



Commission Updates

Western District of Arkansas

June 11, 2025

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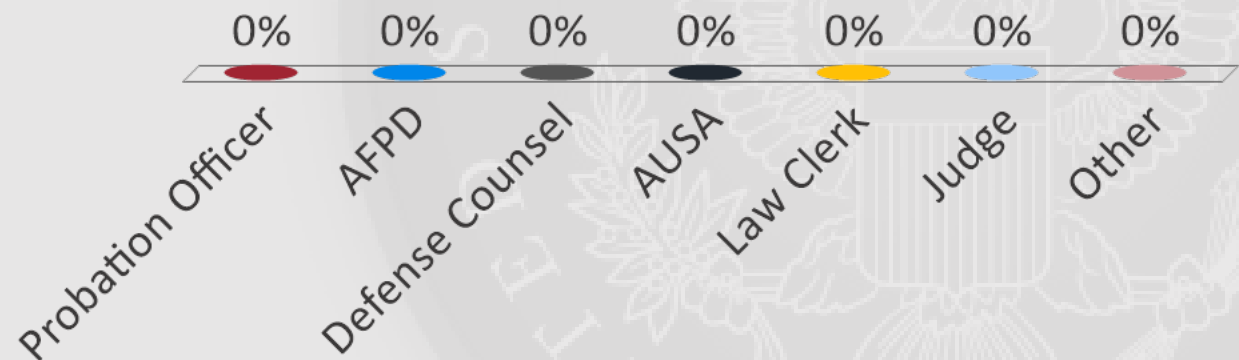
Office of Education and Sentencing Practice

[Online HelpLine Form](#)



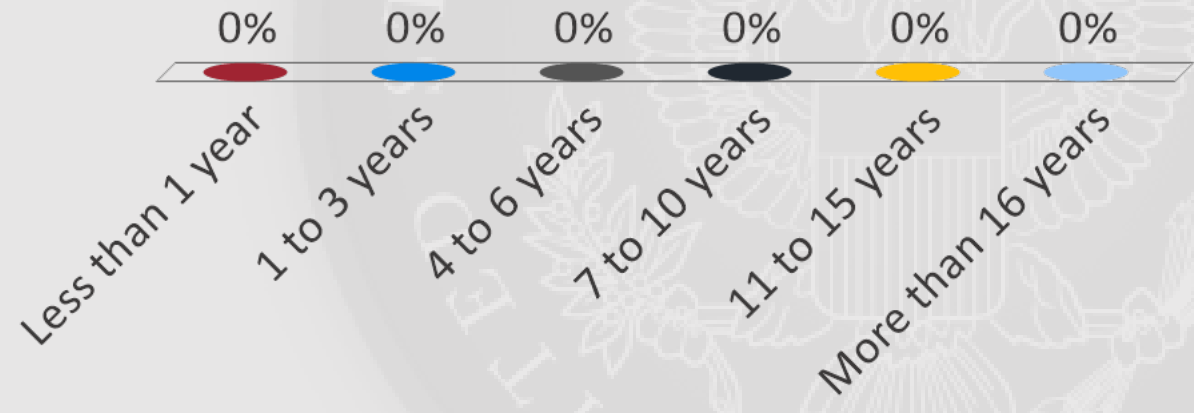
What is your current position?

- A. Probation Officer**
- B. ACPD**
- C. Defense Counsel**
- D. AUSA**
- E. Law Clerk**
- F. Judge**
- G. Other**



How many years of experience do you have with the federal sentencing guidelines?

- A. Less than 1 year**
- B. 1 to 3 years**
- C. 4 to 6 years**
- D. 7 to 10 years**
- E. 11 to 15 years**
- F. More than 16 years**



Topics

National and District Sentencing Data

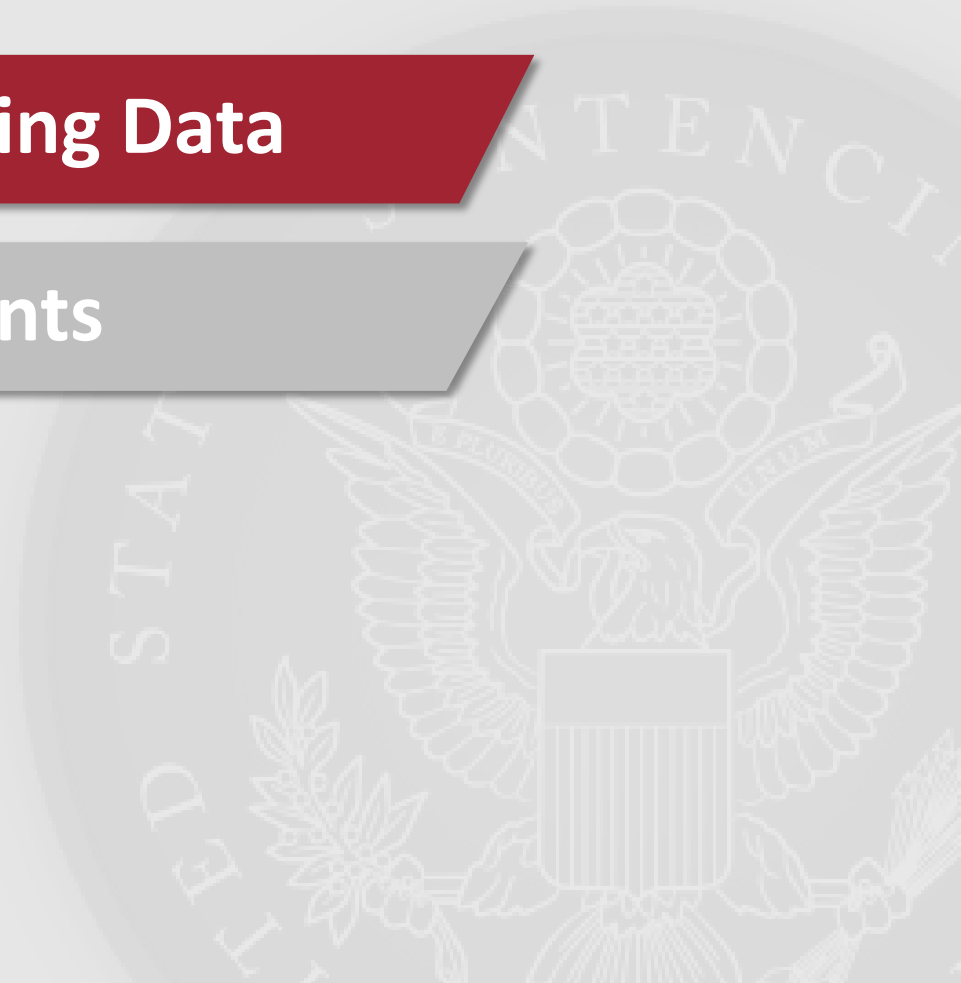
2025 Promulgated Amendments



Topics

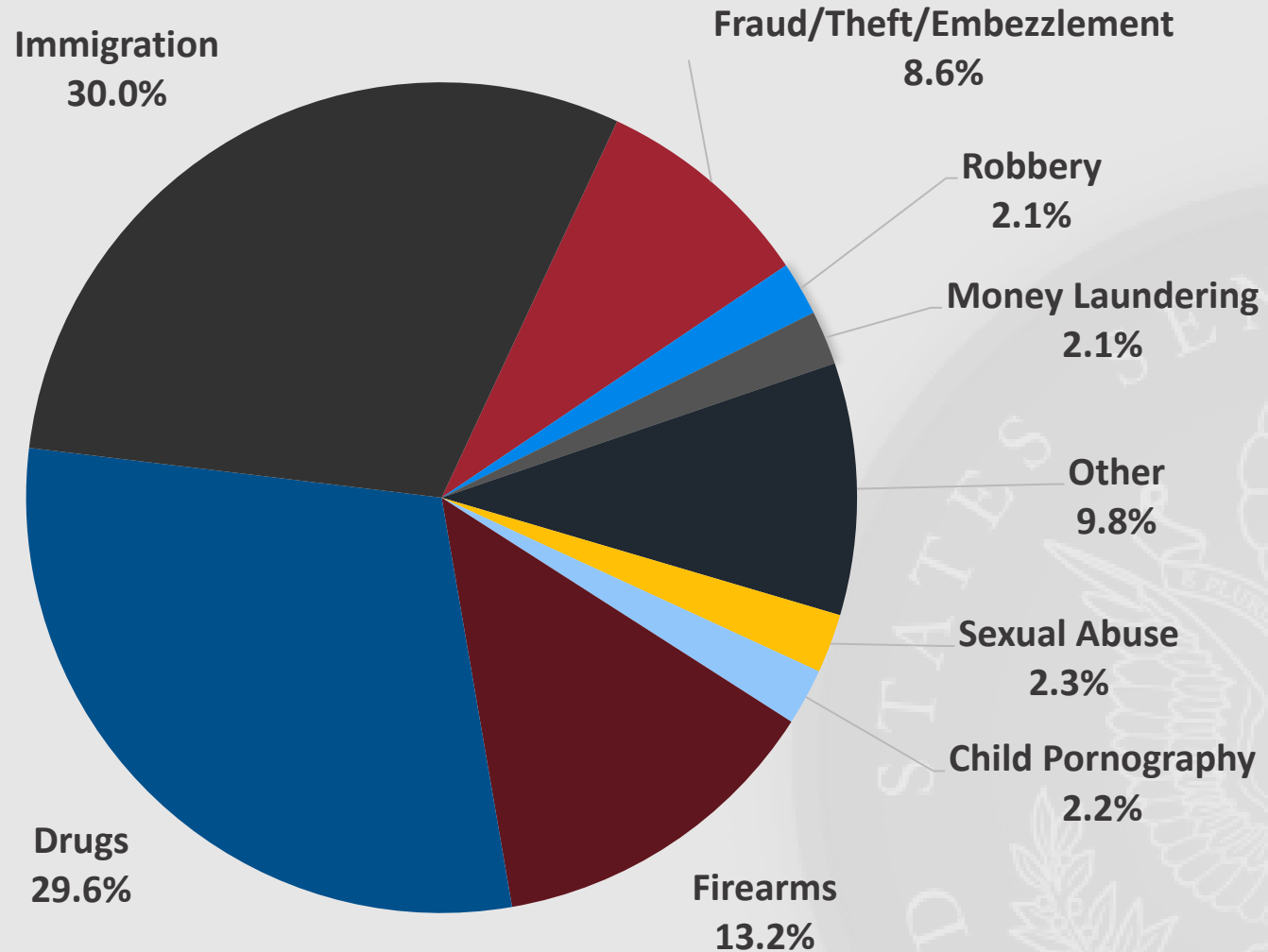
National and District Sentencing Data

2025 Promulgated Amendments



Primary Offense Type

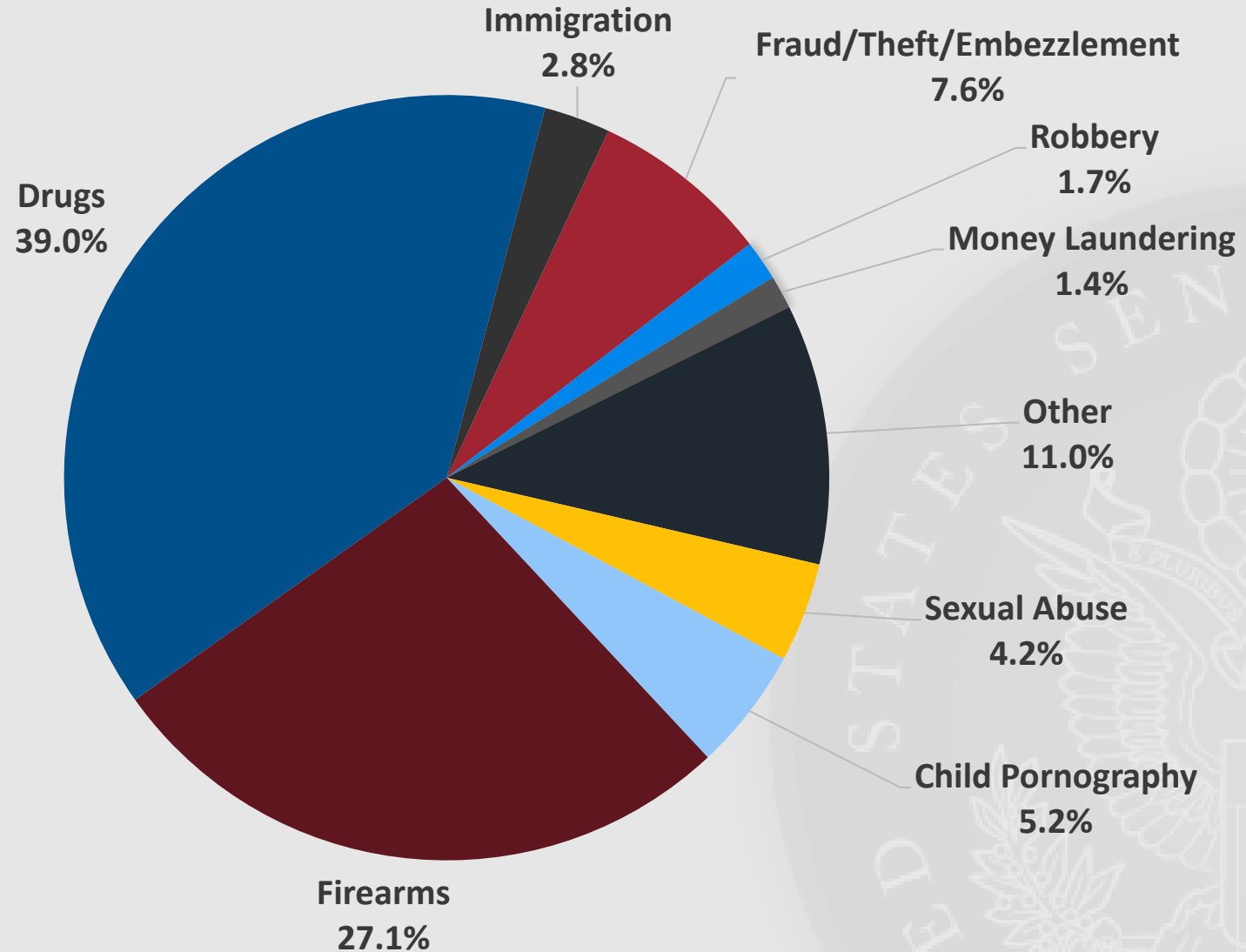
National – FY2024



SOURCE: 2024 USSC Datafile (N = 61,678 Cases)

Primary Offense Type

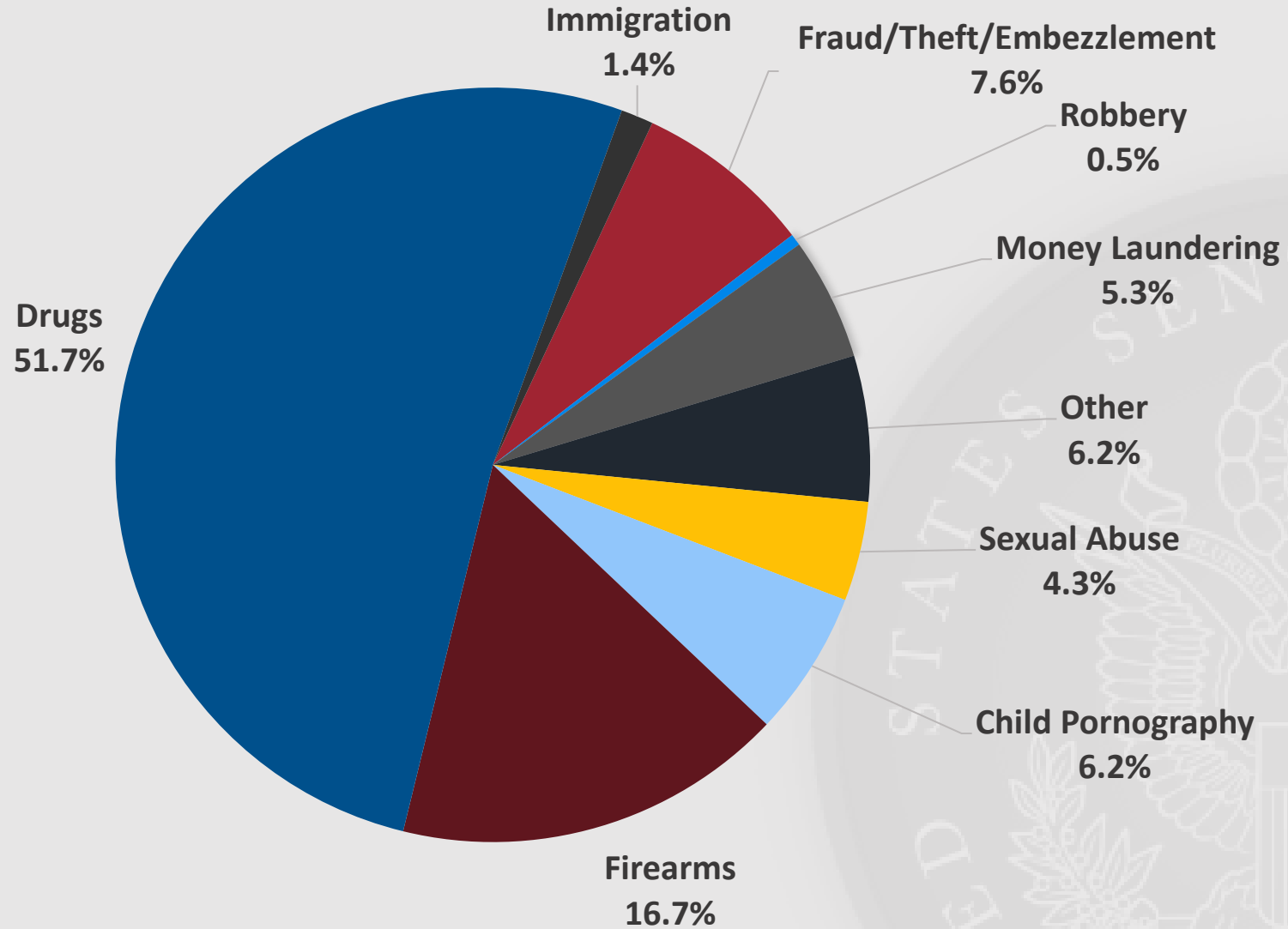
8th Circuit – FY2024



SOURCE: 2024 USSC Datafile (N = 4864 Cases)

Primary Offense Type

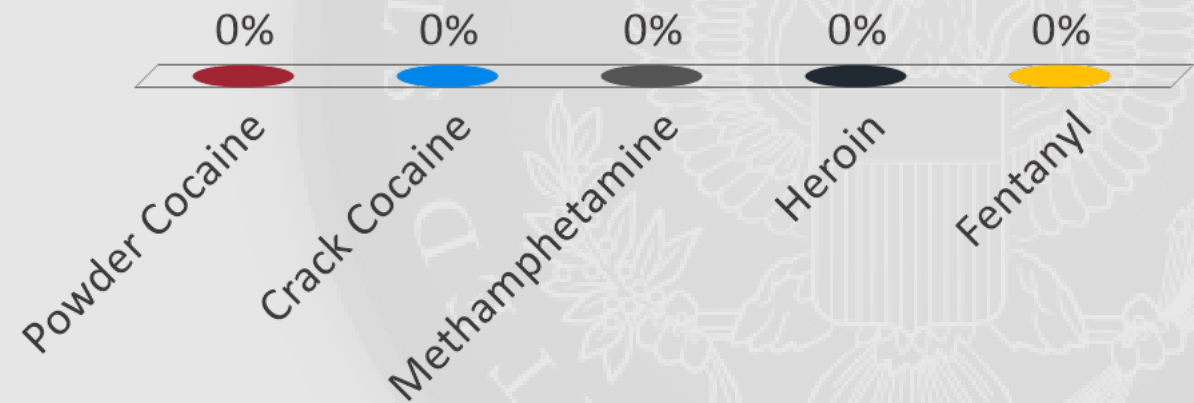
Western District of Arkansas – FY2024



SOURCE: 2024 USSC Datafile (N = 207 Cases)

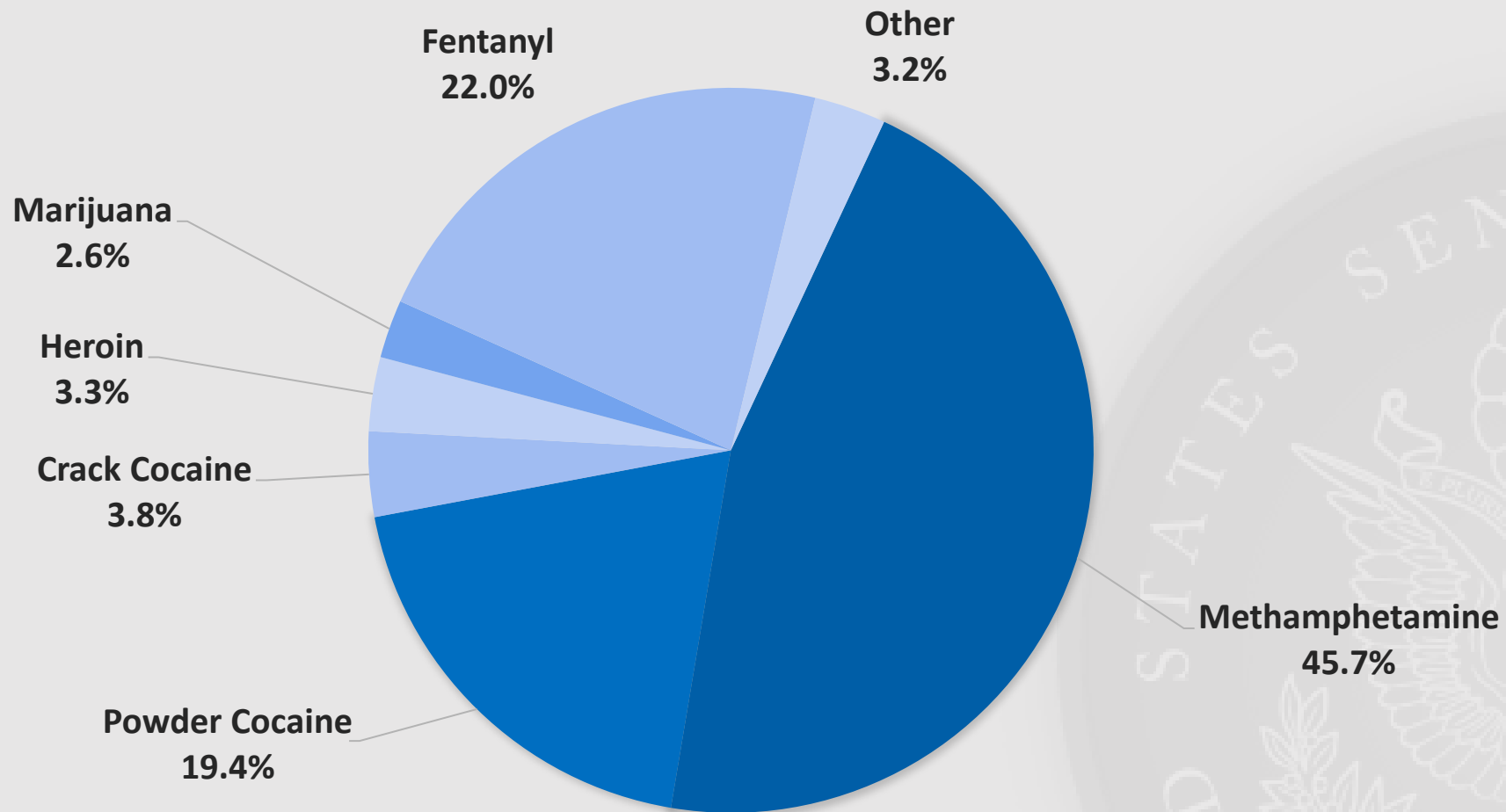
What is the most common primary drug type nationally?

- A. Powder Cocaine**
- B. Crack Cocaine**
- C. Methamphetamine**
- D. Heroin**
- E. Fentanyl**



Primary Drug Types

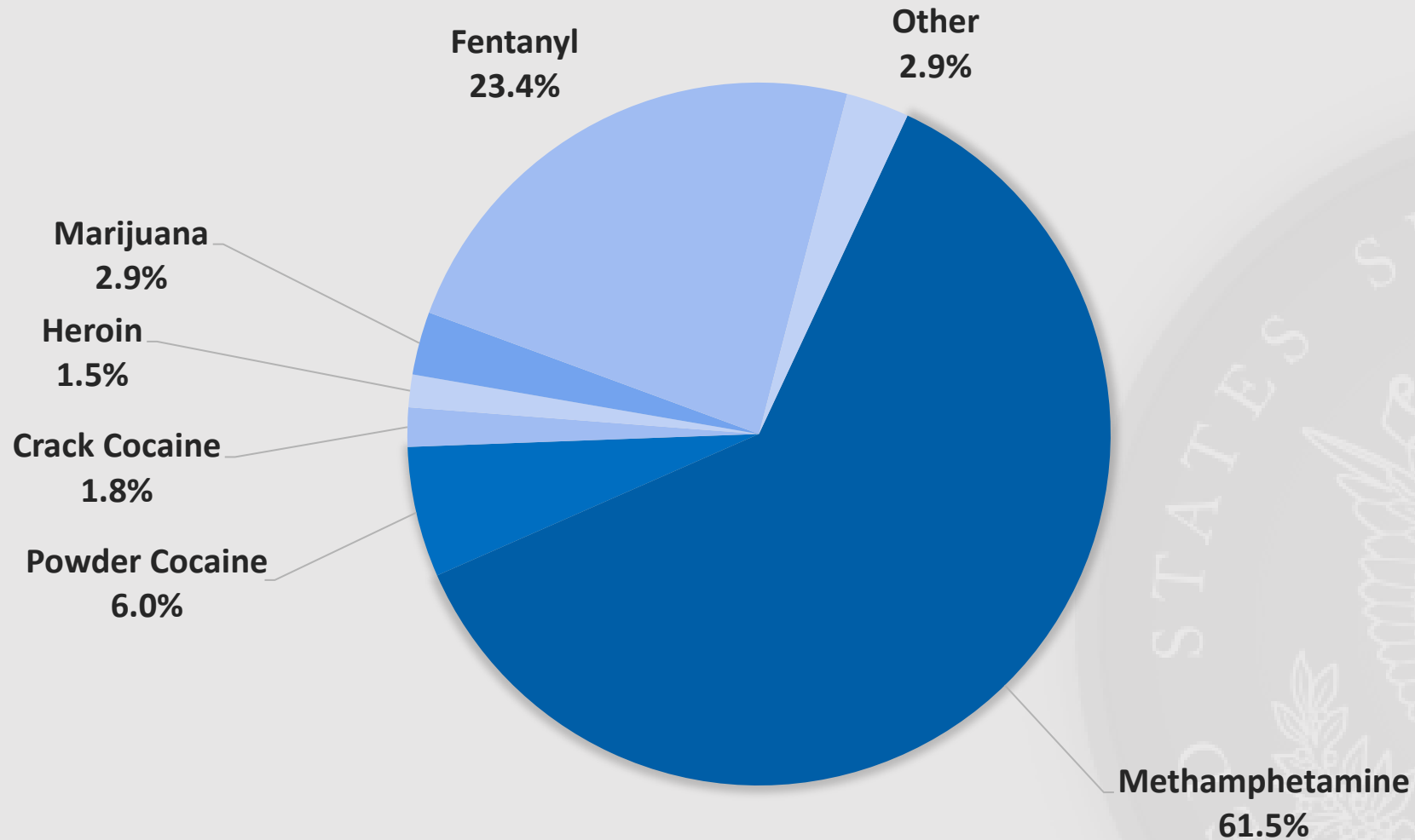
National – FY2024



SOURCE: 2024 USSC Datafile (N = 18,150 Cases)

Primary Drug Types

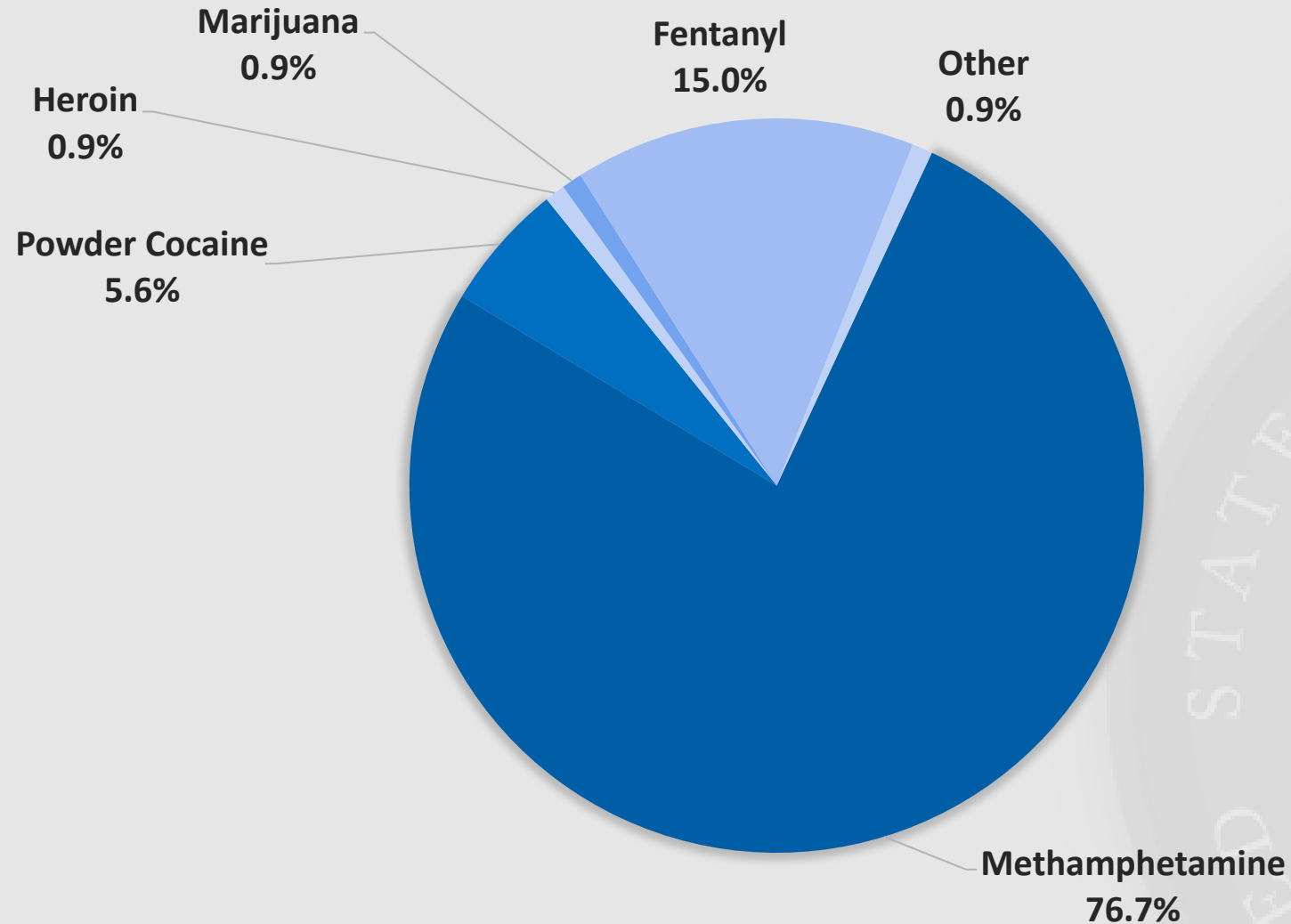
8th Circuit – FY2024



SOURCE: 2024 USSC Datafile (N = 1907 Cases)

Primary Drug Types

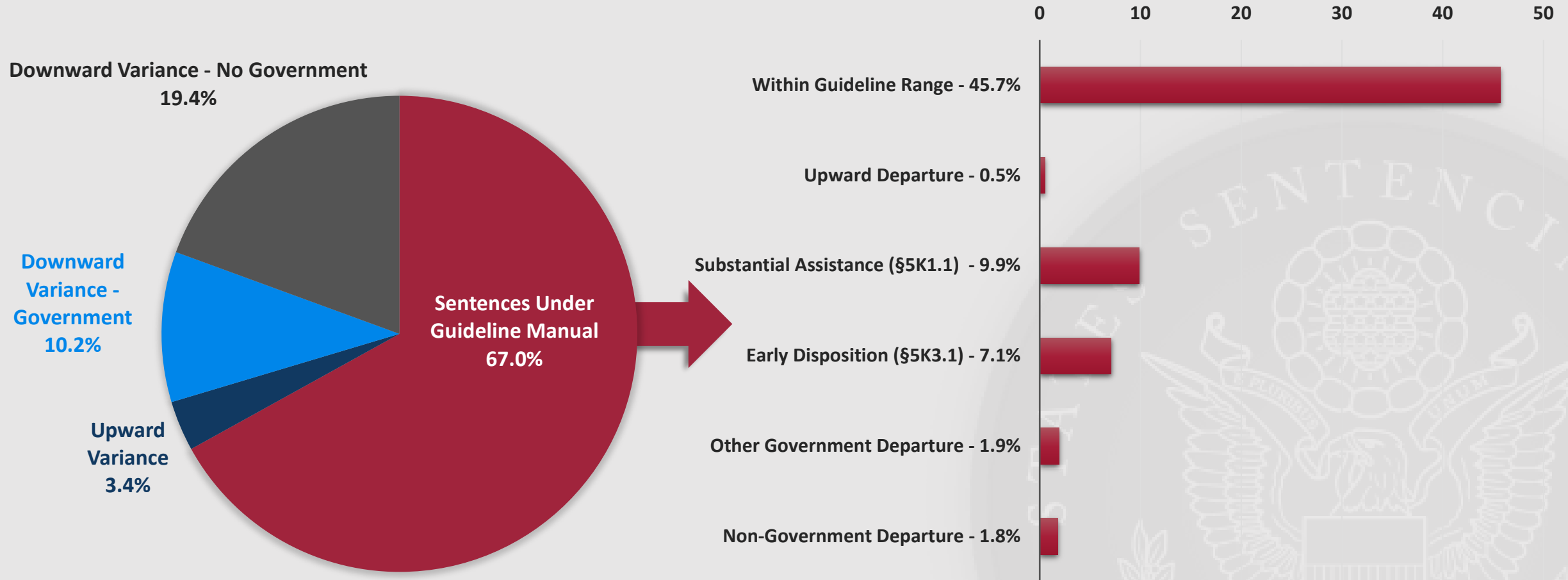
Western District of Arkansas – FY2024



SOURCE: 2024 USSC Datafile (N = 107 Cases)

Sentences in Relation to Guideline Range

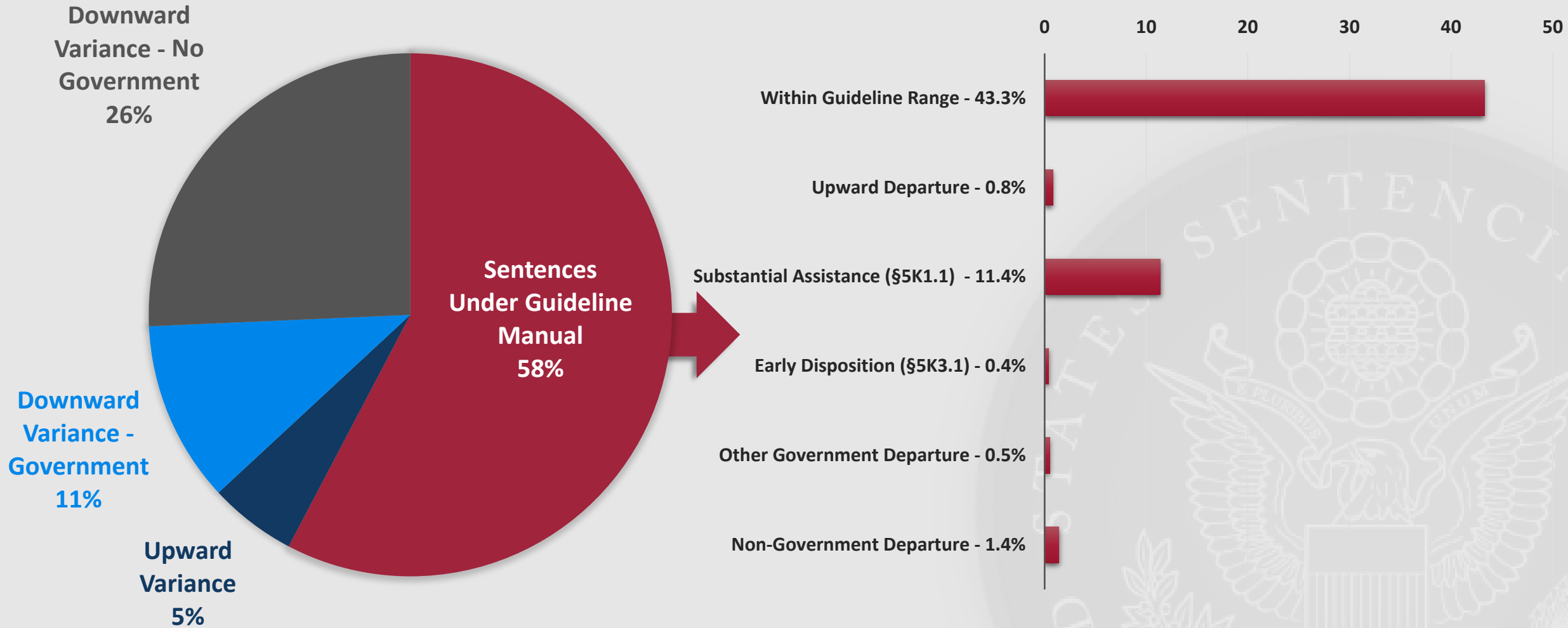
National – FY2024



SOURCE: 2024 USSC Datafile (N = 61,331 Cases)

Sentences in Relation to Guideline Range

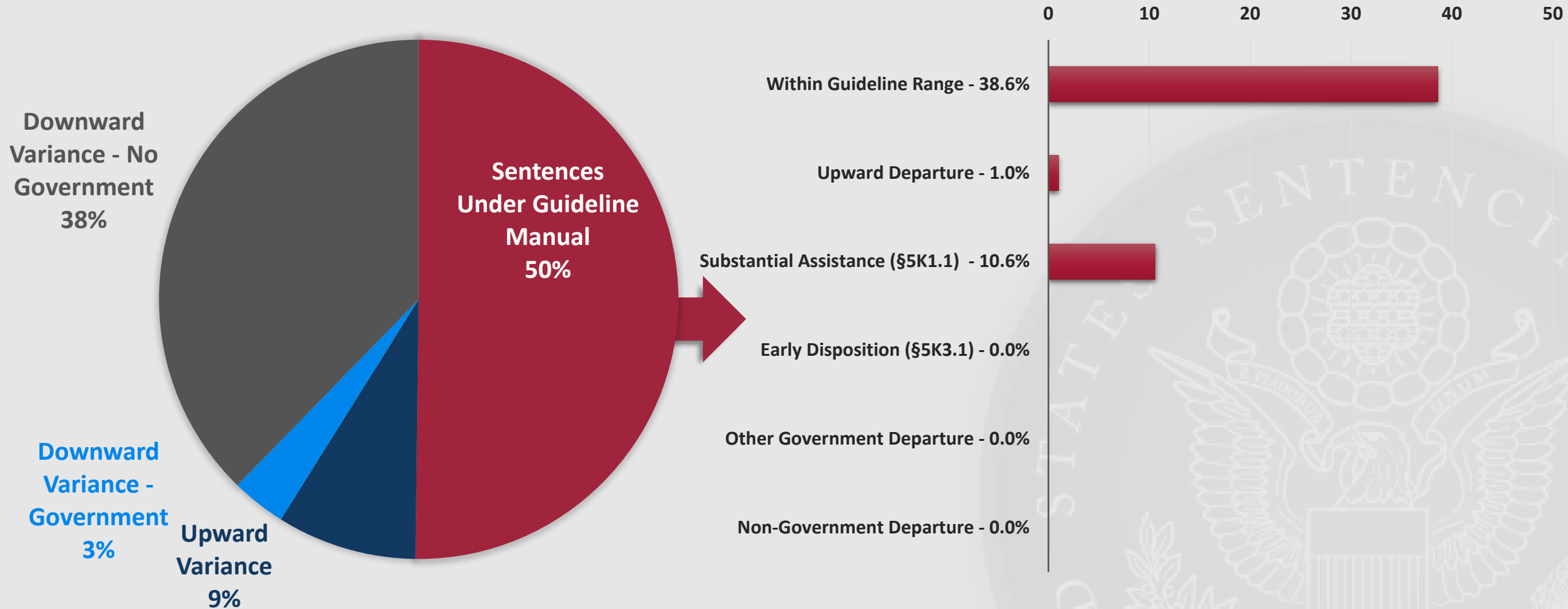
8th Circuit – FY2024



SOURCE: 2024 USSC Datafile (N = 48,58Cases)

Sentences in Relation to Guideline Range

Western District of Arkansas – FY2024



SOURCE: 2024 USSC Datafile (N = 207 Cases)

Topics

National and District Sentencing Data

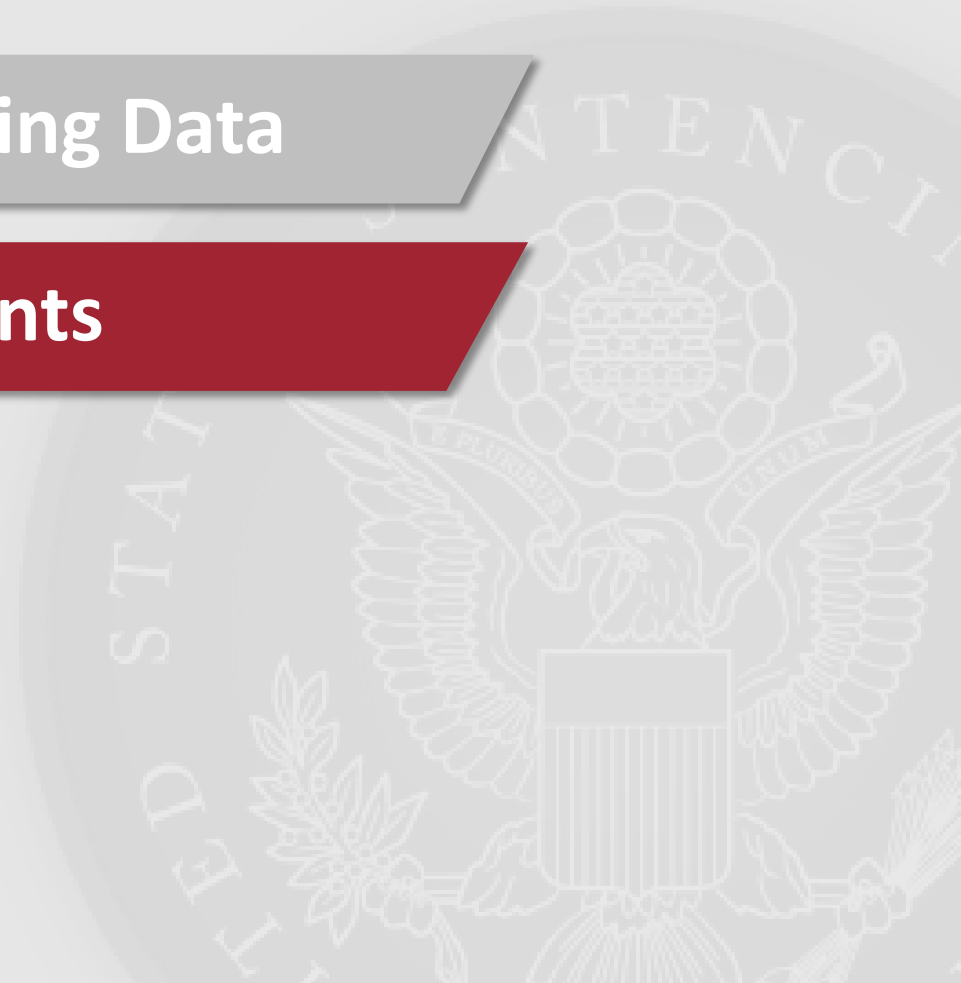
2025 Promulgated Amendments



Topics

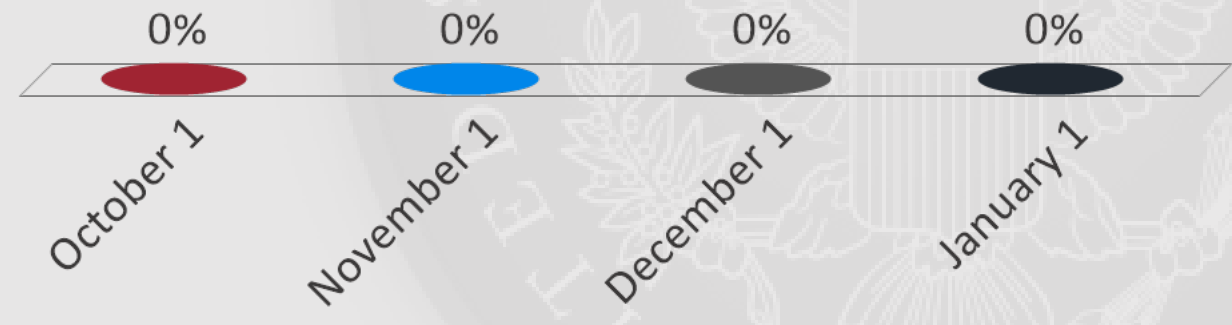
National and District Sentencing Data

2025 Promulgated Amendments



When do the Sentencing Guideline amendments go into effect?

- A. October 1**
- B. November 1**
- C. December 1**
- D. January 1**



Amendment Cycle



2025

Promulgated Amendments

 Supervised Release

 Drug Offenses

 Firearms Offenses

 Circuit Conflicts

 Simplification



Supervised Release

Overarching Themes



**Rehabilitation &
Public Safety**



**Individualized
Assessments**



**Consider All
Statutory Options**



**Promote Judicial
Discretion**



Supervised Release

A

Implementation

B

Violations

A

Implementation

Imposition

§5D1.1

Length

§5D1.2

Conditions

§5D1.3

**Modification,
Early Termination,
& Extension**

§5D1.4

Imposition

§5D1.1



Statutorily Required
for Some Offenses



Individualized
Assessment



State Reasons in
Open Court



FSA Time Credits

A

Implementation

Imposition

§5D1.1

Length

§5D1.2

Conditions

§5D1.3

**Modification, Early
Termination, &
Extension**

§5D1.4

Length

§5D1.2



Individualized **Assessment**



Removes Recommended
Minimum Terms



Not More than
Statutory Maximum



State Reasons in
Open Court

A

Implementation

Imposition

§5D1.1

Length

§5D1.2

Conditions

§5D1.3

**Modification, Early
Termination, &
Extension**

§5D1.4

Conditions

§5D1.3



**Individualized Assessment
for Discretionary Conditions**



**May Modify, Expand,
or Omit “Standard” Conditions**



New “Special” Conditions

Sex Offenses: No Contact

Victim Offenses: No Contact

Educational or Vocational Training

A

Implementation

Imposition

§5D1.1

Length

§5D1.2

Conditions

§5D1.3

**Modification, Early
Termination, &
Extension**

§5D1.4

Modification, Early Termination, & Extension

§5D1.4



Modification

§ 3583(e)(2)



Early Termination

§ 3583(e)(1)



Extension

§ 3583(e)(2)



Modification

§ 3583(e)(2)



**Reassessment
after Release**



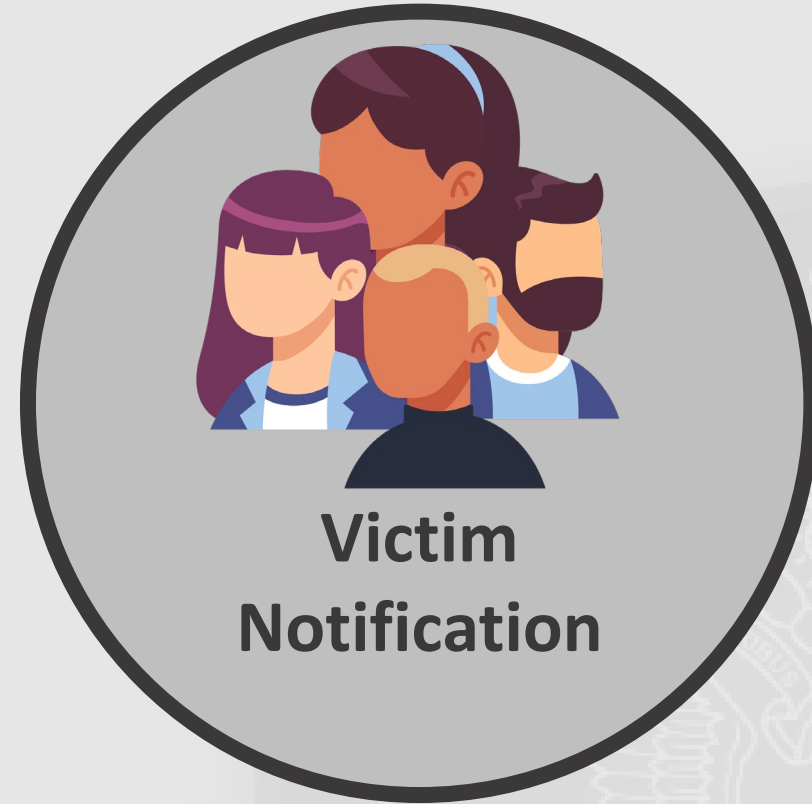
Modification

§ 3583(e)(2)



Early Termination

§ 3583(e)(1)



**Victim
Notification**



Early Termination

§ 3583(e)(1)





Supervised Release

A

Implementation

B

Violations

B

Violations

Overall Structure

Introduction

Responses to Violations

§7C1.3

Revocation

§7C1.4

Revocation Table

§7C1.5

Overall Structure

Introduction

**Reflects Different
Purposes**



Overall Structure

Introduction

Probation

Remains Unchanged

Part B



Overall Structure

Introduction



Individualized Assessment

- Rehabilitation
- Public Safety
- Efficient Resource Allocation

Promulgated Part C

Supervised
Release

B

Violations

Overall Structure

Introduction

Responses to Violations

§7C1.3

Revocation

§7C1.4

Revocation Table

§7C1.5

Responses to Violations

§7C1.3



**Statutorily Required
in Some Cases**



**Individualized
Assessment**



**Revocation
(Violation Grade Guidance)**



Summons

B

Violations

Overall Structure

Introduction

Responses to Violations

§7C1.3

Revocation

§7C1.4

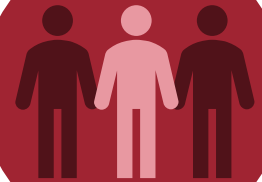
Revocation Table

§7C1.5

Revocation

§7C1.4

Length of Imprisonment – Individualized Assessment



Revocation Sentence

&

New Crime Sentence

Consecutive Generally Appropriate

B

Violations

Overall Structure

Introduction

Responses to Violations

§7C1.3

Revocation

§7C1.4

Revocation Table

§7C1.5

Revocation Table

§7C1.5

Retroactive Criminal History Amendments



2025

Promulgated Amendments

 Supervised Release

 Drug Offenses

 Firearms Offenses

 Circuit Conflicts

 Simplification



Drug Offenses

A

Mitigating Role

B

Fentanyl Misrepresentation

A

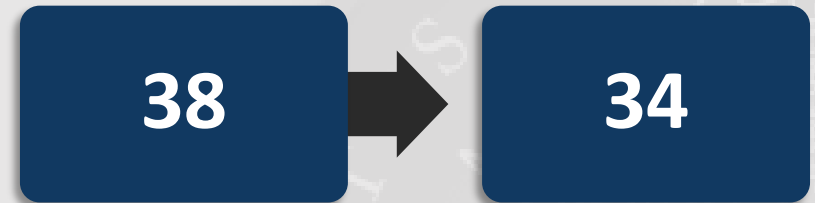
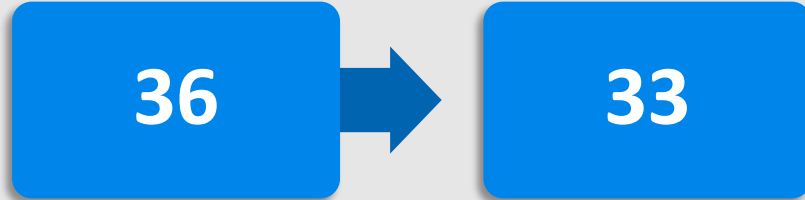
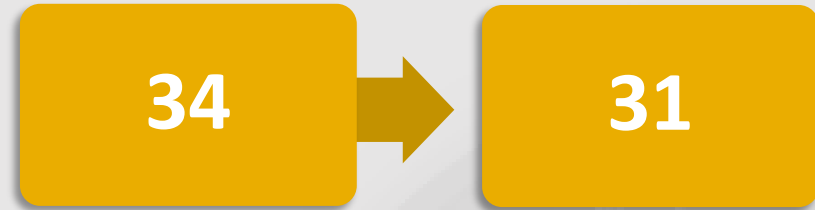
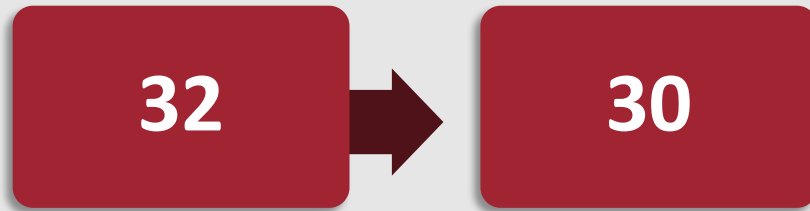
Mitigating Role

Mitigating Role Cap

Special Instruction

Mitigating Role Cap

Current §2D1.1(a)(5)



Mitigating Role Cap

Promulgated §2D1.1(a)(5)

32



30

34



31

36

or

38



32

Minimal



30

Promulgated

A

Mitigating Role

Mitigating Role Cap

Special Instruction

Role

Current §3B1.2

(a) Minimal Participant

-4

Levels

(b) Minor Participant

-2

Levels

-3

Levels

Role

Current §3B1.2

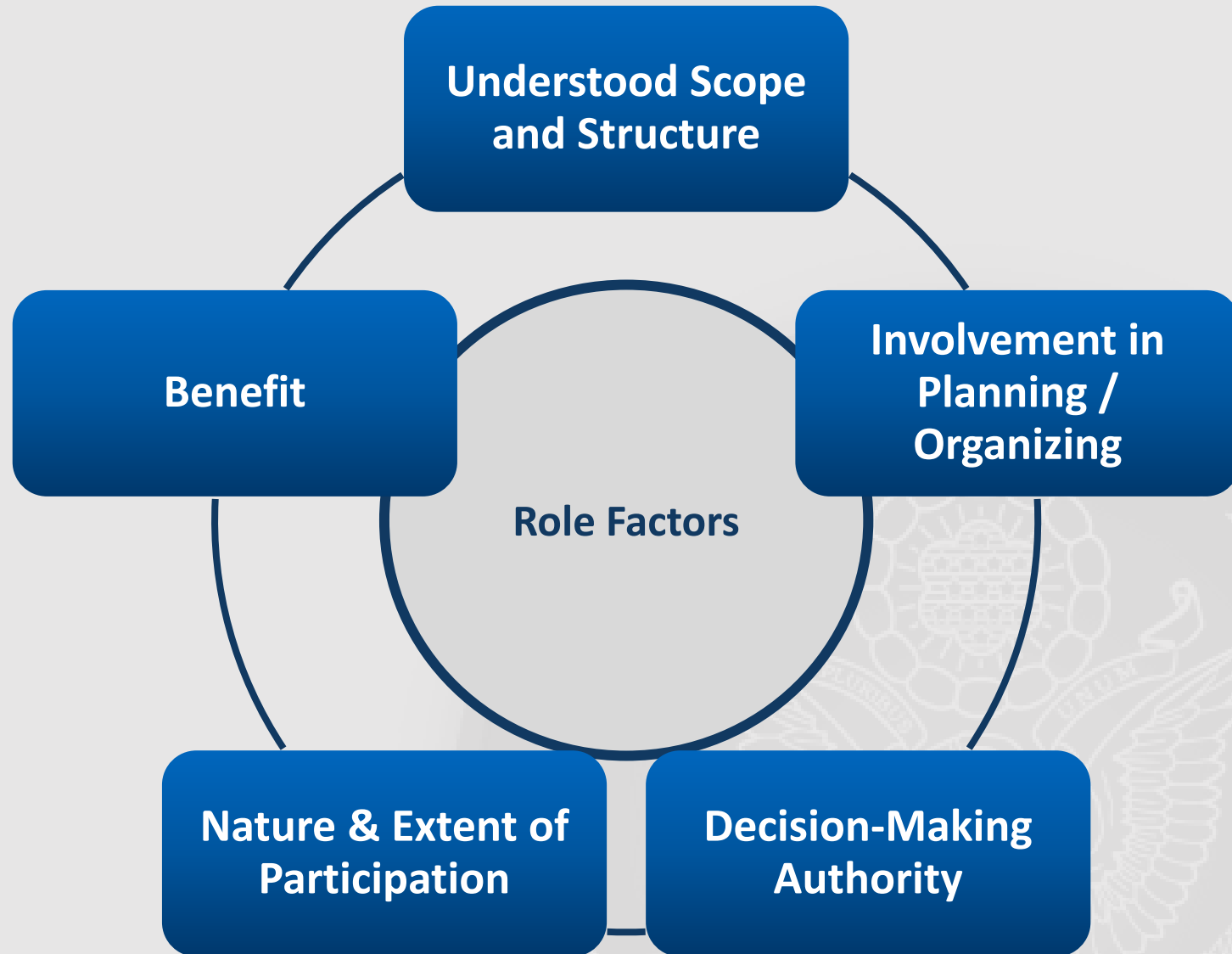
Other Participants

Need Not Be Charged

**Substantially Less Culpable than
Others in the Offense**

Role

Current §3B1.2



Special Instruction

Promulgated §2D1.1(e)

Role

Current §3B1.2

Function

Promulgated §2D1.1(e)

Function

Promulgated §2D1.1(e)

(B) In addition to the circumstances identified in §3B1.2, an adjustment under §3B1.2 is *generally warranted* if the defendant's *primary function* in the offense was performing a *low-level trafficking function*.

Function

Promulgated §2D1.1(e)

(a)

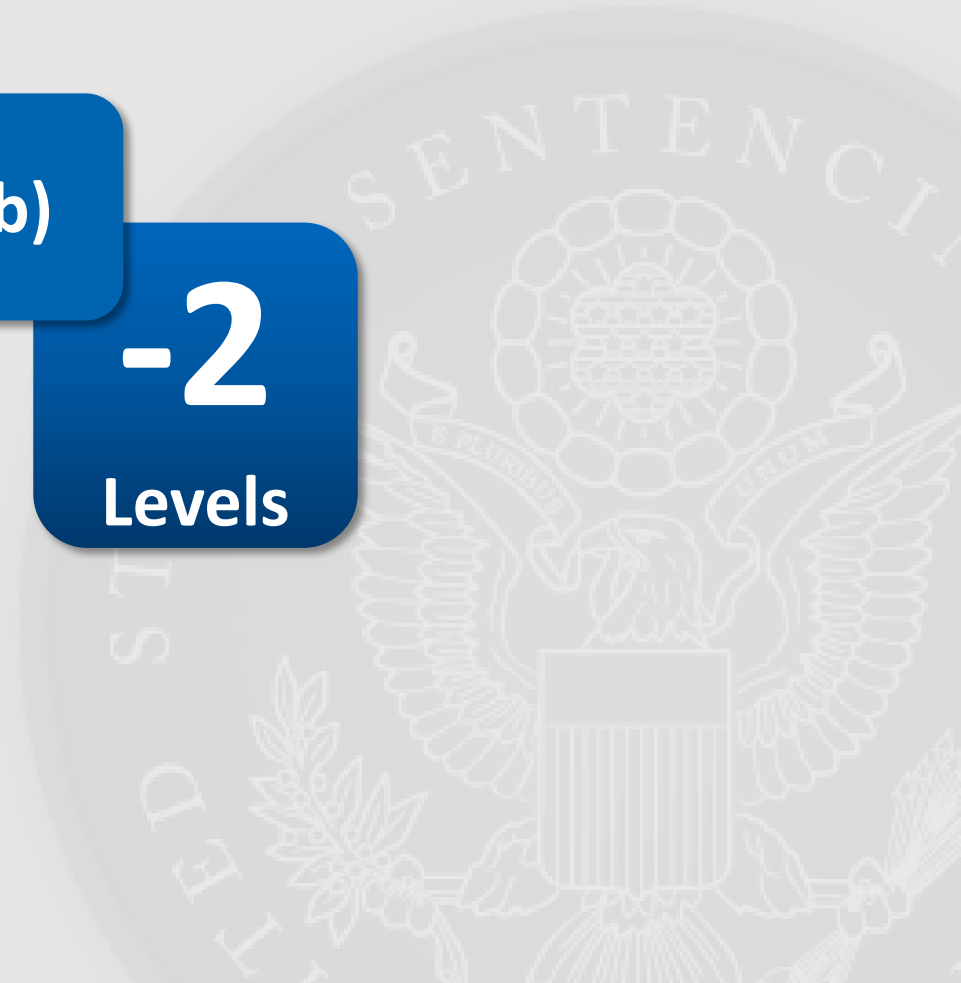
-4

Levels

(b)

-2

Levels



Function

Promulgated §2D1.1(e)

-4

Levels

(a)

**Generally Warranted for
Plainly Lowest-Level Functions**

Couriers, Lookouts, Errand Runners

- (i) An adjustment under §3B1.2(a) is generally warranted if the defendant's primary function in the offense was *plainly among the lowest level* of drug trafficking functions, such as serving as a *courier, running errands, sending or receiving phone calls or messages, or acting as a lookout . . .*

Function

Promulgated §2D1.1(e)

-4

Levels

(a)

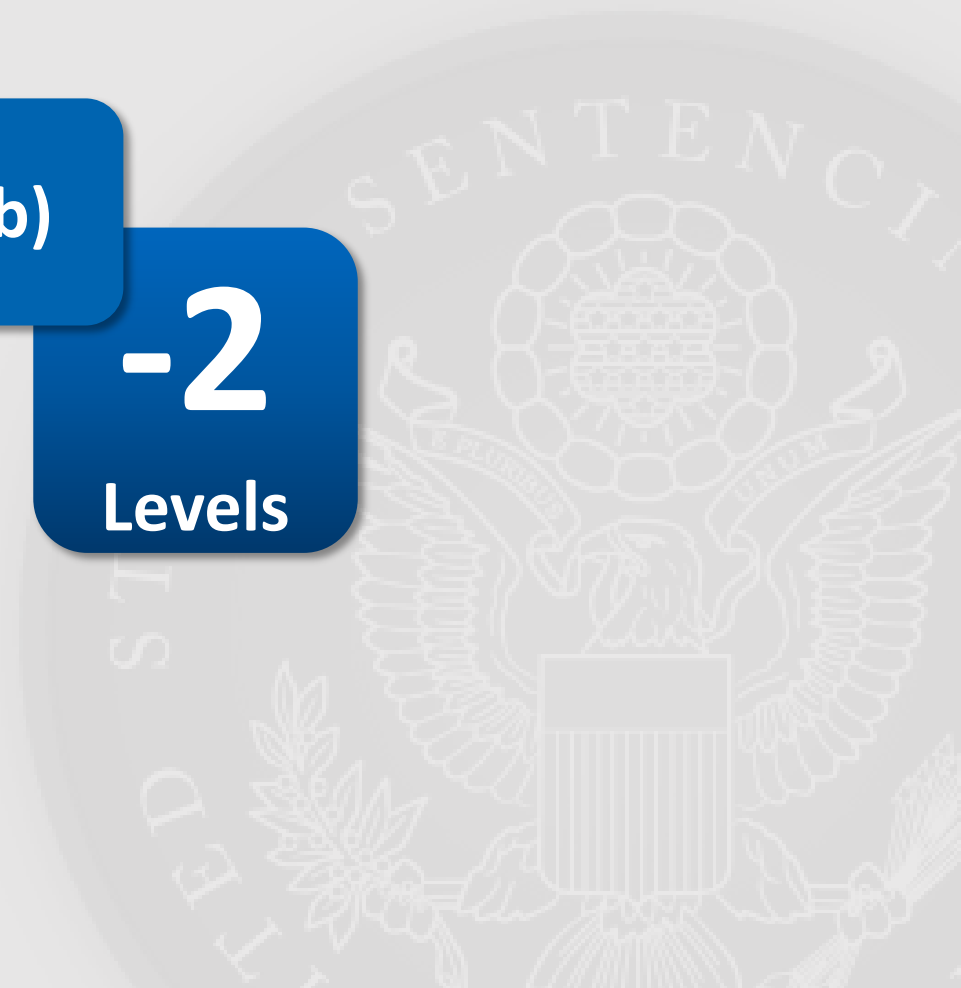
***Generally Warranted for
Plainly Lowest-Level Functions***

Couriers, Lookouts, Errand Runners

(b)

-2

Levels



Function

Promulgated §2D1.1(e)

-4

Levels

(a)

***Generally Warranted for
Plainly Lowest-Level Functions***

Couriers, Lookouts, Errand Runners

-2

Levels

(b)

***Generally Warranted for
Other Low-Level Functions***



Function

Promulgated §2D1.1(e)

- (ii) an adjustment under §3B1.2(b) is generally warranted if the defendant's primary function in the offense was performing *another low-level trafficking function*, such as *distributing controlled substances in user-level quantities for little or no monetary compensation or with a primary motivation other than profit* (e.g., the defendant was otherwise unlikely to commit such an offense and was motivated by an intimate or familial relationship, or by threats or fear to commit the offense).

(b)

-2

Levels

**Generally Warranted for
Other Low-Level Functions**

Certain User-Level Dealers

Function

Promulgated §2D1.1(e)

-4

Levels

(a)

***Generally Warranted for
Plainly Lowest-Level Functions***

Couriers, Lookouts, Errand Runners

-2

Levels

(b)

***Generally Warranted for
Other Low-Level Functions***

Certain User-Level Dealers

Function

Promulgated §2D1.1(e)

Other Participants



Substantially Less Culpable
than Others in the Offense



Other Provisions of §3B1.2



Special Instruction

Promulgated §2D1.1(e)

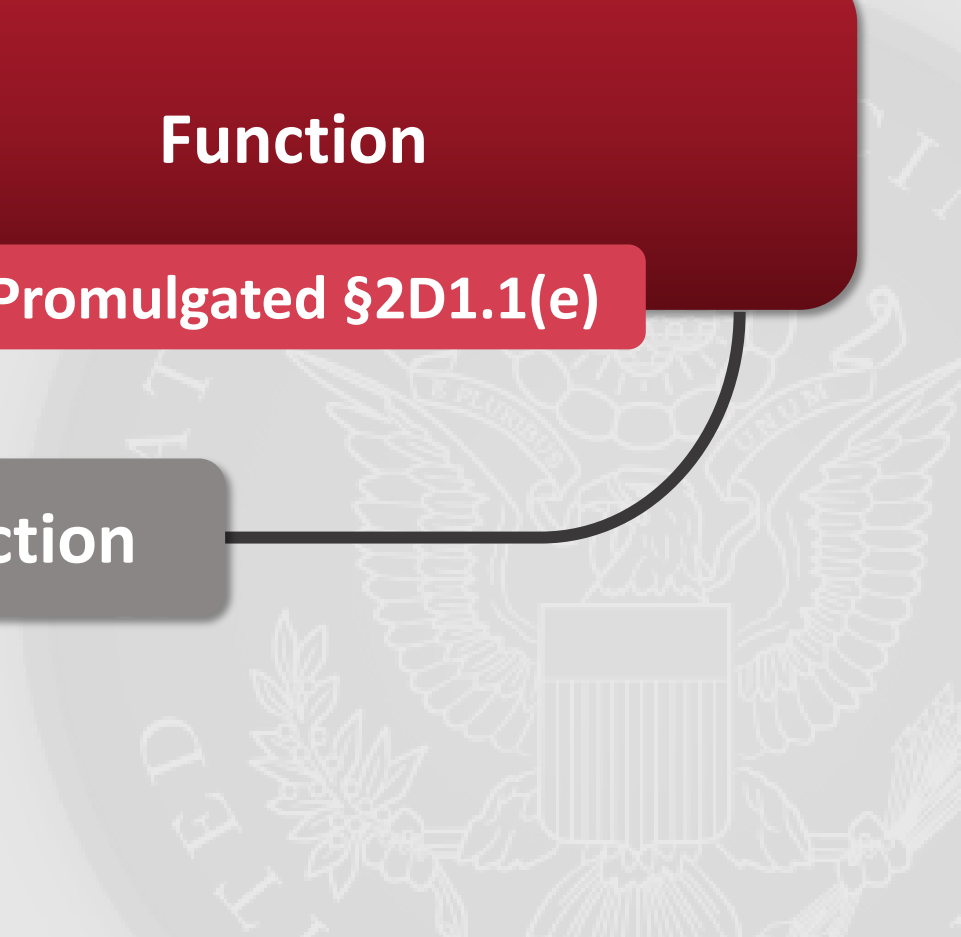
Role

Current §3B1.2

Function

Promulgated §2D1.1(e)

Apply the Greatest Reduction



John Smith was arrested while attempting to enter the United States in Texas with two kilograms of methamphetamine. Mr. Smith qualified as a minor participant under §3B1.2. In addition, because he was serving as a courier, his primary function in the drug trafficking was plainly among the lowest level of drug trafficking functions.

In light of the special instruction at §2D1.1(e), what §3B1.2 adjustment should Mr. Smith receive apply?

A. -2

B. -4

C. -6

D. -8



Special Instruction

Promulgated §2D1.1(e)

Role

-2

§3B1.2

Function

-4





Drug Offenses

A

Mitigating Role

B

Fentanyl Misrepresentation

B

Fentanyl Misrepresentation

Current §2D1.1(b)(13)

Defendant

knowingly misrepresented or knowingly marketed as another substance

+4

represented or marketed as a
legitimately manufactured drug

&

willful blindness or
conscious avoidance of knowledge

+2

B

Fentanyl Misrepresentation

Promulgated §2D1.1(b)(13)

Defendant

knowingly misrepresented or knowingly marketed as another substance

+4

represented or marketed as a
legitimately manufactured drug

&

reckless disregard

+2

Promulgated

2025

Promulgated Amendments

 Supervised Release

 Drug Offenses

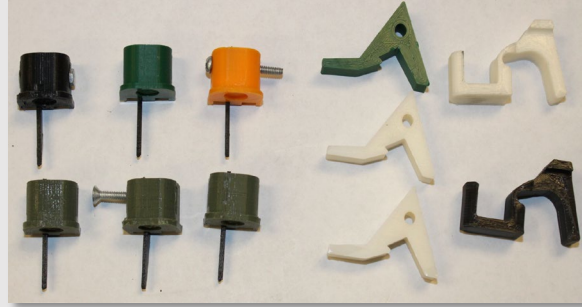
 Firearms Offenses

 Circuit Conflicts

 Simplification



Firearms Offenses



**Machinegun
Conversion Devices
(MCD)**



Firearms Offenses

“Machinegun” Definition

26 U.S.C. § 5845(b)

The term “**machinegun**” includes:

any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun.



Firearms Offenses

Base Offense Levels

Section 2K2.1(a)(1), (3), (4), (5)

Firearm

26 U.S.C. § 5845(a)

National Firearms Act

***includes MCDs**

SOCs & Cross Reference

Section 2K2.1, App. Note 1

Firearm

18 U.S.C. § 921(a)(3)

Gun Control Act

***excludes MCDs**

Benjamin Lee was convicted of unlawful possession of a machinegun, in violation of 18 U.S.C. § 922(o). The offense involved a machinegun conversion device.

Is a machinegun conversion device a “firearm described in 26 U.S.C. § 5845(a)” for purposes of the base offense levels at §2K2.1?

A. Yes

B. No



As part of the offense, Mr. Lee possessed 30 machinegun conversion devices.

Is a machinegun conversion device a “firearm” for purposes of the number-of-firearms enhancement at §2K2.1(b)(1)?

A. Yes

B. No





Firearms Offenses

New Specific Offense Characteristic

Promulgated §2K2.1(b)(5)

+2

Defendant Possessed 4+ MCDs

or

+2

Defendant Transferred MCD

or

+4

Defendant Possessed 30+ MCDs



Firearms Offenses

(b)(1) Number of Firearms

(b)(2) Lawful Sporting Purpose

(b)(3) Destructive Device

(b)(4) Stolen Firearms, Modified Serial Numbers, Unserialized Firearms

(b)(5) Trafficking & Straw Purchasing

(b)(6) Transport Out of the United States and Other Felony Enhancement

(b)(7) Recordkeeping Offenses

(b)(8) Trafficking – Organized Crime

(b)(9) Trafficking – Mitigating Circumstances

Offense Level Cap: 29





Firearms Offenses

(b)(1) Number of Firearms

(b)(2) Lawful Sporting Purpose

(b)(3) Destructive Device

(b)(4) Stolen Firearms, Modified Serial Numbers, Unserialized Firearms

(b)(5) New MCD Specific Offense Characteristic

Promulgated §2K2.1(b)(5)

(b)(6) Trafficking & Straw Purchasing

(b)(7) Transport Out of the United States and Other Felony Enhancement

(b)(8) Recordkeeping Offenses

(b)(9) Trafficking – Organized Crime

(b)(10) Trafficking – Mitigating Circumstances

Offense Level Cap: 29

2025

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 Drug Offenses

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 Circuit Conflicts

 Simplification



Circuit Conflicts

A

Physically Restrained
§2B3.1 (Robbery)

B

Intervening Arrest
§4A1.2(a)(2) (Criminal History)

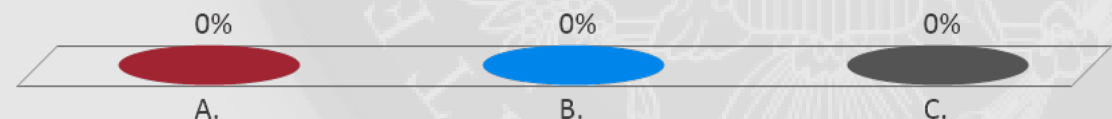
A

Physically Restrained §2B3.1 (Robbery)

While robbing a convenience store, Mark Cole pointed a gun at the cashier and ordered her not to move. The cashier remained frozen at his direction. Mr. Cole was later convicted of Hobbs Act robbery.

How does the robbery guideline (§2B3.1) account for this conduct?

- A.** Enhancement for Brandishing a Firearm
- B.** Enhancement for Otherwise Using a Firearm
- C.** Enhancement for Physical Restraint



A

Physically Restrained **§2B3.1 (Robbery)**

Physically Restrained

§2B3.1(b)(4)(B)

Firearm Enhancement

§2B3.1(b)(2)(A)–(C)

A

Physically Restrained
§2B3.1 (Robbery)

Physically Restrained

§2B3.1(b)(4)(B)

DON'T MOVE!!!

Without Physical Measures

?



A

Physically Restrained §2B3.1 (Robbery)

Physically Restrained

§2B3.1(b)(4)(B)

Without Physical Measures



Wallace, 461 F.3d 15 (1st Cir. 2006)

Dimache, 665 F.3d 603 (4th Cir. 2011)

Howell, 17 F.4th 673 (6th Cir. 2021)

Deleon, 116 F.4th 1260 (11th Cir. 2024)

Physical Measures Required



Anglin, 169 F.3d 154 (2d Cir. 1999)

Bell, 947 F.3d 49 (3d Cir. 2020)

Garcia, 857 F.3d 708 (5th Cir. 2017)

Herman, 930 F.3d 872 (7th Cir. 2019)

Parker, 241 F.3d 1114 (9th Cir. 2001)

A

Physically Restrained §2B3.1 (Robbery)

Physically Restrained

Promulgated §2B3.1(b)(4)(B)

Physical Measures Required

**Restricted through Physical
Contact or Confinement**



A

Physically Restrained §2B3.1 (Robbery)

Physically Restrained

Promulgated §2B3.1(b)(4)(B)

Firearm Enhancement

§2B3.1(b)(2)(A)–(C)

A

Physically Restrained **§2B3.1 (Robbery)**

Firearm Enhancement

§2B3.1(b)(2)(A)–(C)

+7

Firearm Discharged

+6

Firearm Otherwise Used

+5

Firearm Brandished or Possessed

A

Physically Restrained §2B3.1 (Robbery)

Firearm Enhancement

Promulgated §2B3.1(b)(2)(B)

Firearm used for a specific threat, including pointing at a victim, or physical contact

+6





Circuit Conflicts

A

Physically Restrained
§2B3.1 (Robbery)

B

Intervening Arrest
§4A1.2(a)(2) (Criminal History)

B

Intervening Arrest §4A1.2(a)(2) (Criminal History)

Single



**Robbery
Burglary**

or

Separate



Robbery

Burglary

B

Intervening Arrest §4A1.2(a)(2) (Criminal History)

1



Sentenced Same Day

or



**Same Charging
Document**

AND

2

No Intervening Arrest



B

Intervening Arrest §4A1.2(a)(2) (Criminal History)

No Intervening Arrest

Traffic Stop

?



B

Intervening Arrest §4A1.2(a)(2) (Criminal History)

Traffic Stop Counts

Morgan, 354 F.3d 621 (7th Cir. 2003)



Formal Arrest Required

Ley, 876 F.3d 103 (3d Cir. 2017)

Rogers, 86 F.4th 259 (6th Cir. 2023)

Leal-Felix, 665 F.3d 1037 (9th Cir. 2011)

Wright, 862 F.3d 1265 (11th Cir. 2017)



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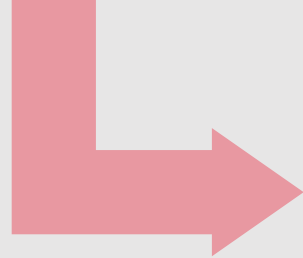
 Circuit Conflicts

 Simplification



Simplification

Guidelines



Departures



Variances





Simplification

Guidelines



Variances

Early Disposition

Chapter 3 Adjustment

Substantial Assistance (§5K1.1)

Final Step of Guidelines

Appendix B (Historical Departures)

Variance

2025

Promulgated Amendments

 Supervised Release

 Drug Offenses

 Firearms Offenses

 Circuit Conflicts

 Simplification

Please Review our Session



Questions?



www.ussc.gov



[@theusscgov](https://twitter.com/theusscgov)



HelpLine



training@ussc.gov