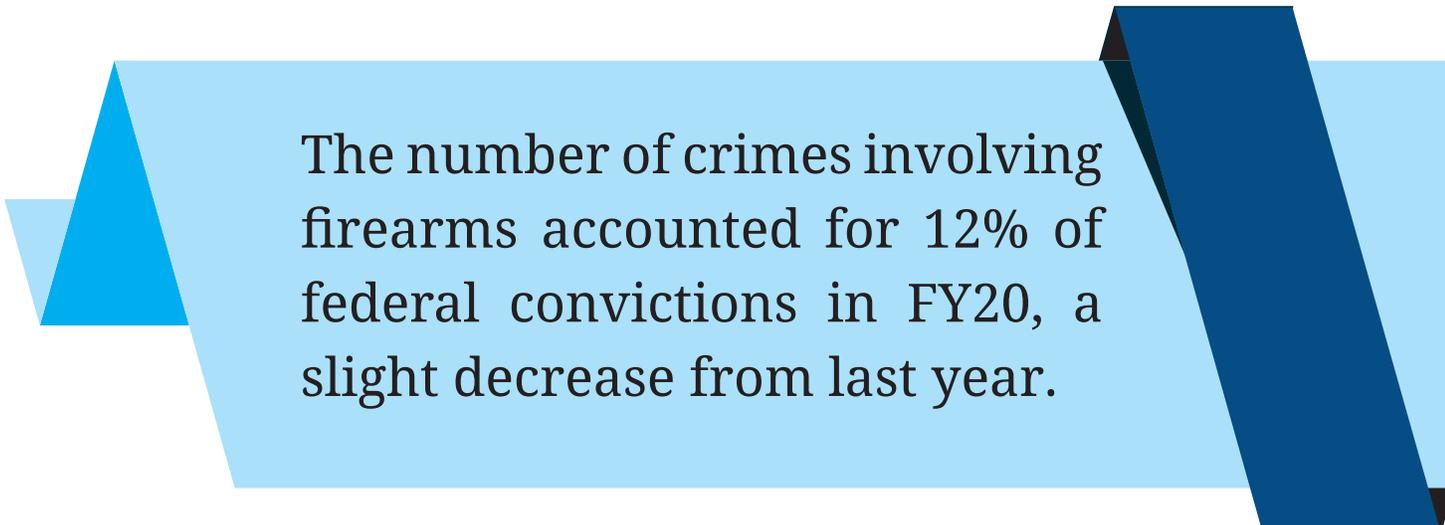


Firearms Offenses

Crimes involving firearms²⁸ accounted for 11.7 percent of the total number of federal criminal convictions in fiscal year 2020. The 7,539 firearms cases reported to the Commission represent a decrease of 11.1 percent from the prior year. Of the 7,539 firearms cases, most (7,504) were sentenced under one of the five primary firearms guidelines.²⁹

Most firearms offenses involved the unlawful receipt, possession, or transportation of firearms or ammunition, or were prohibited transactions involving firearms or ammunition (94.5%). Just under two-thirds of firearms cases (66.3%) involved the illegal possession of a firearm, usually by a convicted felon.³⁰ Of all firearms cases, 6.8 percent involved the possession or use of a firearm in connection with a crime of violence or drug trafficking crime,³¹ and in 4.4 percent of firearms cases this was the only count of conviction.

Firearms offenders were primarily United States citizens (95.9%) and male (96.0%). Over half (53.7%) were Black, 26.1 percent were White, and 17.1 percent were Hispanic. In fiscal year 2020, more than half (61.9%) of firearms offenders were age 35 or younger. Over one-third (36.0%) did not complete high school while 45.6 percent completed high school and 18.4 percent attended or completed college. In fiscal year 2020, 9.5 percent of firearms offenders were convicted



The number of crimes involving firearms accounted for 12% of federal convictions in FY20, a slight decrease from last year.

of a firearm offense carrying a mandatory minimum penalty.³² Among those firearm offenders convicted of possession or use of a firearm in connection with a crime of violence or drug trafficking crime, almost two-thirds (68.6%) were convicted of an offense carrying a five-year mandatory minimum penalty. An additional 15.4 percent of the cases involving these offenders carried a seven-year minimum penalty, and 16.0 percent carried a minimum penalty of ten years or longer.

In certain other types of cases, the court may also consider the possession or use of a dangerous weapon when determining the sentence. In the cases with complete guideline application information reported to the Commission in fiscal year 2020, the sentences imposed in 9.9 percent of all cases were enhanced because a firearm or other dangerous weapon (e.g., knife) was involved in the offense, either through application of a specific offense characteristic under the sentencing guidelines or by statute.



Economic Offenses

A total of 6,005 offenders were sentenced under one of the basic economic crime guidelines in fiscal year 2020.³³ Cases involving theft, property destruction, or fraud were the largest portion of these cases (72.5%). The 4,823 fraud, theft, or embezzlement cases reported to the Commission accounted for the fourth largest portion (7.5%) of all federal criminal convictions for fiscal year 2020. These 4,823 cases were 24.5 percent less than the number of cases in 2019.

Approximately forty percent (39.2%) of economic crime offenders were White, 33.4 percent were Black, and 21.0 percent were Hispanic. Most were United States citizens (84.8%), and about three-fourths (73.7%) were male. These offenders were, on average, older and more educated than other offenders. Almost half of economic crime offenders were age 41 and older (45.1%) and 46.6 percent completed at least some college.

The losses in these cases ranged from no loss (in 492 cases) to \$485 million (in one case), with an average loss amount of \$1,427,331 and a median loss amount of \$51,281.



Organizational Offenses

Organizations such as corporations and partnerships can be prosecuted for violating federal criminal law, and 94 organizations were sentenced in fiscal year 2020, a decrease of 24 from the prior year. Among these defendants, 73.3 percent were corporations and 22.7 percent were limited liability companies. Sole proprietorships, partnerships, and associations each represented 1.3 percent. The number of organizational offenders has continued to trend downward from a peak of 304 in 2000.

Nearly two-thirds of organizational offenders (66.1%) had fewer than 50 employees. Only 9.7 percent had 1,000 or more employees. Around twenty percent (21.3%) of organizations were in the retail trade and about fifteen percent (14.9%) were in services.

Of the 94 organizational offenders, 93.6 percent pleaded guilty to one or more charges in fiscal year 2020. The most common crimes for which organizational defendants were convicted were fraud and environmental crimes. In 53 cases, a fine was the sole financial component of the sentence imposed. In an additional 12 cases, the organization was sentenced to pay restitution to the victim of the crime as well as to pay a fine. In 15 cases, the sole financial component of the sentence was the payment of restitution. Organizations were ordered to pay \$209,005,171 in restitution and \$428,255,502 in fines, for a total of \$637,260,673. No fine or restitution was imposed in 14 cases, although other sanctions were ordered in some of these cases. Additionally, of the 94 organizational offenders, 66 were sentenced to some term of probation, and 28 were ordered to institute, or make improvements to, a compliance or ethics program.



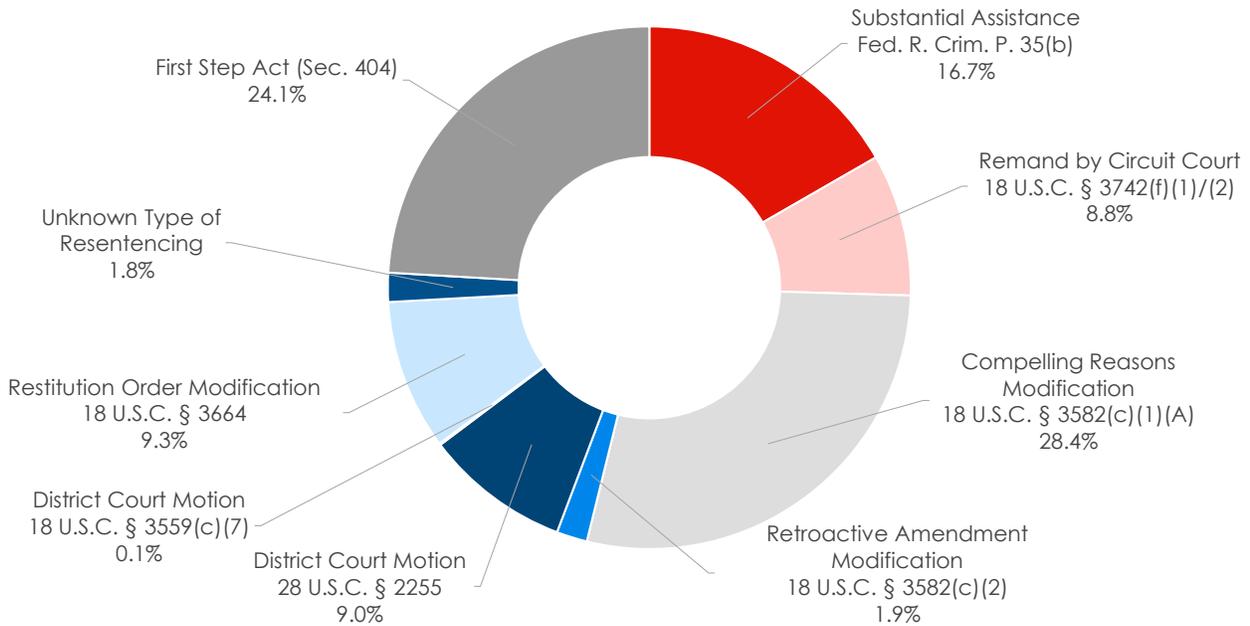
Resentencings and Other Modifications of Sentence

In fiscal year 2020, the Commission received documentation on 5,859 resentencings and other modifications of sentence. This represents a 14.0 percent increase from last year. Most of this increase came from orders granting “compassionate release”³⁴ to incarcerated offenders, largely due to concerns over the effect of COVID-19 among inmates in the federal prisons. Changes in the law made by the First Step Act of 2018³⁵ authorized offenders to seek this type of relief directly in federal court under certain conditions.³⁶ Those 1,662 cases accounted for 28.4 percent of all resentencings and modifications of sentence, larger than any other category.

Modifications of sentence under another section of the First Step Act, which applied to some offenders incarcerated for a crack cocaine offense,³⁷ accounted for another 24.1 percent (n=1,410) of all resentencings or sentence modifications. The third most common reason was sentence reductions for offenders who provided substantial assistance to the government in its investigation or prosecution of another person after the offender was sentenced. Those 981 cases accounted for 16.7 percent of all resentencings and other modifications of sentence.

The 1,662 compassionate release cases accounted for 28% of all resentencing and modifications in FY20.

Resentencings and Other Modifications of Sentence



Endnotes

1 The United States Sentencing Commission is an independent agency in the judicial branch of government. Its principal purposes are (1) to establish sentencing policies and practices for the federal courts, including guidelines to be consulted regarding the appropriate form and severity of punishment for offenders convicted of federal crimes; (2) to advise and assist Congress and the executive branch in the development of effective and efficient crime policy; (3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues; and (4) to devise and conduct seminars and workshops providing continuing studies for persons engaged in the sentencing field. 28 U.S.C. § 995(a)(12)–(20).

2 The Commission receives information from the courts on cases in which the defendant has been convicted of a felony or a Class A misdemeanor. See U.S. SENTENCING COMM'N, *Guidelines Manual*, §1B1.9 (Nov. 2018) [hereinafter USSG]. The fiscal year for the federal government begins on October 1 and ends on September 30. The fiscal year is designated by the calendar year in which it ends.

3 In fiscal year 2011, 86,201 individual offenders were sentenced. U.S. SENTENCING COMM'N, 2011 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS TABL.4 (2012), <https://www.usc.gov/research/sourcebook/archive/sourcebook-2011>.

4 Information on race of the offender is obtained from the Presentence Investigation Report and recorded in separate categories of race and ethnicity. Race data indicate whether the offender is White, Black, Native American or Alaskan Native, Asian or Pacific Islander, Multiracial, or "Other." Ethnicity data indicate whether an offender is of Hispanic origin. Offenders whose ethnic background is designated as Hispanic are represented as Hispanic in all analysis in this report regardless of racial background.

5 See USSG §4B1.1 for the definition of career offender.

6 See USSG §4B1.4 for the definition of armed career criminal.

7 In fiscal year 2000, the plea rate was 95.5%. It has not fallen below that level since. U.S. SENTENCING COMM'N, 2000 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS FIG.C (2001), <https://www.usc.gov/research/sourcebook/archive/sourcebook-2000>.

8 For more information concerning the use of alternative sentences in the federal system, see generally COURTNEY R. SEMISCH, U.S. SENTENCING COMM'N, *ALTERNATIVE SENTENCING IN THE FEDERAL CRIMINAL JUSTICE SYSTEM* (2015), https://www.usc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/alternatives/20150617_Alternatives.pdf.

9 Probation sentences are included in the calculation of average sentence as zero months. Almost half of food and drug offenders (48.5%) and environmental offenders (48.2%) received a sentence of probation with no type of confinement. More than 40 percent (42.4%) of food and drug offenders and 66.4% of environmental offenders were fined as part of their sentence.

10 U.S. SENTENCING COMM'N, 2020 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS 64 (2021), <https://www.usc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2020/2020-Annual-Report-and-Sourcebook.pdf>.

11 The sentencing guidelines recommend that courts “ordinarily should not impose a term of supervised release in a case in which supervised release is not required by statute and the defendant is a deportable alien who likely will be deported after imprisonment.” USSG §5D1.1(c).

12 The immigration guidelines are USSG §§2L1.1 (Alien Smuggling), 2L1.2 (Unlawful Entering or Remaining in the United States), 2L2.1 (Trafficking in Immigration Documents, or Making False or Fraudulent Immigration Statements), and 2L2.2 (Acquiring Fraudulent Immigration Documents). Complete guideline information was not available for the remaining immigration offenders.

13 This number also includes persons convicted of one or more crimes in addition to a drug offense.

14 *But see* MELISSA K. REIMER, U.S. SENTENCING COMM’N, *WEIGHING THE CHARGES: SIMPLE POSSESSION OF DRUGS IN THE FEDERAL CRIMINAL JUSTICE SYSTEM* (2016), https://www.usc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/201609_Simple-Possession.pdf (finding that much of the 400% increase in the number of simple possession cases between fiscal years 2008 and 2013 was attributable to marijuana cases in one district that involved quantities of the drug usually associated with drug trafficking).

15 *See* 2020 SOURCEBOOK, *supra* note 10; U.S. SENTENCING COMM’N, 2019 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS (2020), <https://www.usc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2019/2019-Annual-Report-and-Sourcebook.pdf>.

16 *See* 2020 SOURCEBOOK, *supra* note 10; U.S. SENTENCING COMM’N, 2008 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS (2009), <https://www.usc.gov/research/sourcebook/archive/sourcebook-2008>.

17 *See* 2020 SOURCEBOOK, *supra* note 10; U.S. SENTENCING COMM’N, 2016 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS (2017), <https://www.usc.gov/research/sourcebook/archive/sourcebook-2016>.

18 The drug trafficking guidelines are USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of a Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), 2D1.10 (Endangering Human Life While Manufacturing), or 2D1.14 (Narco-Terrorism).

19 For more information on the use of mandatory minimum penalties, *see* U.S. SENTENCING COMM’N, *AN OVERVIEW OF MANDATORY MINIMUM PENALTIES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM* (2017), https://www.usc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170711_Mand-Min.pdf. For information on the use of mandatory minimum penalties in drug cases, *see* U.S. SENTENCING COMM’N, *MANDATORY MINIMUM PENALTIES FOR DRUG OFFENSES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM* (2017), https://www.usc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171025_Drug-Mand-Min.pdf.

20 The Commission’s general practice has been to incorporate statutory minimum penalties into the structure of the guidelines. For example, in drug trafficking cases, the offense levels that correspond to the drug quantities that trigger the statutory mandatory minimum penalties provide for a sentencing range for an offender with no prior criminal history that includes the statutory penalty. The remaining sentencing ranges are extrapolated upward and downward from the guideline ranges that include the mandatory minimum penalties. *See generally* USSG, App. C, amend. 782 (effective Nov. 1, 2014).

21 For more information about the use of enhanced penalties in drug trafficking cases, see U.S. SENTENCING COMM'N, APPLICATION AND IMPACT OF 21 U.S.C. § 851: ENHANCED PENALTIES FOR FEDERAL DRUG TRAFFICKING OFFENDERS (2018), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2018/20180712_851-Mand-Min.pdf.

22 Some offenders received a sentence lower than the applicable statutory mandatory minimum punishment due to the operation of 18 U.S.C. § 3553(e) or (f). Subsection (e) authorizes courts to impose a sentence that is below a statutory mandatory minimum when the offender has provided substantial assistance to the government in investigating or prosecuting another offender. Subsection (f) requires courts to impose a sentence on a non-violent offender with no or limited criminal background without regard to a statutory mandatory minimum punishment when certain other conditions are met.

23 See 18 U.S.C. § 3553(f).

24 To be eligible, offenders must have no more than four criminal history points (as offenses are scored under the *Guidelines Manual*) not counting points resulting from 1-point prior offenses, have no 3-point prior offenses, and have no 2-point violent prior offenses.

25 Under the guidelines, offenders are assigned to one of six criminal history categories based on their prior criminal history. The criminal history score establishes the CHC for an offender. See generally USSG, Ch.4. The CHC, along with the final offense level, determines the sentencing range under the guidelines.

26 See USSG §3B1.2.

27 See USSG §3B1.1.

28 Firearms crime includes unlawful possession or transportation of firearms or ammunition; unlawful trafficking in explosives; possession of guns or explosives in a federal facility, a school, or on an aircraft; the use of fire or explosives to commit a felony; and the use of firearms or ammunition during a crime.

29 The primary firearms guidelines are USSG §§2K1.3 (Unlawful Receipt, Possession, or Transportation of Explosive Materials), 2K1.4 (Arson or Property Damage by Use of Explosives), 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition), 2K2.4 (Use of Firearm During or in Relation to Certain Crimes), and 2K2.5 (Possession of Firearm or Dangerous Weapon in Federal Facility or in School Zone).

30 *I.e.*, a case in which 18 U.S.C. § 922(g)(1) was a statute of conviction.

31 *I.e.*, a case in which 18 U.S.C. § 924(c) was a statute of conviction.

32 Mandatory minimum penalties apply to violations of 18 U.S.C. § 924(c) and some violations of 18 U.S.C. § 922(g).

33 The basic economic offense guidelines include USSG §§2B1.1 (Theft, Property Destruction, and Fraud Offenses), 2B1.4 (Insider Trading), 2B1.5 (Cultural Heritage Resources), 2B2.1 (Burglary), 2B3.1 (Robbery), 2B3.2 (Extortion), 2B4.1 (Bribery), 2B5.1 (Counterfeiting), and 2B5.3 (Copyright).

34 See 18 U.S.C. § 3582(c)(1)(A) (authorizing court to reduce a term of imprisonment when “extraordinary and compelling reasons warrant such a reduction.”); see also USSG §1B1.13 (Reduction in Term of Imprisonment Under 18 U.S.C. § 3582(c)(1)(A) (Policy Statement)) for additional requirements that apply in these cases.

35 The First Step Act of 2018 (Pub. L. No. 115-391 (2018)) went into effect on December 21, 2018. Section 603 of the Act amended section 3582(c)(1)(A) of title 18 to authorize “defendants” (*i.e.*, inmates) to file a motion for compassionate release “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier.” Pub. L. No. 115–391, § 603, 132 Stat. 5194.

36 Previously, only the Director of the Bureau of Prisons could make a motion for compassionate release.

37 Section 404 of the First Step Act provides that any defendant sentenced before the effective date of the Fair Sentencing Act of 2010, which was August 3, 2010, who did not receive the benefit of the statutory penalty changes made by that Act is eligible for a sentence reduction “as if Sections 2 and 3 of the Fair Sentencing Act of 2010 were in effect at the time the covered offense was committed.” Pub. L. No. 115–391, § 404(b), 132 Stat. 5194. Section 2 of the Fair Sentencing Act increased the quantity of crack cocaine that triggered mandatory minimum penalties while section 3 of that Act eliminated the statutory mandatory minimum sentence for simple possession of crack cocaine. See Pub L. No. 111–220, § 2–3, 124 Stat. 2372. The First Step Act authorizes the defendant, the Director of the Bureau of Prisons, the attorney for the Government, or the court to make a motion to reduce an offender’s sentence.



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For More Information

More information on federal sentencing data can be found in the Commission's *2020 Sourcebook of Federal Sentencing Statistics*, its *Guideline Application Frequencies for Fiscal Year 2020*, and the publications in its *Research Notes* series. The *Sourcebook* is available in hard copy format through the Commission. These documents, together with other reports on sentencing data, are also available in electronic format at the Commission's website at www.ussc.gov.

Selected federal sentencing data is also available through the Commission's online Interactive Data Analyzer or "IDA." The IDA tool enables users to easily examine data from multiple fiscal years, and to sort data by judicial district or circuit as well as by demographic variables, crime type, and sentencing guideline. IDA is available at <https://ida.ussc.gov>.

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