

DATA ANALYSES – CAREER OFFENDERS

EFFECT OF CAREER OFFENDER STATUS

Description of Data and Methodologies

In FY2014, the most recent year for which data are publicly available, 21,907 offenders were sentenced primarily under the drug guidelines.¹ The Commission obtained complete guideline application information on 21,257 of these offenders. Of these, 1,702 were classified as career offenders; for 1,552 of these, career offender status increased the guideline range.

Comparison of above-guideline rates, average sentences imposed, and guideline minimums for non-career offenders and career offenders

Sentences above the guideline range were imposed on 0.98 percent of non-career offenders, compared to 0.47 of career offenders. The average sentence imposed on non-career offenders was 62 months, compared to 138.6 months for career offenders. In just over half of the career offender cases (51.2 percent), the guideline minimum after enhancement for career offender status was at least twice as long as the guideline minimum that applied prior to the enhancement.

Percentage of non-career drug offenders who received sentences as high as the guideline minimum for comparable career offenders

Analyses were performed to determine how often non-career offenders received upward departures or variances that increased the sentence imposed to a level at least as high as the guideline minimum for comparable career offenders. The analyses were performed on the 192 non-career offenders who were sentenced above the guideline range, and the 1,552 career offenders whose career offender status increased their guideline range.

Offenders were divided into comparable groups based on the cells of the Sentencing Table they were in *prior to any upward departure or variance or adjustment for career offender status*. For example, non-career offenders with a guideline minimum of 57 months were compared to career offenders whose guideline minimum was also 57 months prior to the Chapter Four enhancement for career offender status. Final sentences for the non-career offenders were compared to the minimum of the guideline range applicable to the career offenders following the career offender enhancement.

Sentences for non-career offenders were the same as or greater than career offenders' guideline minimum in 111 cases. This means that in just 0.57 percent of drug cases, offenders who did not receive career offender status received sentences at least as high as the guideline minimum for comparable drug offenders who did receive career offender status.

¹ Chapter Two, Part D (Drugs) §§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), or 2D2.1 (Simple Possession). These are the offenders described further in the Commission's annual *Sourcebook of Federal Sentencing Statistics*, tbls. 33-45.

NUMBER OF DEFENDANTS CLASSIFIED AS CAREER OFFENDERS IN FY 2008-2014 AND LIKELY TO REMAIN IN PRISON

Data from FY2008 through FY2014 were used to estimate the numbers of offenders sentenced under the career offender guideline, and the number of those offenders likely to remain in prison. The estimate of the number likely to remain in prison is necessarily imprecise, because it is based only on information available at the time of sentencing, including estimates of the prison time likely to be served by offenders, assuming they receive full good time credits. Information on prison conduct that may affect good time credits, re-sentencings, or other possible post-sentencing reductions is not available. Publicly available data also do not indicate the precise date of sentencing, only the fiscal year. Offenders who would be more than 70 years old today are excluded from the estimate.

Based on this information, about 16,444 offenders were sentenced under the career offender guideline from FY2008 through FY2014, and about 14,928 of these offenders are likely still in prison.

A 2004 Sentencing Commission report noted that among offenders classified as career offenders, “Most of these offenders were subject to the guideline because of the inclusion of drug trafficking crimes in the criteria qualifying offenders for the guidelines.” U.S. Sent’g Comm’n, *Fifteen Years of Guideline Sentencing: An Assessment of How Well the Federal Criminal Justice System is Achieving the Goals of Sentencing Reform* at 133 (2004). There are no publicly available data with which to estimate how many offenders classified as career offenders based on “crimes of violence” were classified as such based on offenses that depended upon the “residual clause” at U.S.S.G. § 4B1.2(a)(2).

DATA SOURCE

The data used for these analyses were extracted from the U.S. Sentencing Commission’s Individual Offender Datafiles by Dr. Paul J. Hofer, Policy Analyst, Sentencing Resource Counsel Project, Federal Public and Community Defenders, and former Special Projects Director, U.S. Sentencing Commission. For a description of the Datafiles, see U.S. Sent’g Comm’n, *Fifteen Years of Guideline Sentencing: An Assessment of How Well the Federal Criminal Justice System is Achieving the Goals of Sentencing Reform* app. D at 1 (2004). Although these particular analyses have not been performed or published by the Commission, the underlying data are the same as the data used in the Commission’s annual *Sourcebook of Federal Sentencing Statistics*. The data are publicly available at the Commission’s website: <http://www.ussc.gov/research-and-publications/commission-datafiles>. Using standard statistical software, such as SAS or SPSS, the Individual Offender Monitoring Datafiles can be used to generate a wide variety of tables and graphs beyond those published by the Commission.