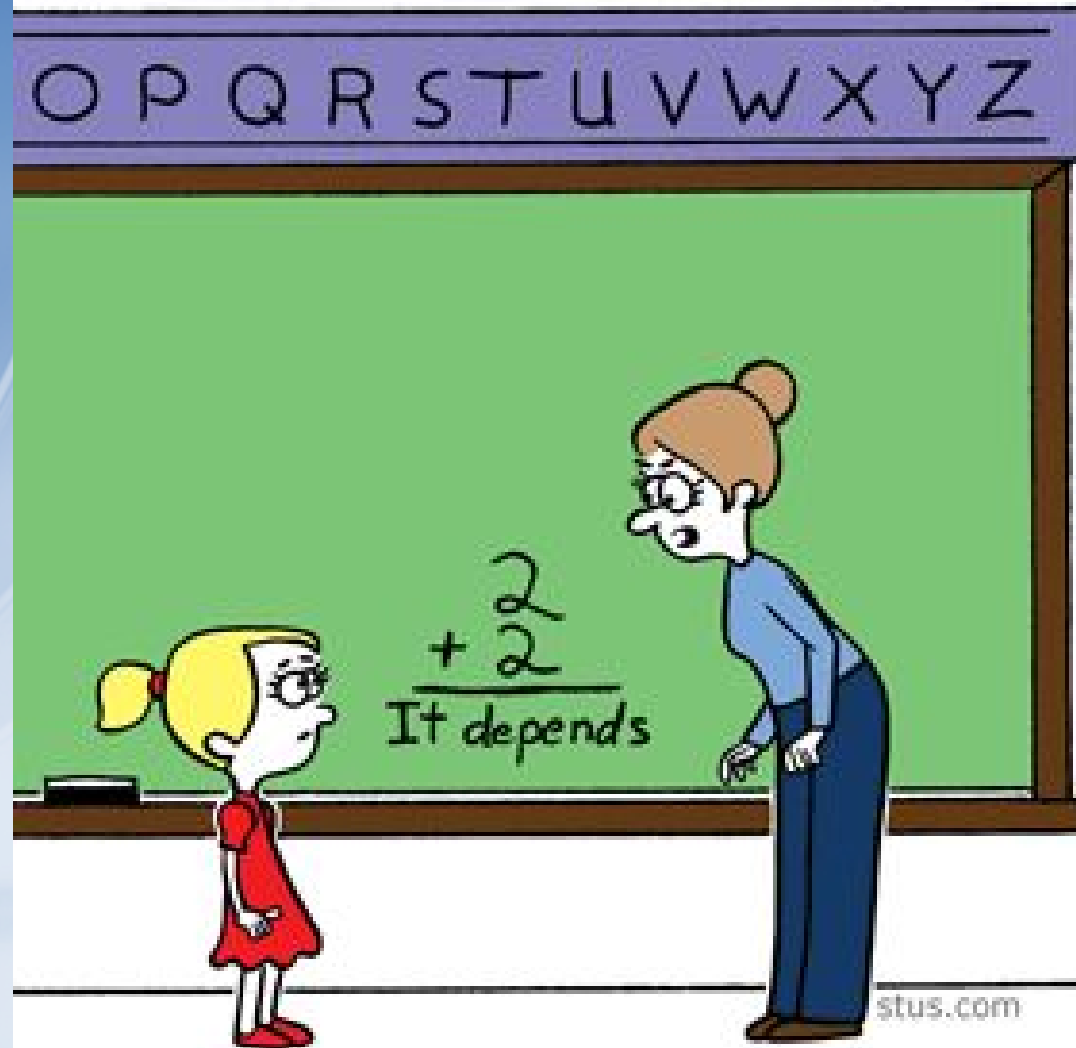




Data and Statistics for Sentencing Mitigation

Scott Davis
scott_davis@fd.org



Suzie, this is math, not the law.



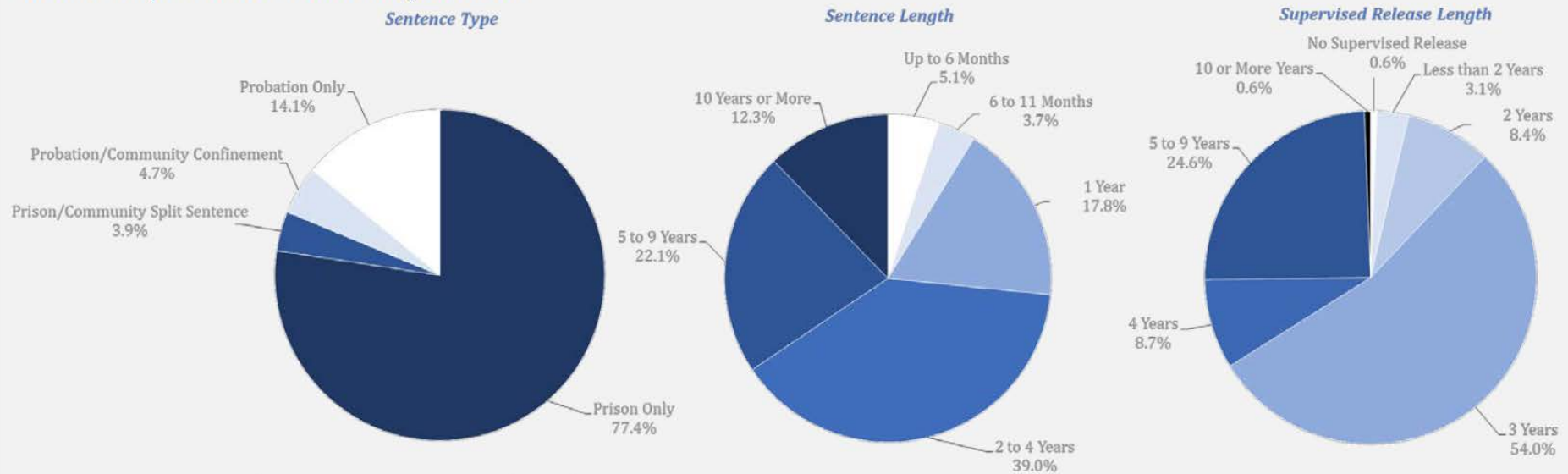
Recidivism Among Federal Offenders: A Comprehensive Overview

UNITED STATES SENTENCING COMMISSION



March 2016, available at <https://www.ussc.gov/research/research-reports/recidivism-among-federal-offenders-comprehensive-overview>.

Figure 3.
Sentences Imposed on Recidivism Study Offenders



SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Of the 25,431 cases in this study, the Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Overview of study findings

<i>Recidivism Measure</i>	Rearrest	Reconviction	Reincarceration
Percent	49.3%	31.7%	24.6%
Median Time to Recidivism	21 Months	30 Months	29 Months
Median Number of Recidivism Events	2	1	1
Most Serious Post-Release Event (%)	Assault (23.3%)	Assault (23.9%)	Assault (23.8%)
Median Age at Release	33	32	32

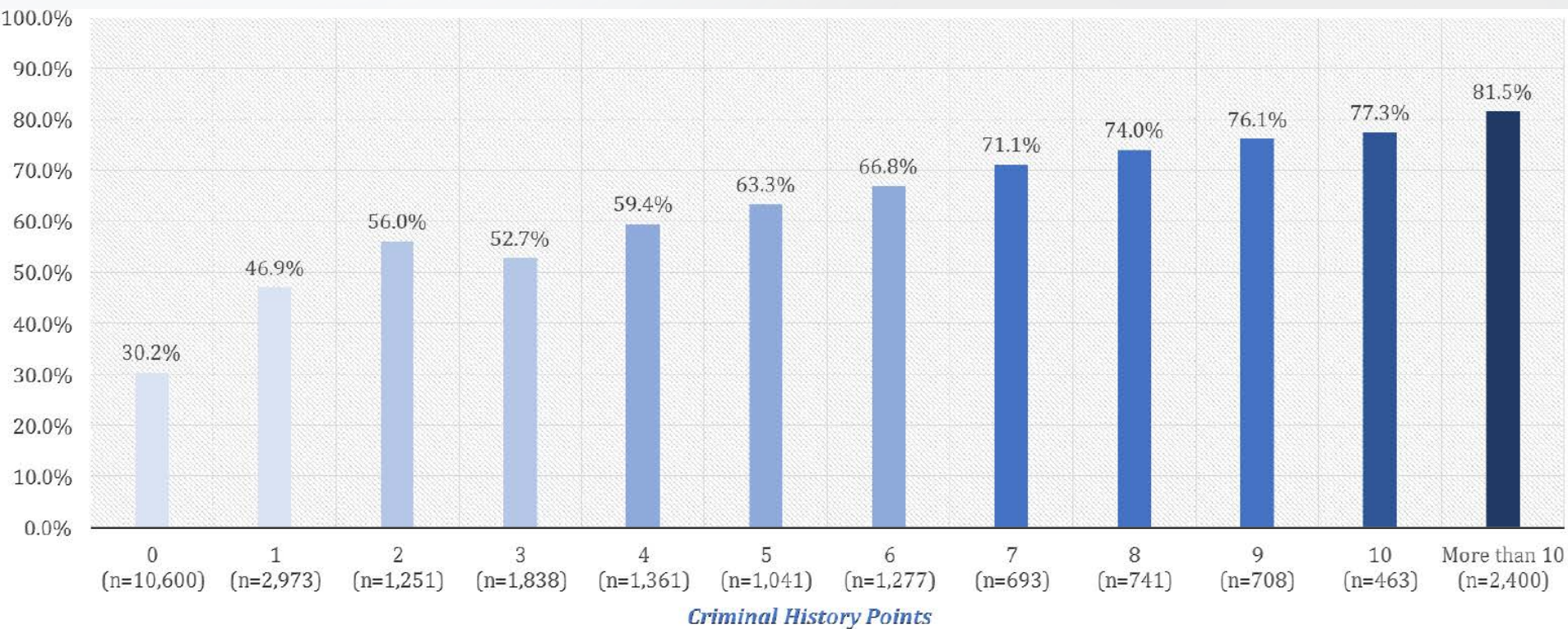
SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05. Median age at release is shown for recidivist offenders only.

Re-arrest rates by time from release date

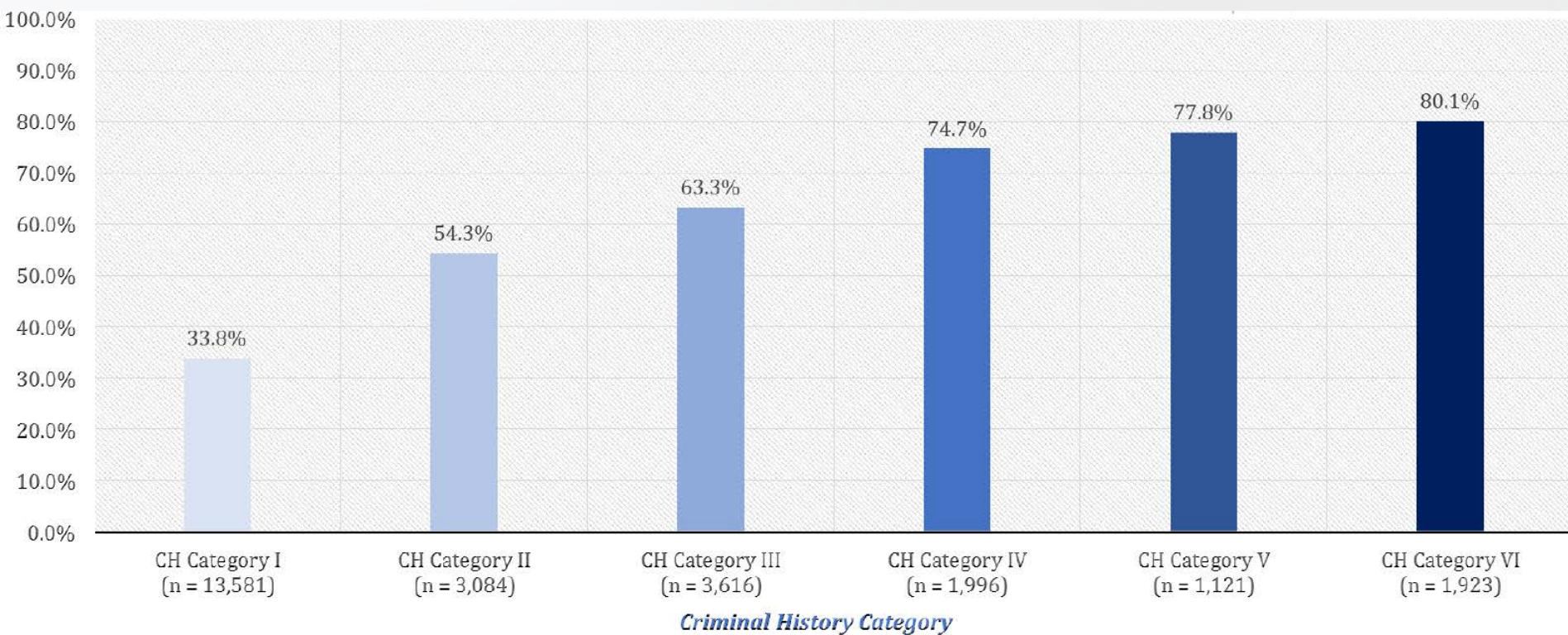
<i>Years After Release</i>	<i>%</i>	<i>Cumulative %</i>
One Year After Release	16.6%	16.6%
Two Years After Release	10.5%	27.1%
Three Years After Release	6.6%	33.7%
Four Years After Release	4.7%	38.4%
Five Years After Release	3.7%	42.1%
Six Years After Release	3.0%	45.1%
Seven Years After Release	2.3%	47.5%
Eight Years After Release	1.8%	49.3%

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05.

Re-arrest rates by criminal history points



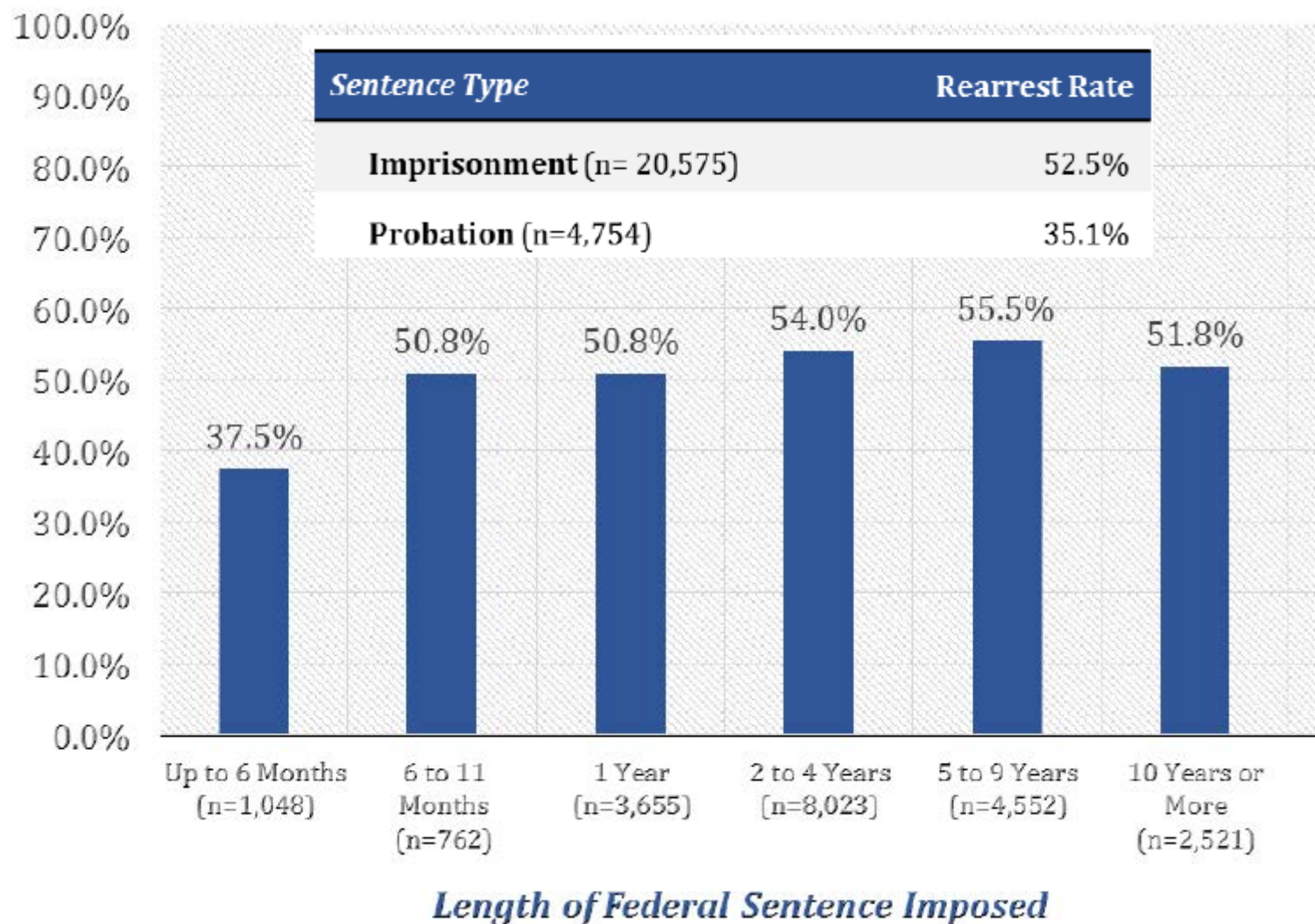
Re-arrest rates by criminal history category



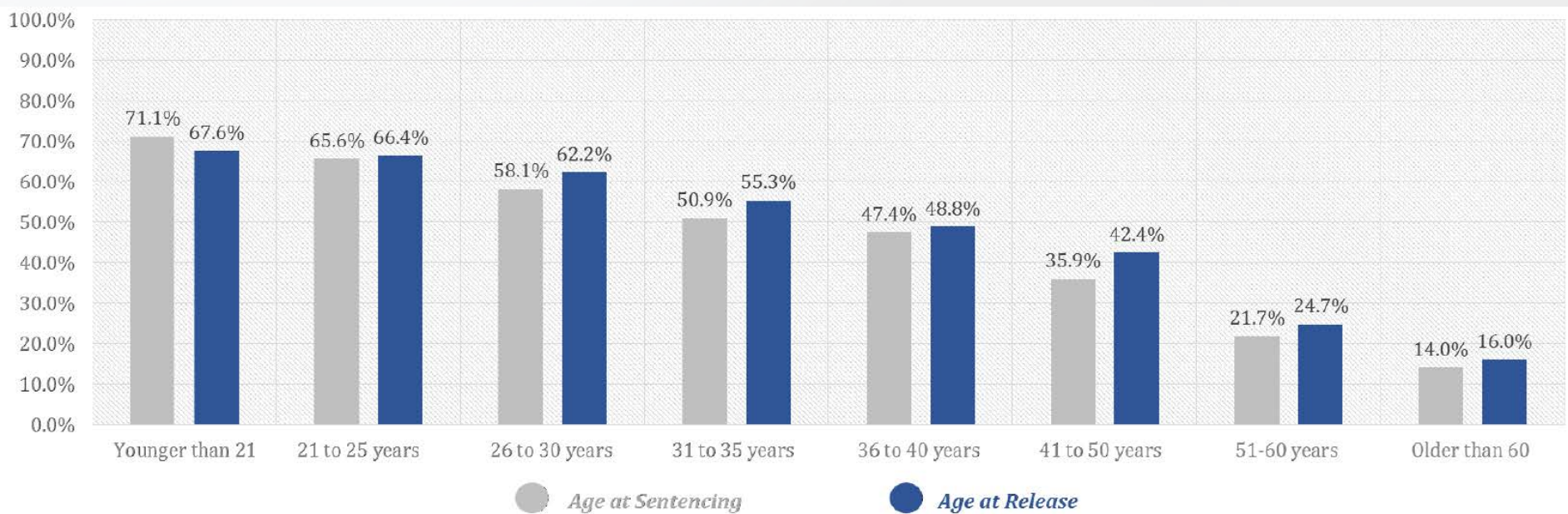
Re-arrest rates by final offense level



Re-arrest rates by original sentence imposed



Re-arrest rates by age at sentencing/release



Takeaways

- Two primary factors closely associated with recidivism rates:
 - Criminal history
 - Age
- Other relevant factors
 - Educational achievement
 - Offense type
- Factors with no statistically significant connection to recidivism:
 - Seriousness of the offense
 - Chapter Two and Three adjustments



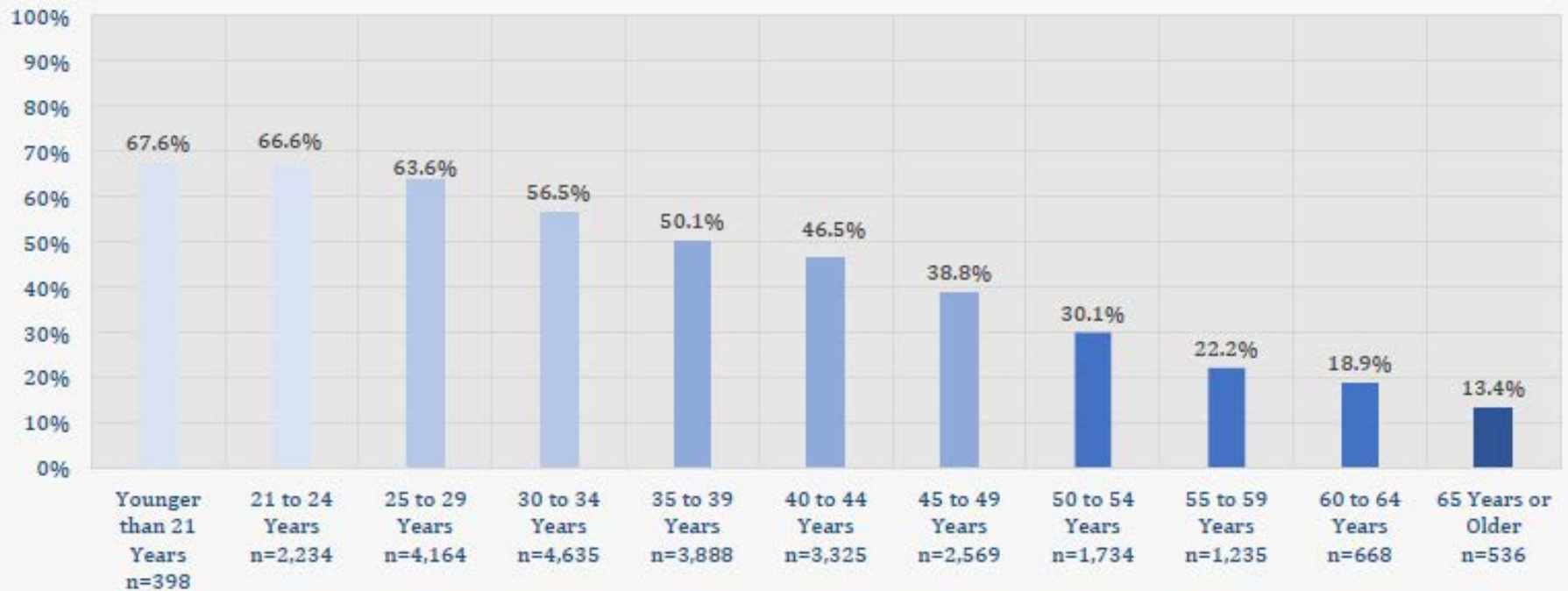
The Effects of Aging on Recidivism Among Federal Offenders

UNITED STATES SENTENCING COMMISSION



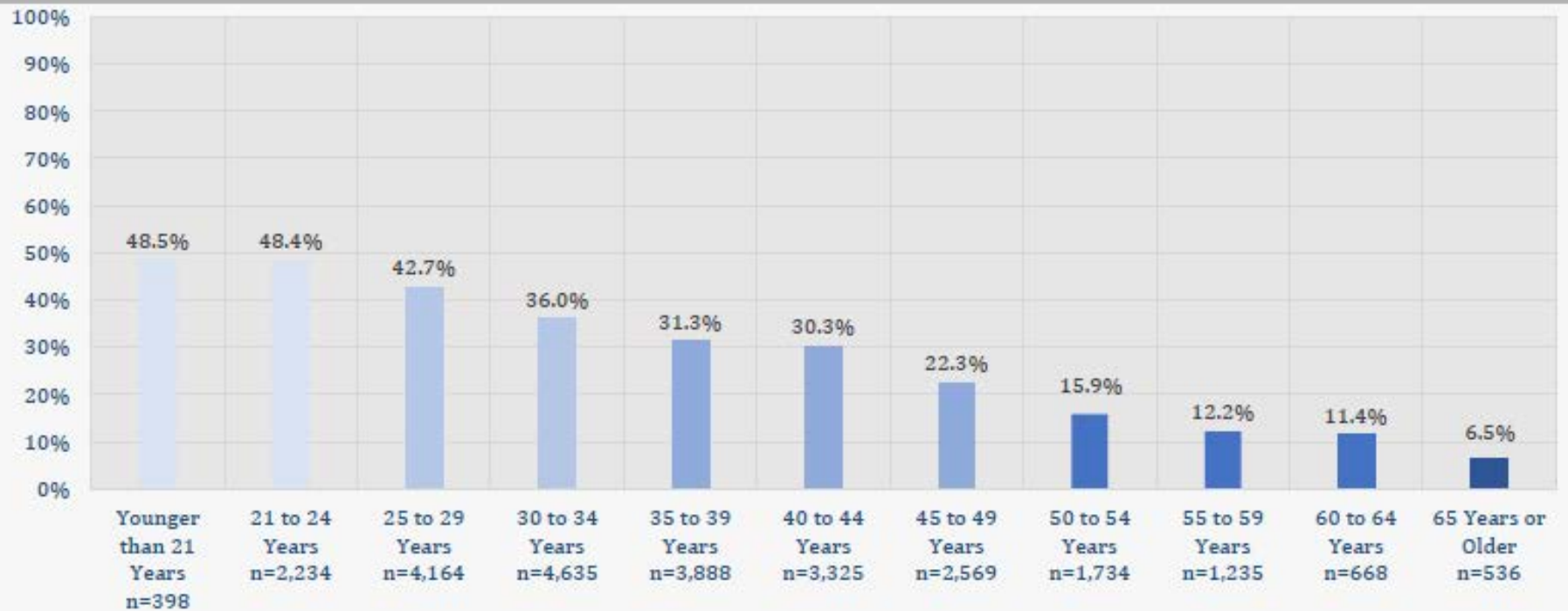
December 2017, available at <https://www.ussc.gov/research/research-reports/effects-aging-recidivism-among-federal-offenders>.

Re-arrest rates by age at release



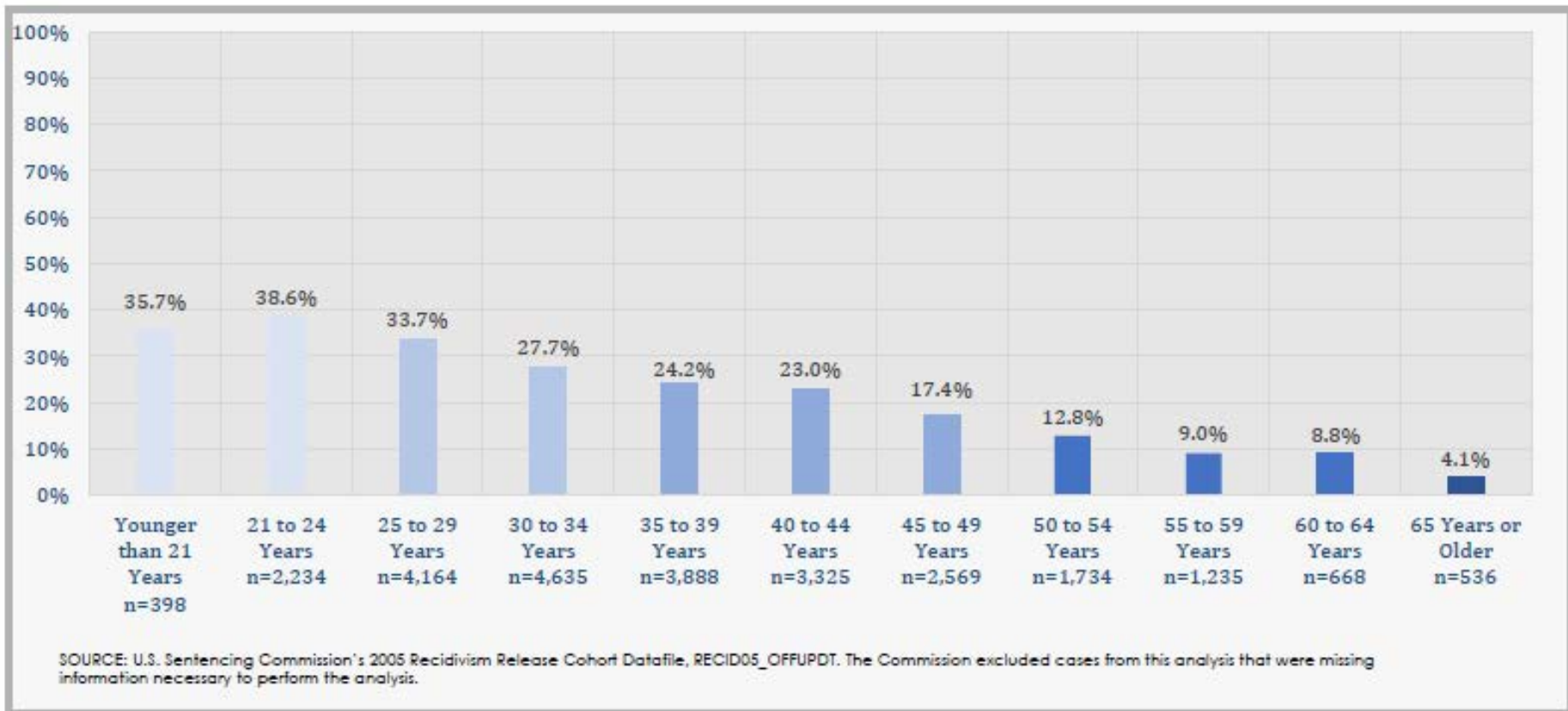
SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05_OFFUPDT. The Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Re-conviction rates by age at release



SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05_OFFUPDT. The Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

Re-incarceration rates by age at release

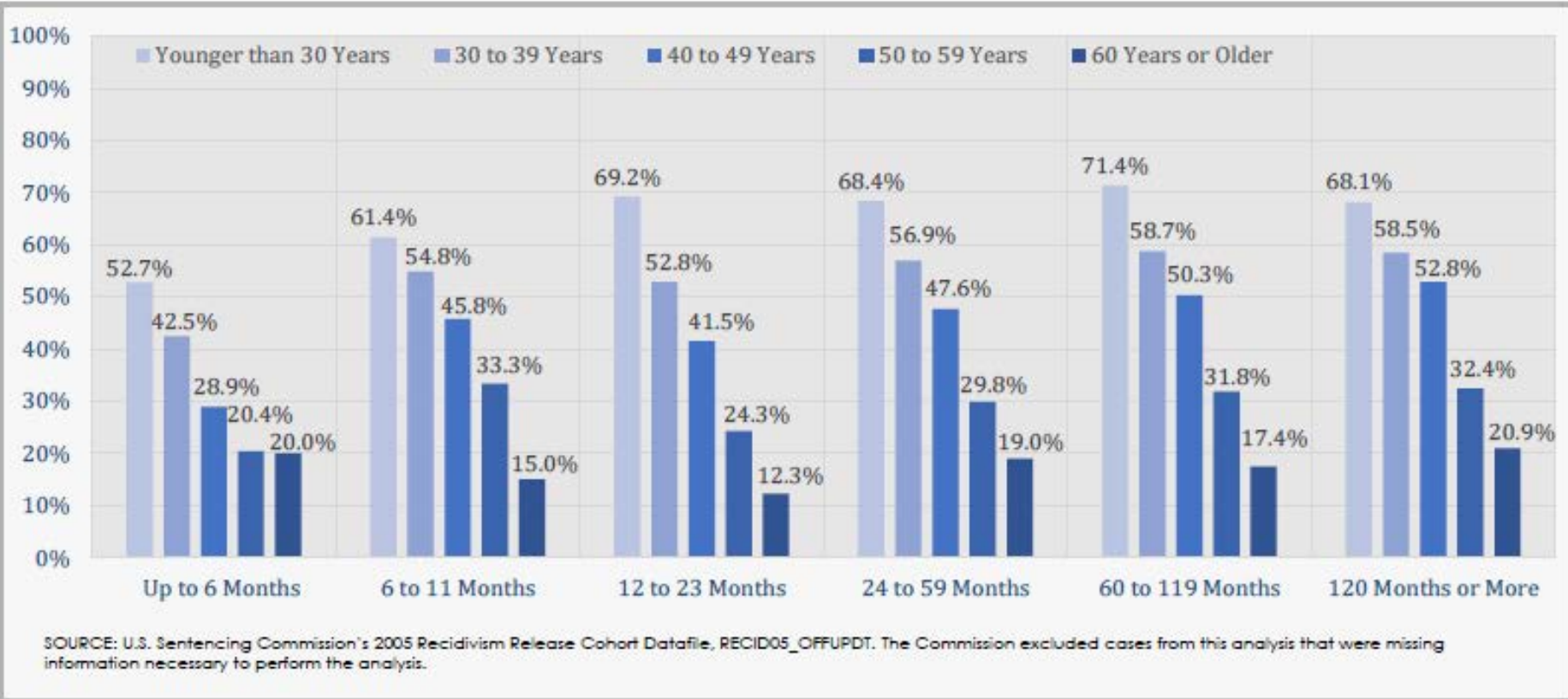


Overview of study findings

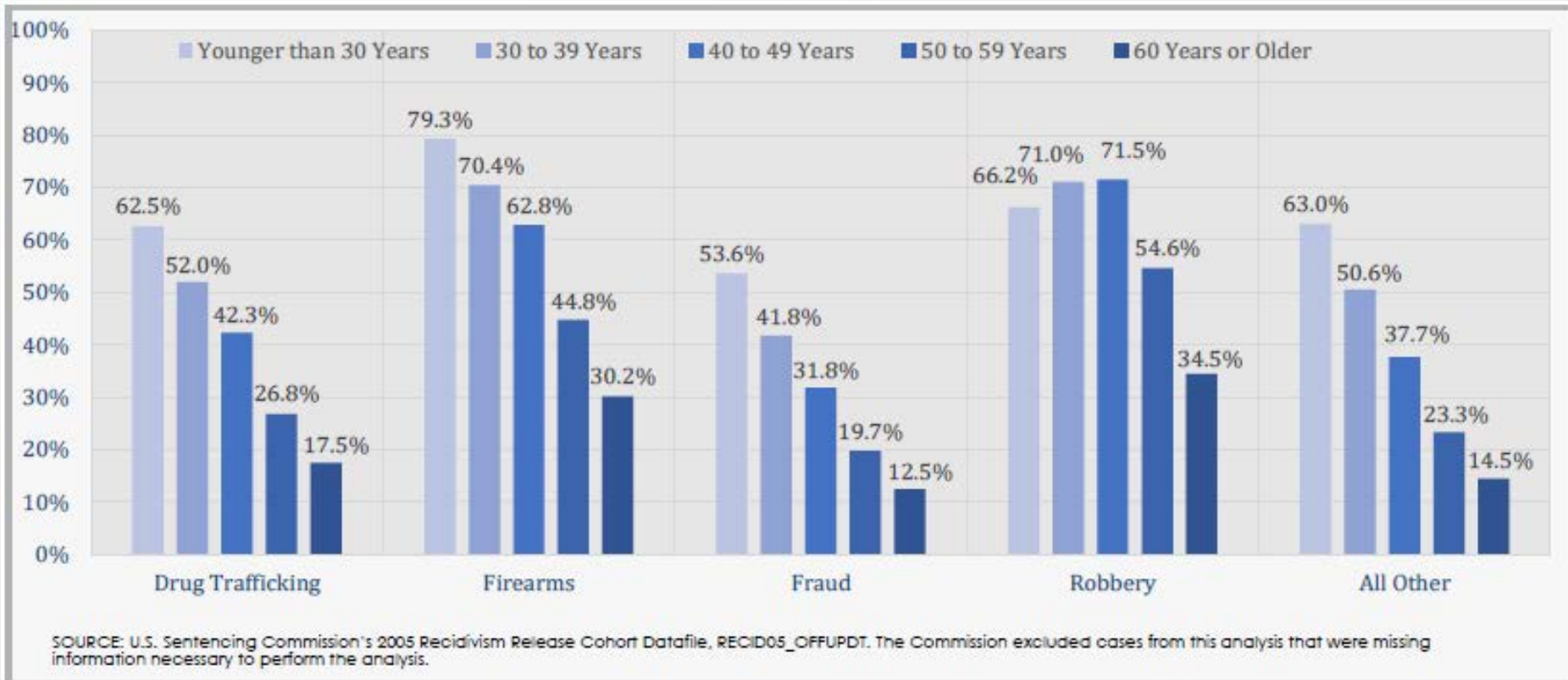
	Younger than 30 Years n=6,796	30 to 39 Years n=8,523	40 to 49 Years n=5,894	50 to 59 Years n=2,969	60 Years or Older n=1,204
Percent	64.8%	53.6%	43.2%	26.8%	16.4%
Median Time to Recidivism Event	17 Months	22 Months	22 Months	25 Months	28 Months
Median Number of Recidivism Events	3	2	2	1	1
Most Serious Post-Release Event	Assault (26.6%, n=1,170)	Assault (24.1%, n=1,102)	Assault (20.3%, n=517)	Other Public Order Offense (22.5%, n=179)	Other Public Order Offense (23.7%, n=47)

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05_OFFUPDT. The Commission excluded cases from this analysis that were missing information necessary to perform the analysis.

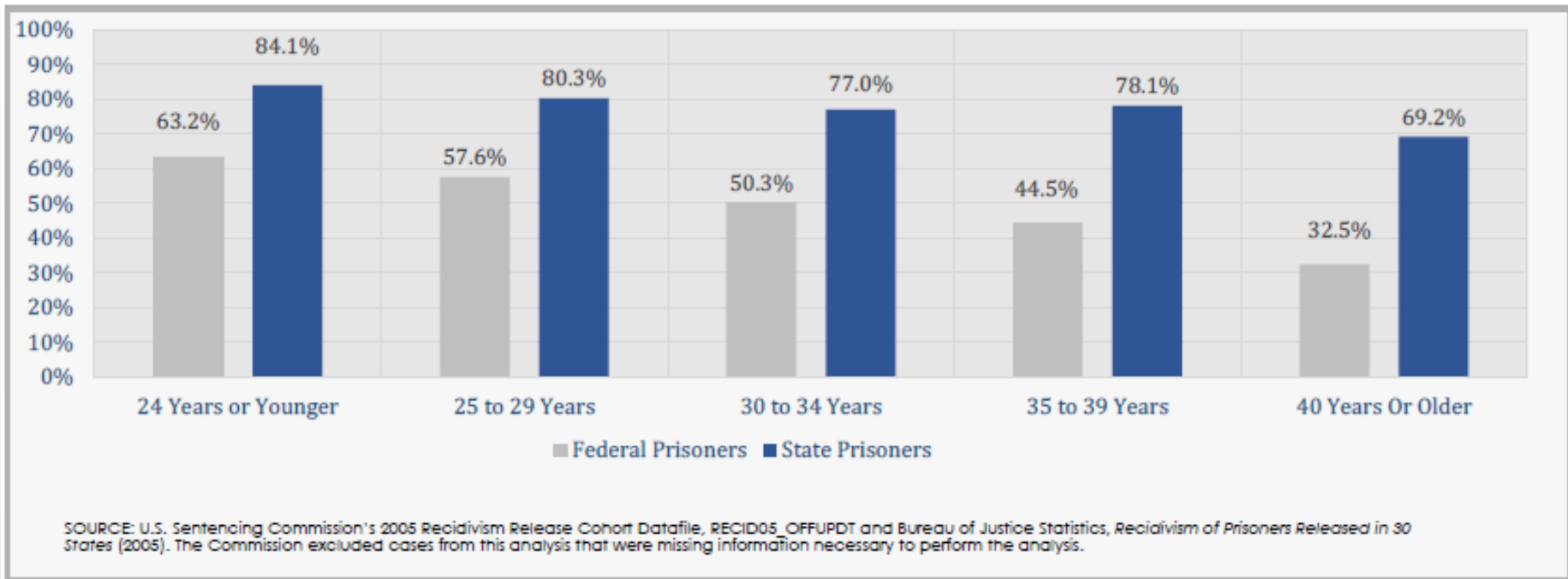
Re-arrest rates by length of federal sentence/ age at release



Re-arrest rates by primary offense type



Re-arrest rate for federal and state offenders by age at release



Takeaways

- Across the board, older offenders are much less likely to recidivate than their younger cohorts.
- Older offenders who do recidivate do so later after release, do so less frequently, and do so for less serious reasons.
- Age is an important factor, but not the only one.
 - Gender, race and ethnicity, and education levels also relevant, but less so than age.



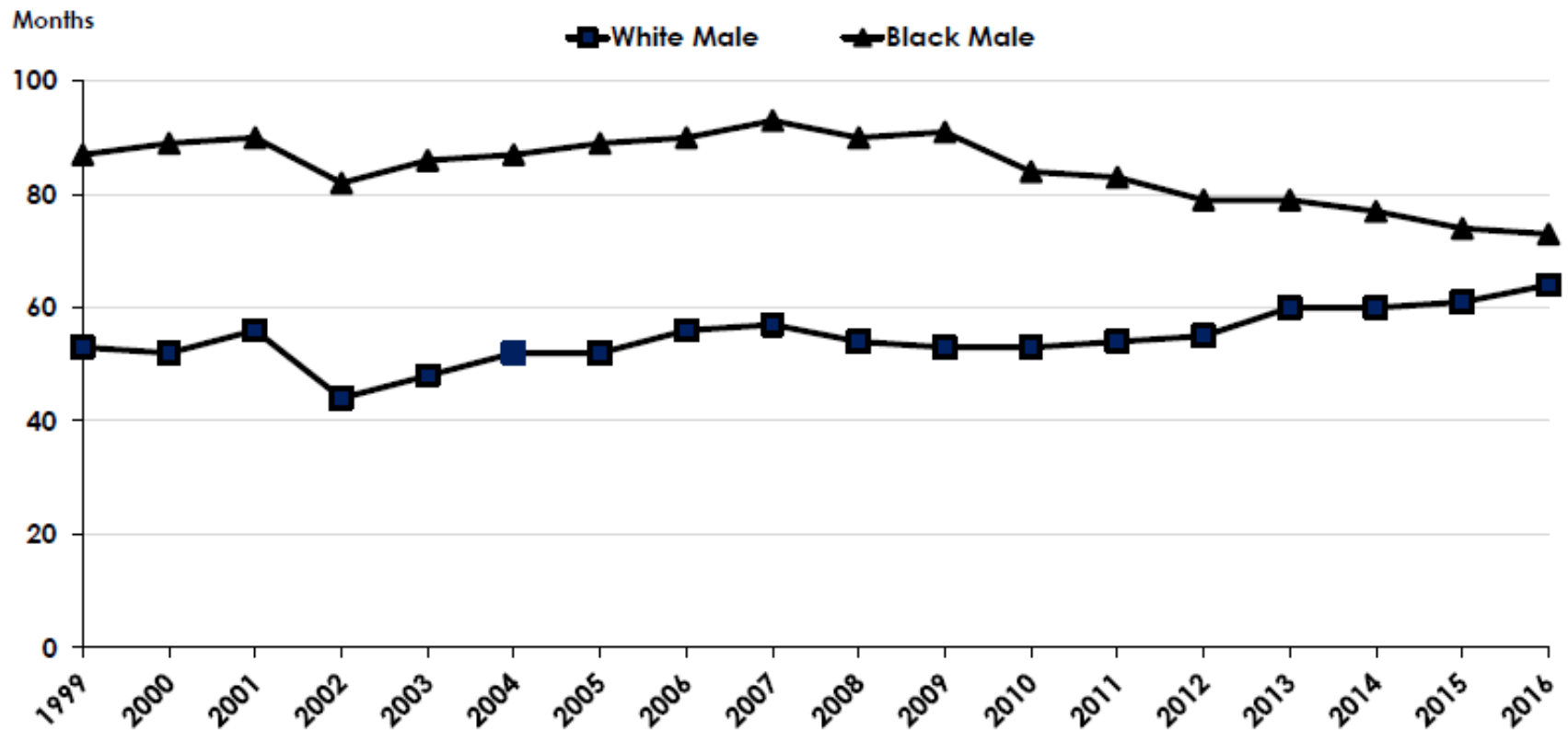
Demographic Differences in Sentencing: An Update to the 2012 *Booker* Report

UNITED STATES SENTENCING COMMISSION



November 2017, available at <https://www.ussc.gov/research/research-reports/demographic-differences-sentencing>.

Average Sentence for White/Black Male Offenders

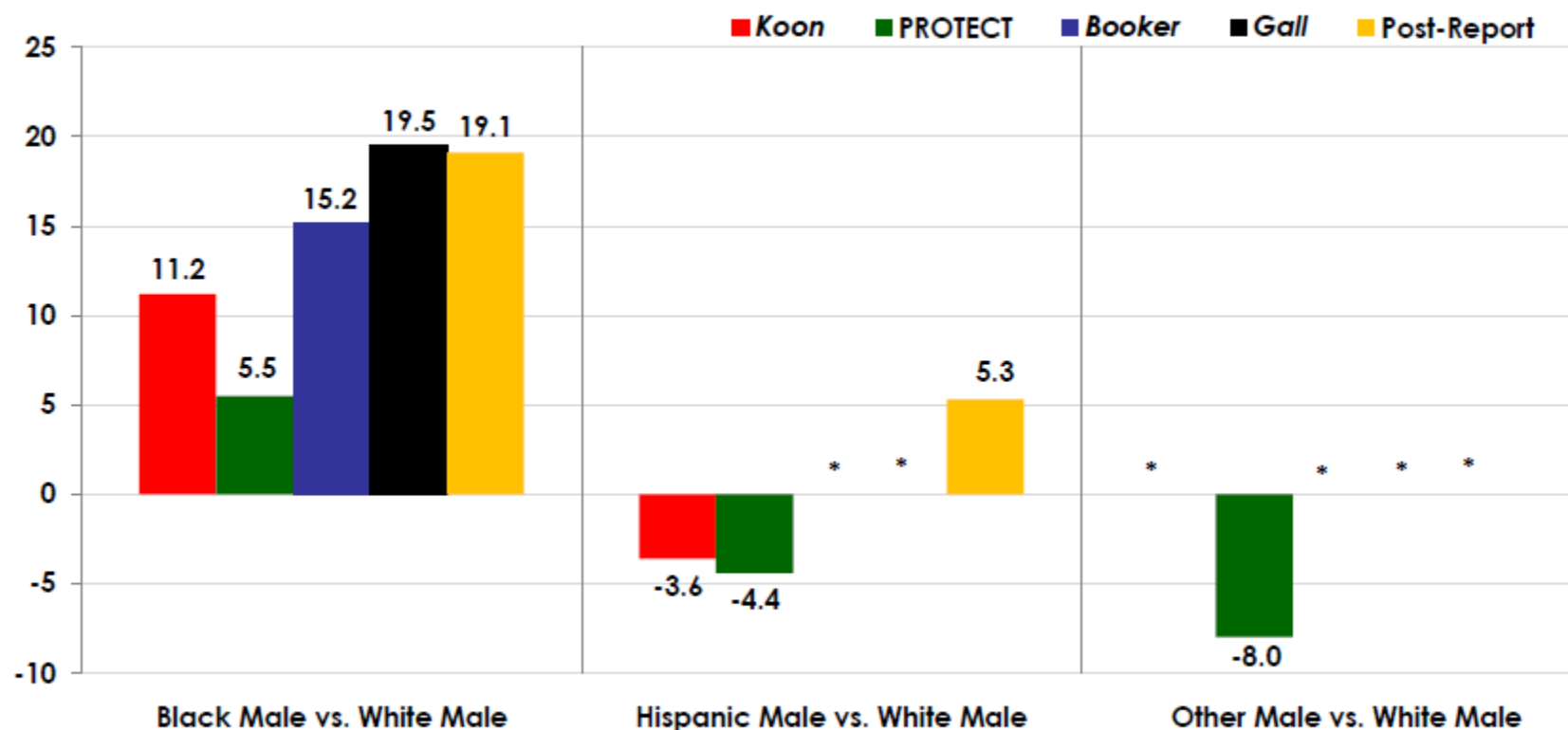


SOURCE: U.S. Sentencing Commission, 1999 - 2016 Datafile, USSCFY 99 -USSCFY16.

Differences in Sentence Length for Male Offenders

Fig. 2. Differences in Sentence Length for Male Offenders
Koon, PROTECT, Booker, Gall, and Post-Report Periods

Percentage Difference in Sentence Length

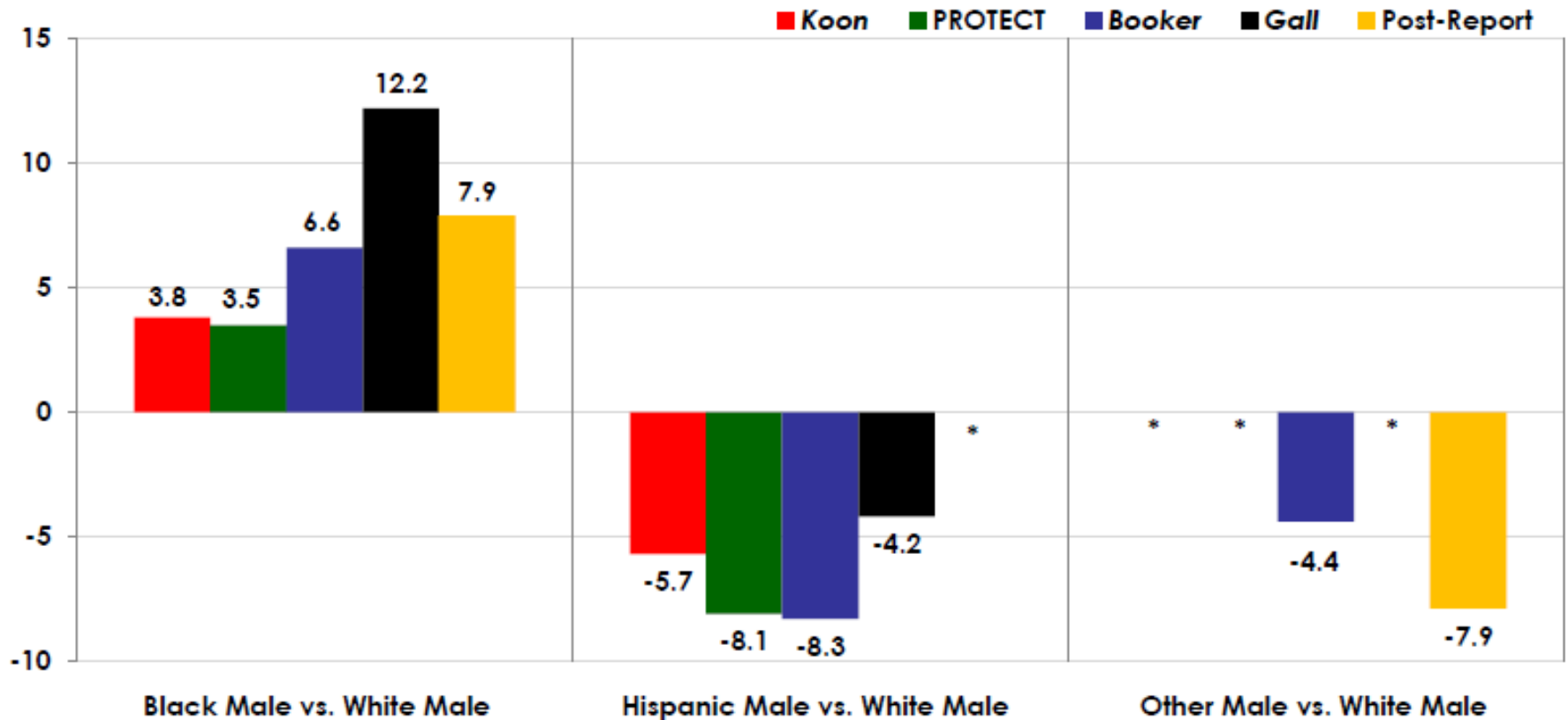


*Indicates that the difference between the two groups was not statistically significant.

SOURCE: U.S. Sentencing Commission, 1999 -2016 Datafiles, USSCFY99-USSCFY16.

Differences in Sentence Length for Male Offenders (Within Guideline Range)

Percentage Difference in Sentence Length

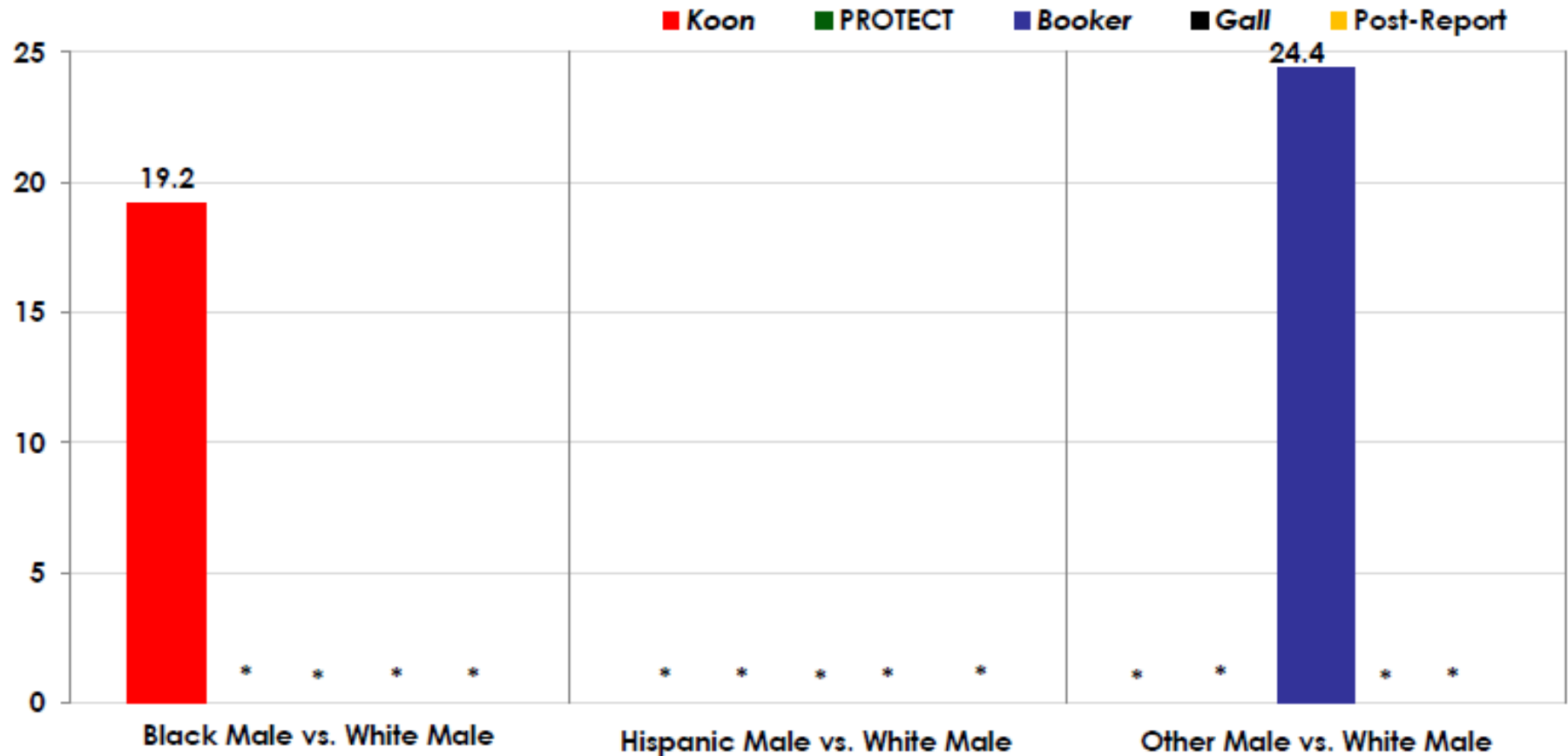


*Indicates that the difference between the two groups was not statistically significant.

SOURCE: U.S. Sentencing Commission, 1999-2016 Datafiles, USSCFY99-USSCFY16.

Differences in Sentence Length for Male Offenders (Substantial Assistance Departures)

Percentage Difference in Sentence Length

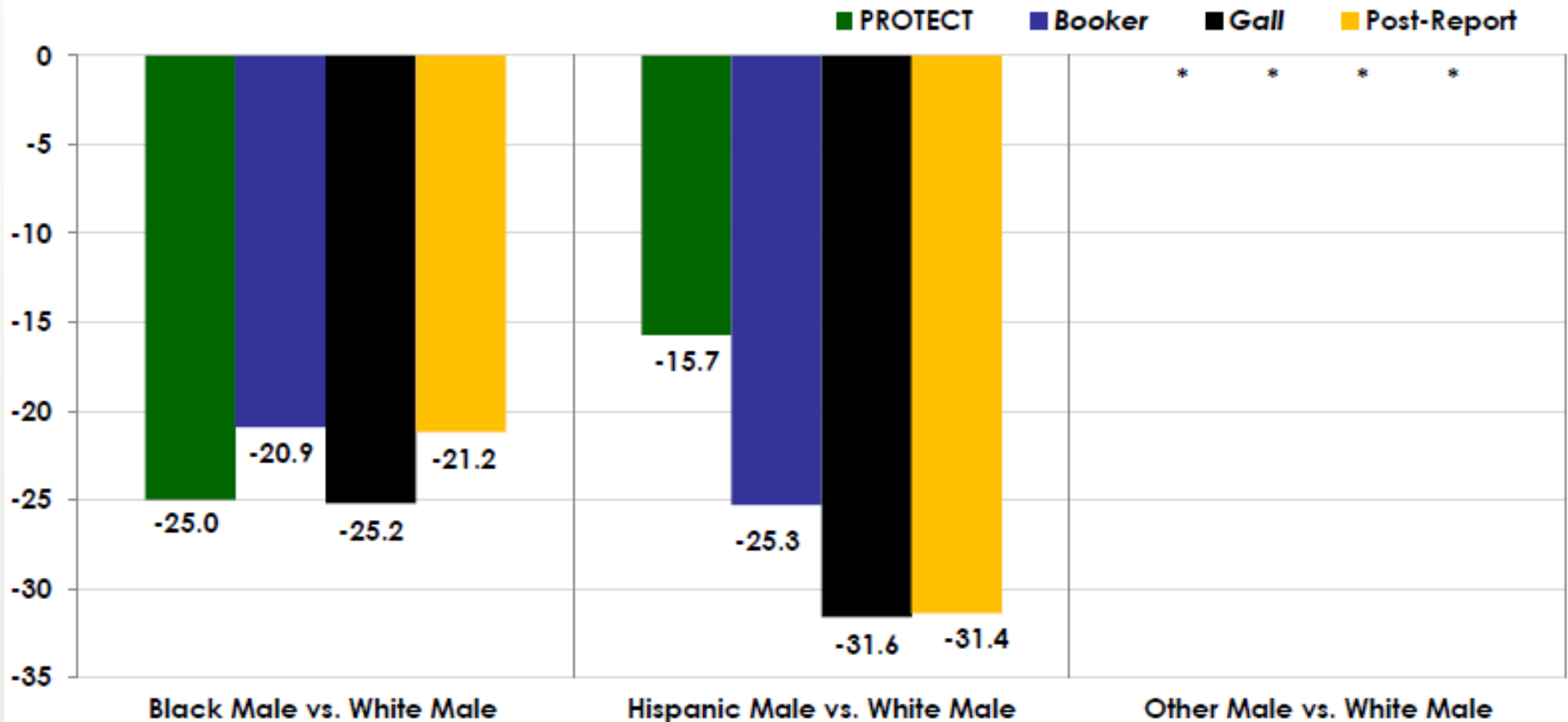


*Indicates that the difference between the two groups was not statistically significant.

SOURCE: U.S. Sentencing Commission, 1999 -2016 Datafiles, USSCFY99-USSCFY16.

Likelihood of Receiving Non-Gov't Sponsored Below Range Sentence

Likelihood of Obtaining a Non-Government Sponsored Below Range Sentence

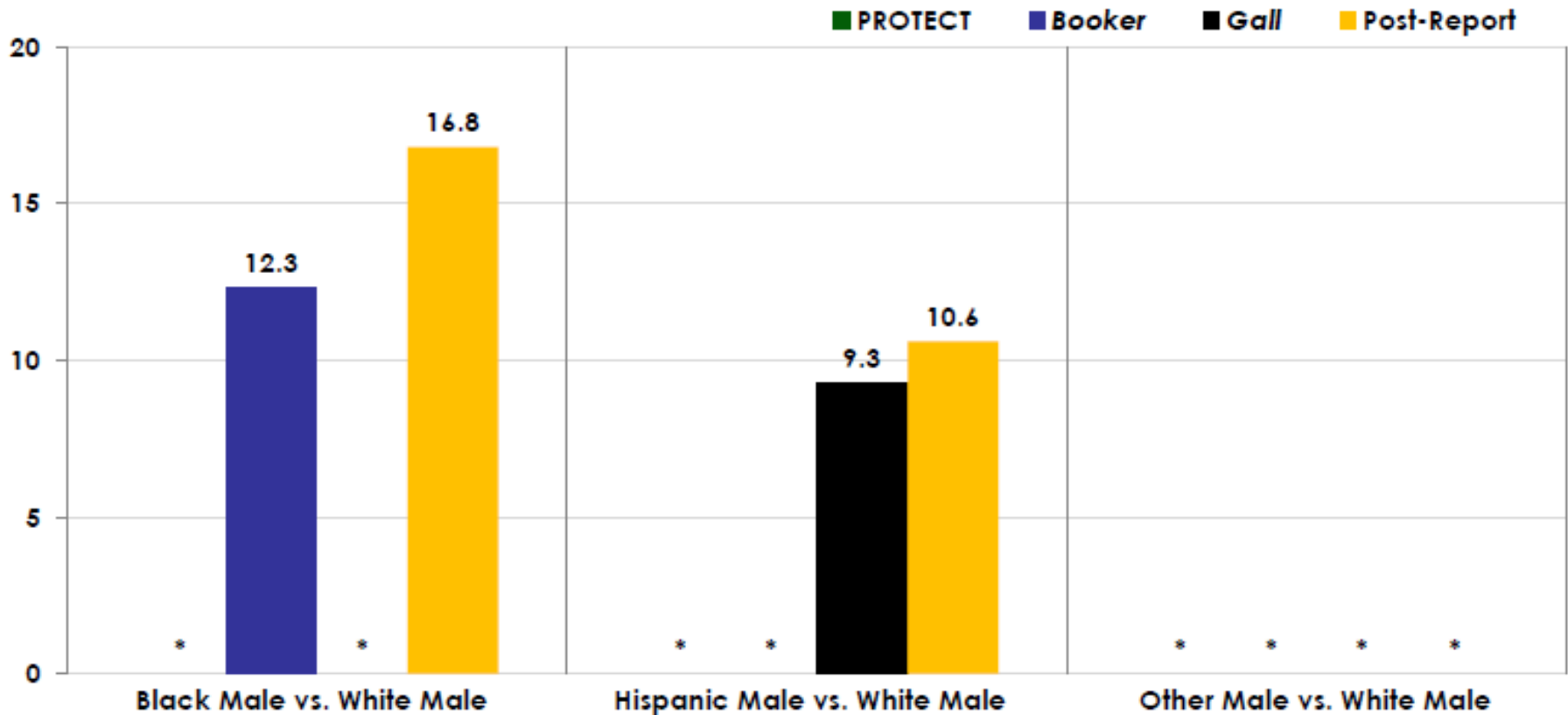


-Indicates that the difference between the two groups was not statistically significant.

SOURCE: U.S. Sentencing Commission, 2003 -2016 Datafiles, USSCFY03-USSCFY16.

Differences in Sentence Length for Male Offenders (Below GL Range: Non-Gov't Sponsored)

Percentage Difference in Sentence Length

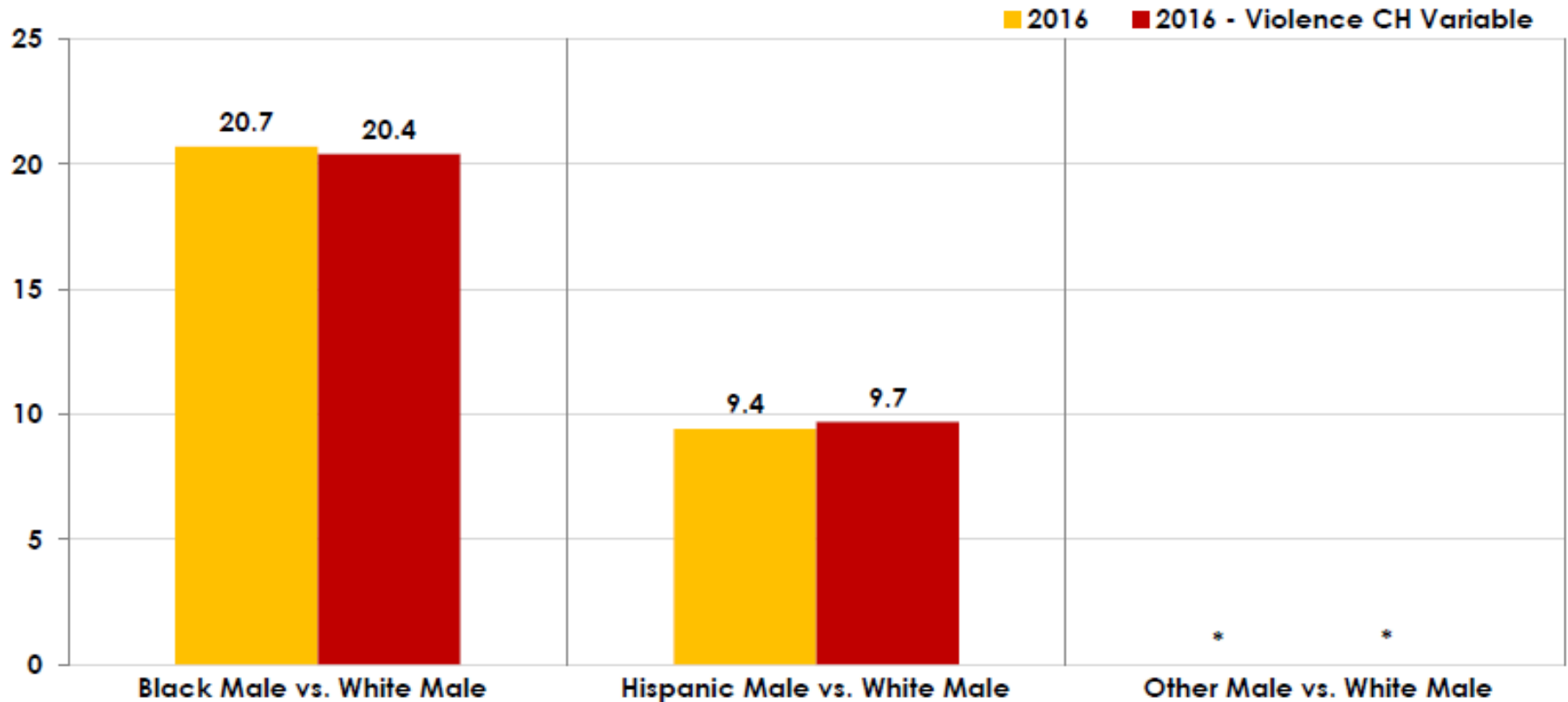


*Indicates that the difference between the two groups was not statistically significant.

SOURCE: U.S. Sentencing Commission, 2003 -2016 Datafiles, USSCFY03-USSCFY16.

Difference in Sentence Length Accounting for Prior Violence

Percentage Difference in Sentence Length



*Indicates that the difference between the two groups was not statistically significant.

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

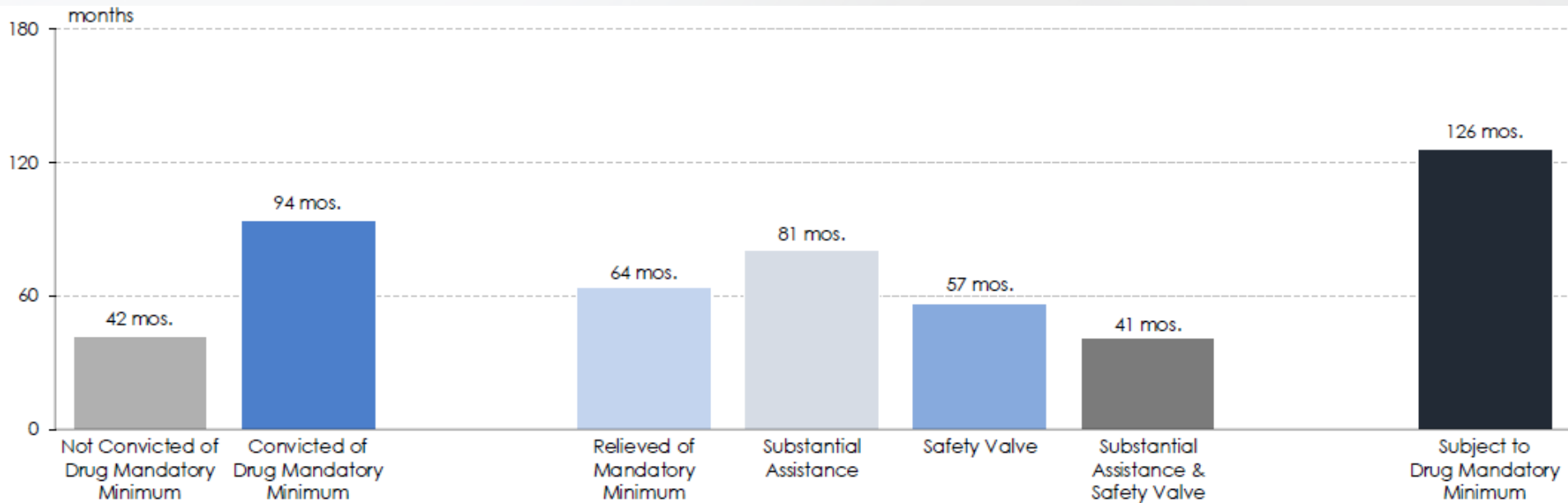
Takeaways

- Across the board, black defendants continue to receive longer sentences than similarly situated white defendants.
- This is driven largely by non-government sponsored departures and variances.
 - Black defendants are less likely to receive such reductions, and when they do, they are less significant than those received by white defendants.
- History of violence does not appear to be a significant factor in this gap.

**MANDATORY MINIMUM
PENALTIES FOR DRUG OFFENSES**
in the
**FEDERAL CRIMINAL
JUSTICE SYSTEM**

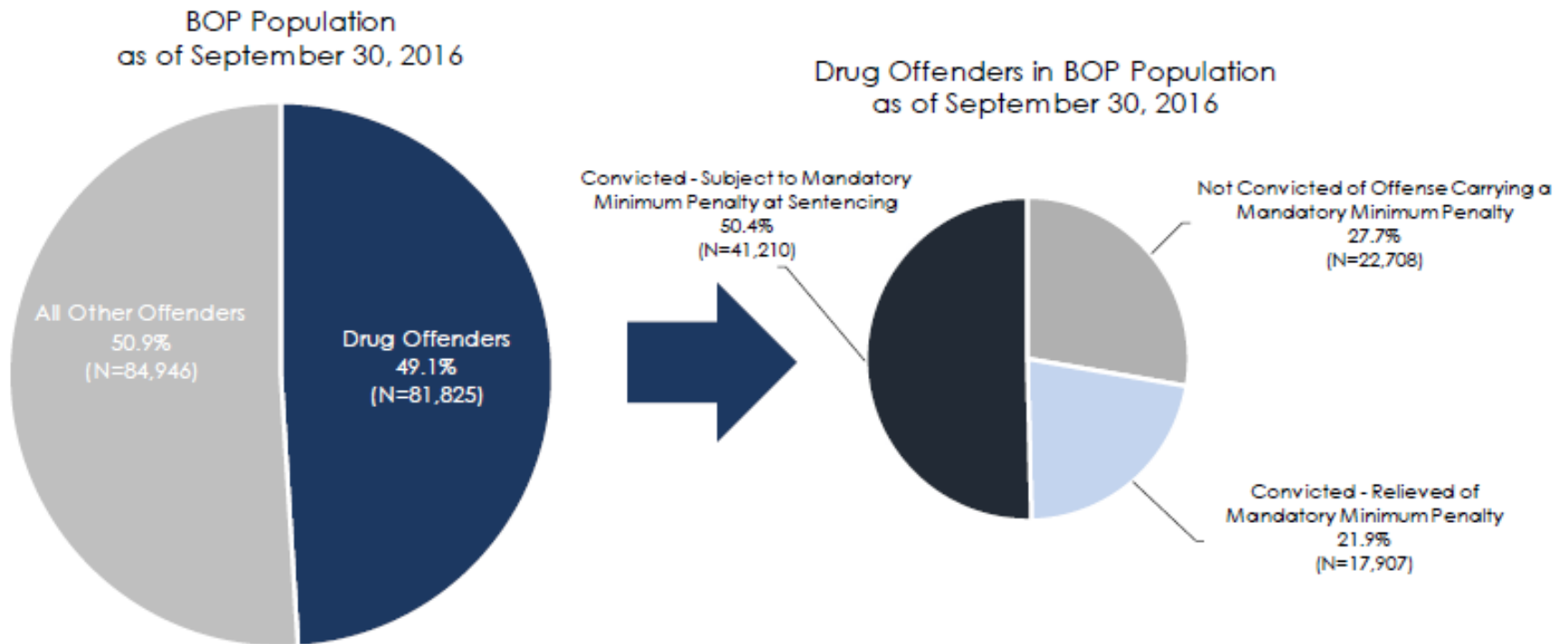
October 2017, available at <https://www.ussc.gov/research/research-reports/mandatory-minimum-penalties-drug-offenses-federal-system>.

Average sentence length – FY 2016



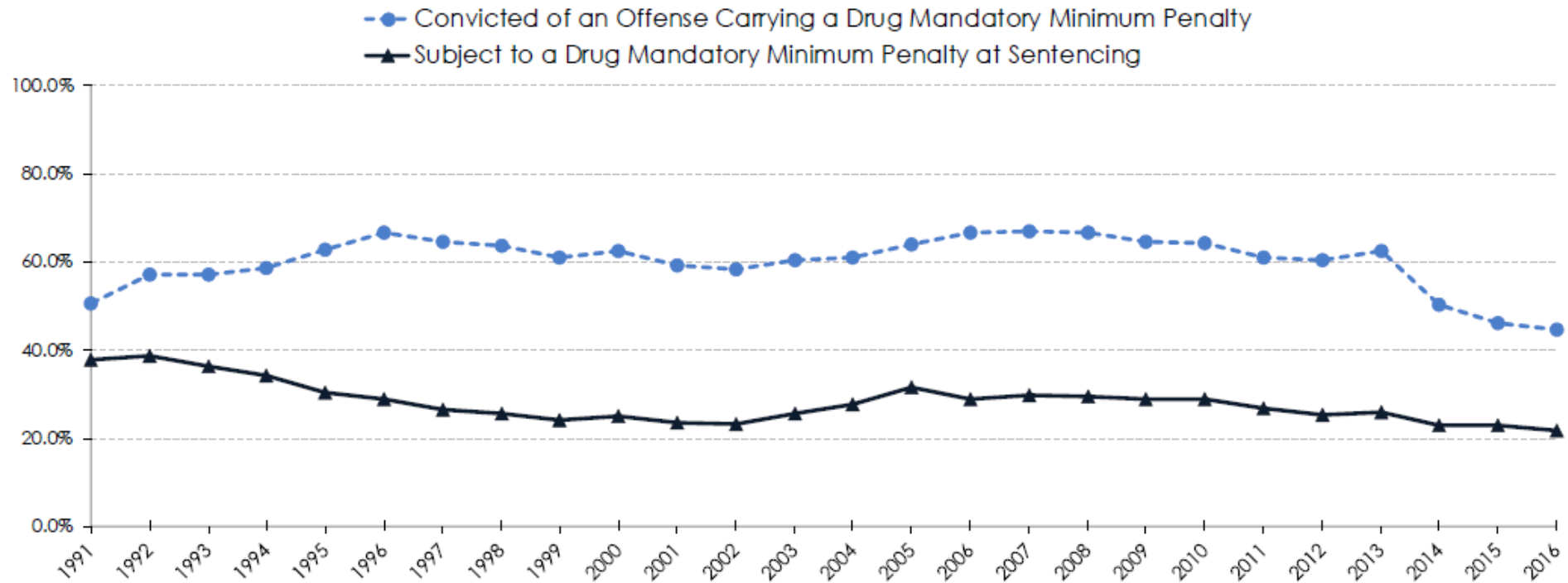
SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Impact of mandatory minimums on BOP population



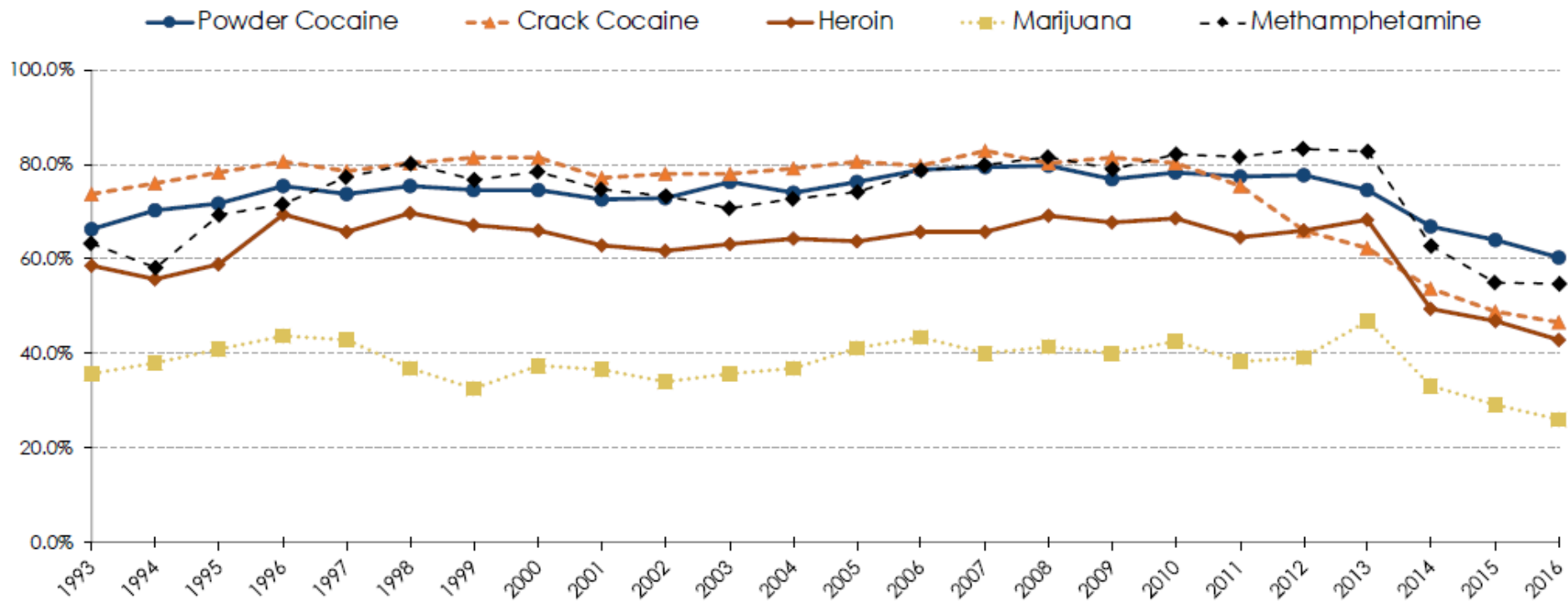
SOURCE: U.S. Sentencing Commission, and Bureau of Prisons Combined 2016 Datafile, USSCBOP.

Application of mandatory minimums



SOURCE: U.S. Sentencing Commission 1991 through 2016 Datafiles, USSCFY1991-USSCFY2016.

Percentage of offenders in select drug types convicted of offense carrying MM



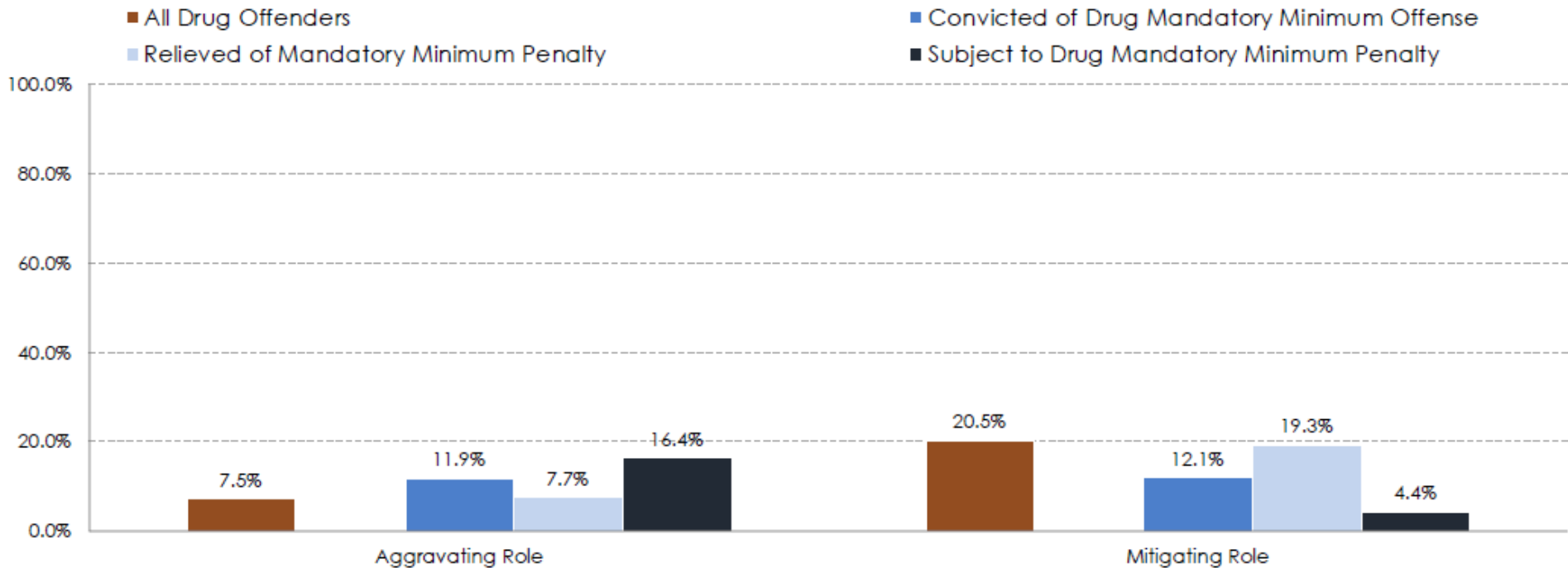
SOURCE: U.S. Sentencing Commission, 1993 through 2016 Datafiles, USSCFY93 – USSCFY16.

Guideline sentencing characteristics of drug offenders

	All Drug Offenders	Convicted of an Offense Carrying a Drug Mandatory Minimum Penalty	Relieved of Mandatory Minimum Penalty	Subject to Drug Mandatory Minimum Penalty at Sentencing
Total (# of offenders)	19,584	8,760	4,519	4,241
SENTENCING CHARACTERISTICS				
Weapon Specific Offense Characteristic	13.4%	17.4%	10.5%	24.8%
Used Violence or Threat of Violence	0.8%	1.2%	0.6%	1.8%
Bodily Injury	4.2%	4.1%	1.9%	6.4%
Firearms Mandatory Minimum Applied	4.4%	5.4%	3.7%	7.1%
Safety Valve Reduction	34.0%	30.1%	58.3%	0.0%

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

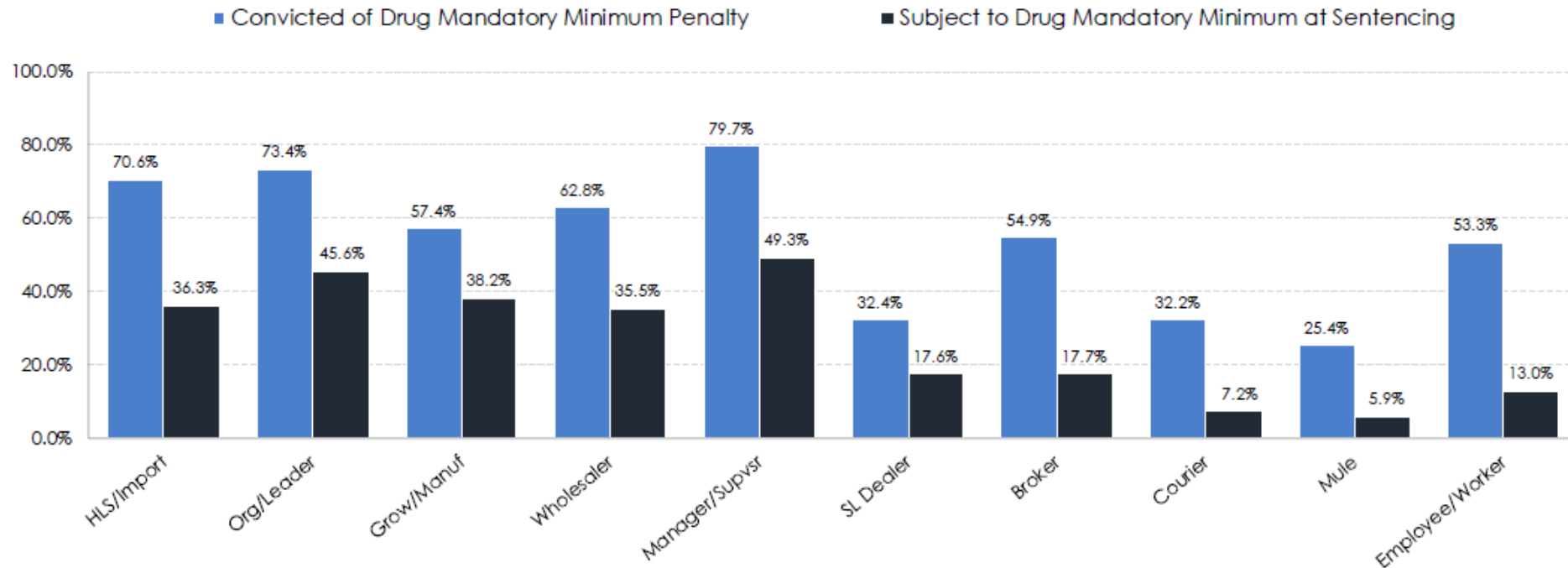
Role in the offense – FY 2016



SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Role in the offense – FY 2016

Figure 29. Percent of Offenders Convicted of an Offense Carrying a Drug Mandatory Minimum Penalty and Subject to a Drug Mandatory Minimum Penalty by Offender Function
Fiscal Year 2016 Sample Data



SOURCE: U.S. Sentencing Commission, 2016 Function Datafile, FUNCSAMPFY16.

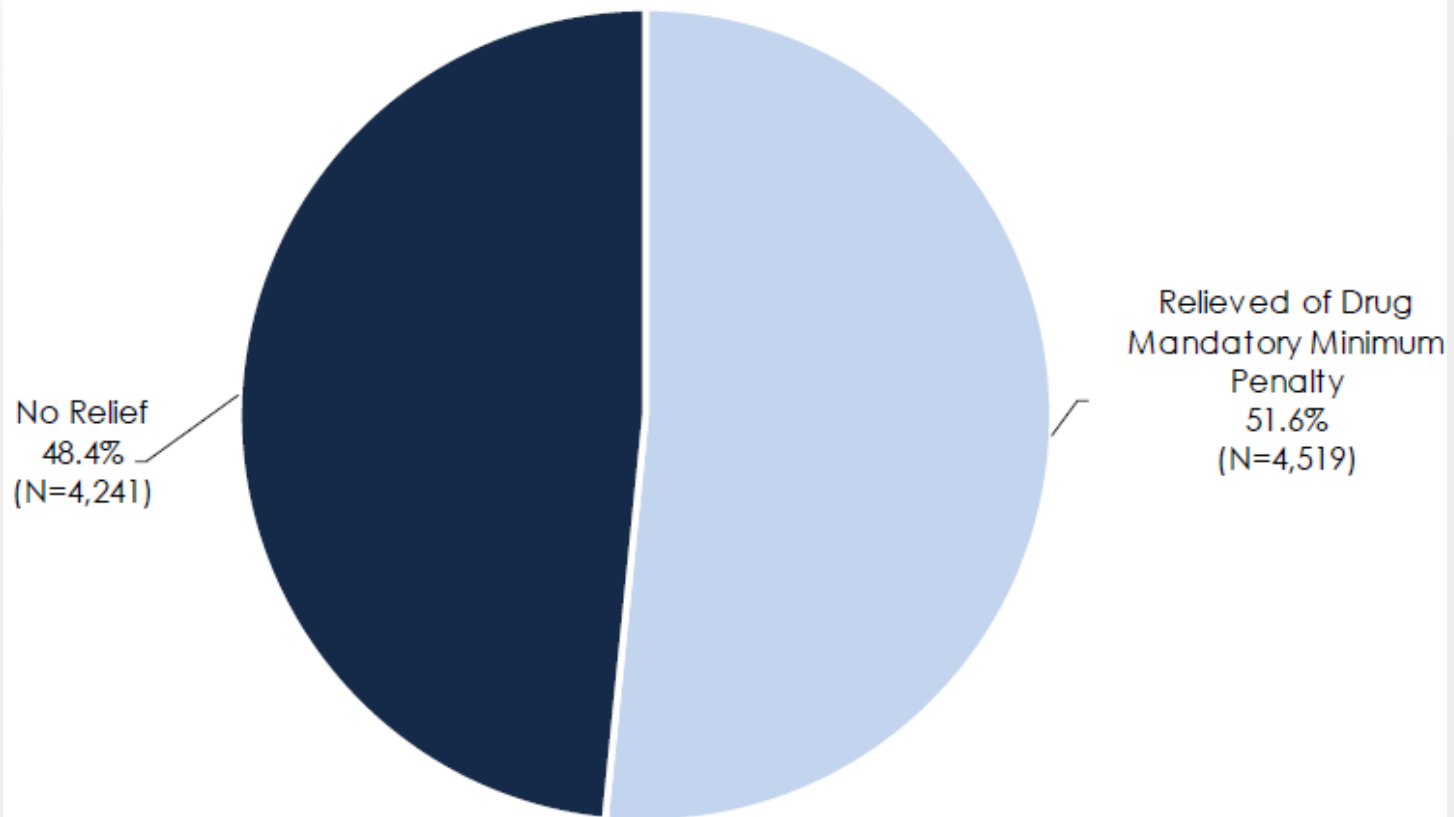
Criminal history of drug offenders – FY 2016

	All Drug Offenders	Convicted of an Offense Carrying a Drug Mandatory Minimum Penalty	Relieved of Mandatory Minimum Penalty	Subject to Drug Mandatory Minimum Penalty at Sentencing
Total (# of offenders)	19,584	8,760	4,519	4,241
CRIMINAL HISTORY CATEGORY				
I	49.6%	45.9%	66.4%	24.0%
II	12.4%	11.8%	7.9%	16.0%
III	14.1%	15.1%	9.7%	20.8%
IV	7.4%	8.3%	4.9%	12.0%
V	4.2%	4.7%	2.7%	6.9%
VI	12.2%	14.2%	8.5%	20.3%

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Offenders relieved of MM penalties – FY 2016

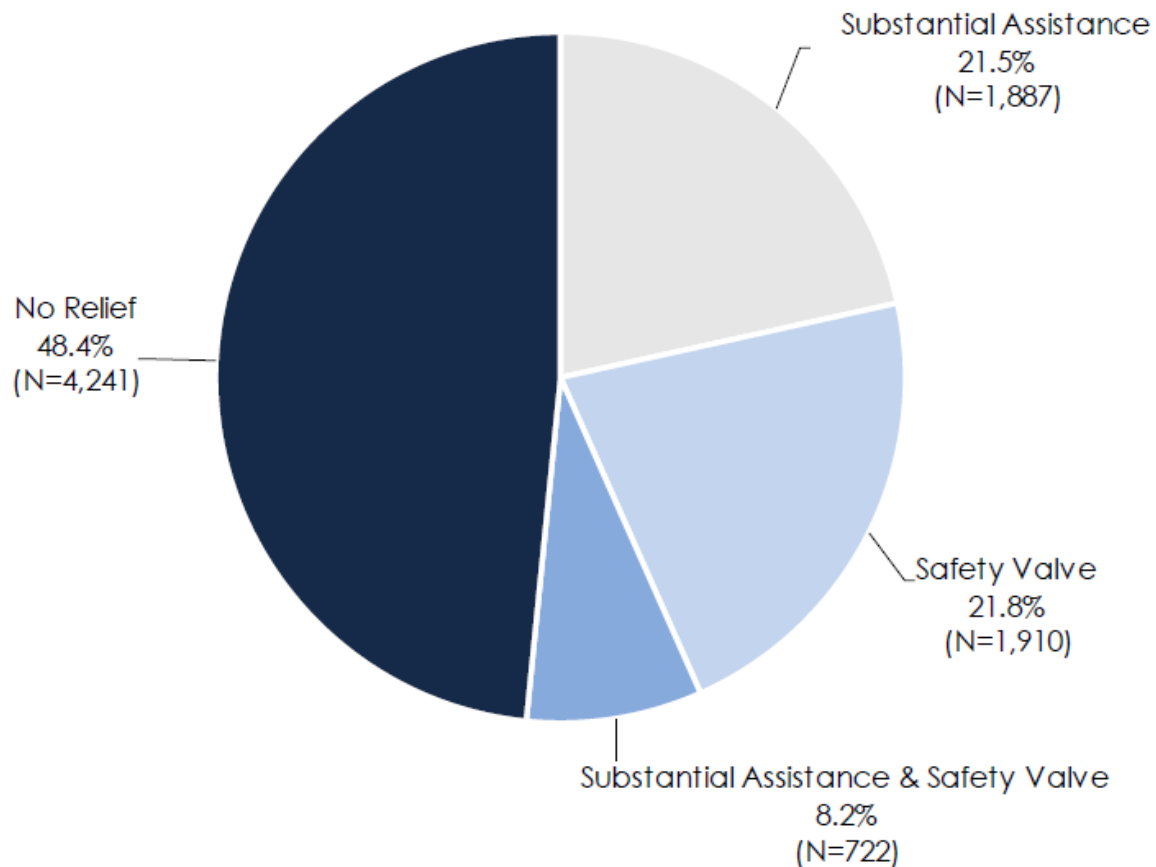
Figure 14. Offenders Relieved of a Drug Mandatory Minimum Penalty
Fiscal Year 2016



SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

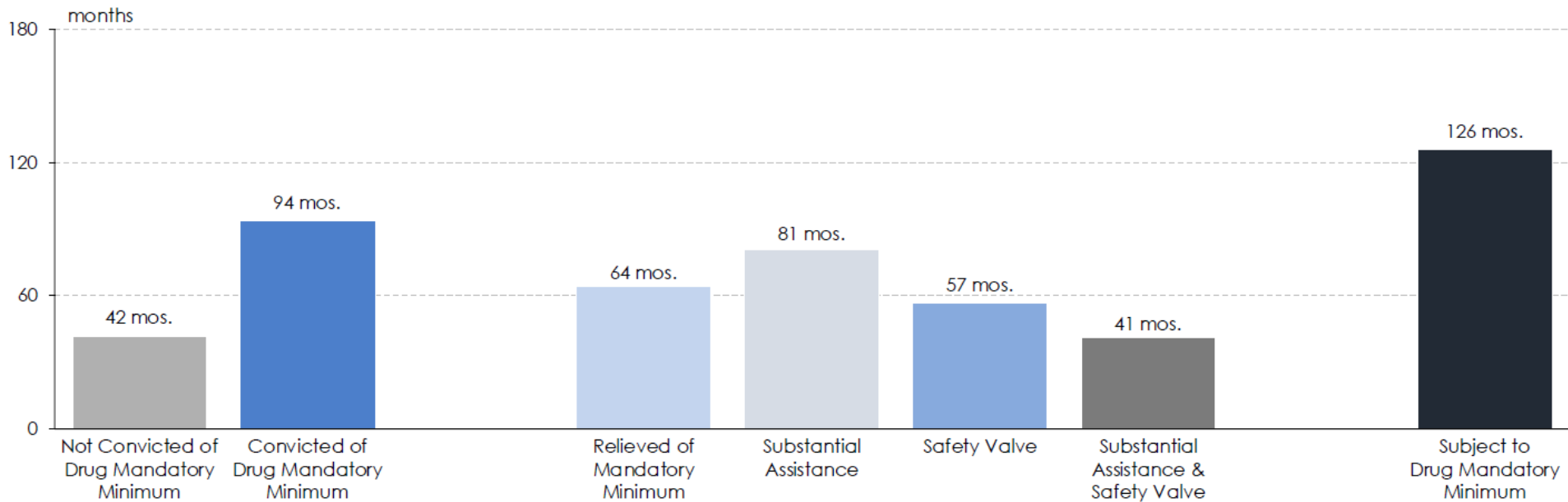
Offenders relieved of MM penalties – FY 2016

Figure 15. Offenders Relieved of a Drug Mandatory Minimum Penalty by Relief Type
Fiscal Year 2016



SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

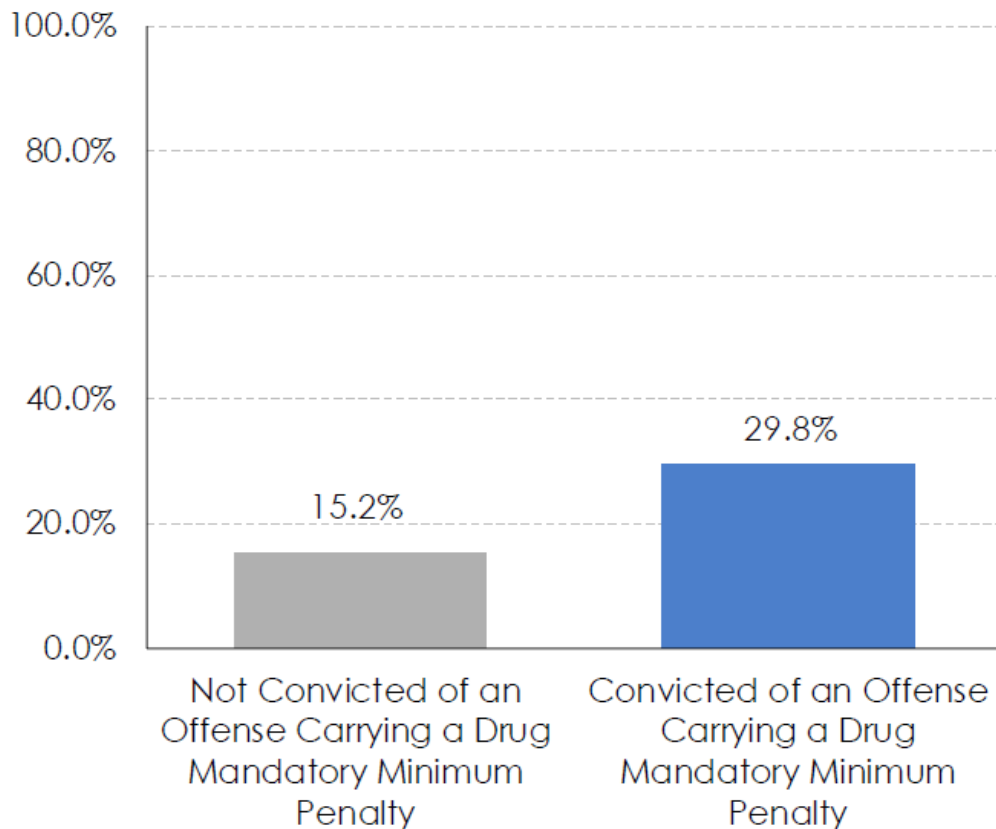
Average sentence length – FY 2016



SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

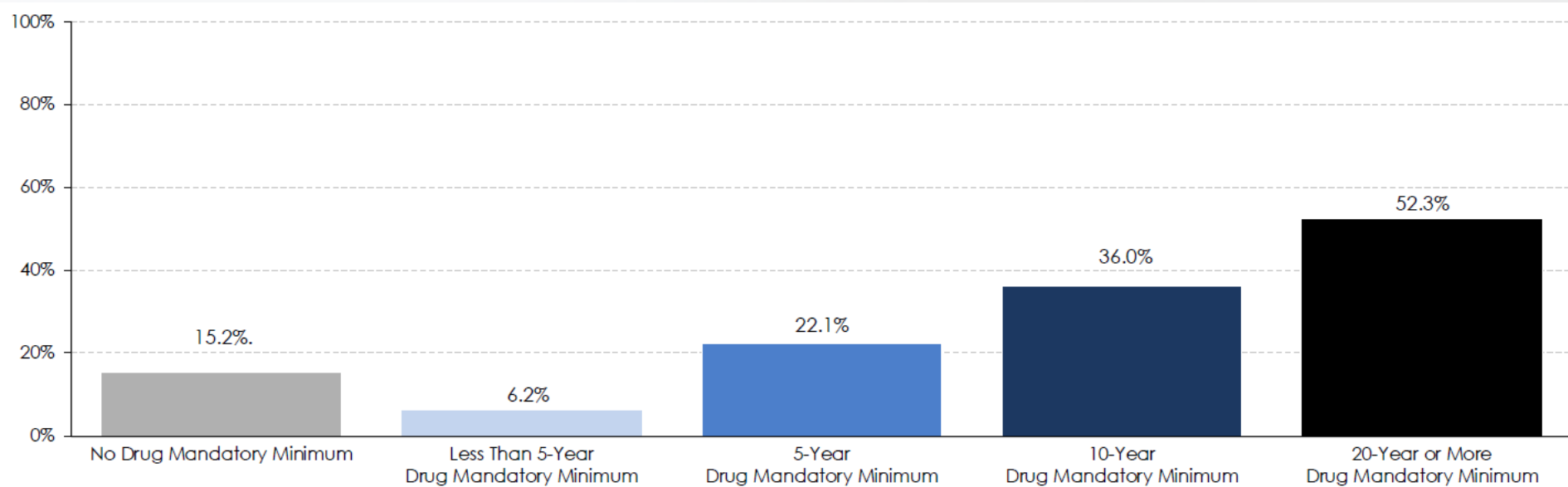
Percent of drug offenders receiving substantial assistance – FY 2016

Figure 19. Percent of Drug Offenders Receiving Substantial Assistance
Fiscal Year 2016



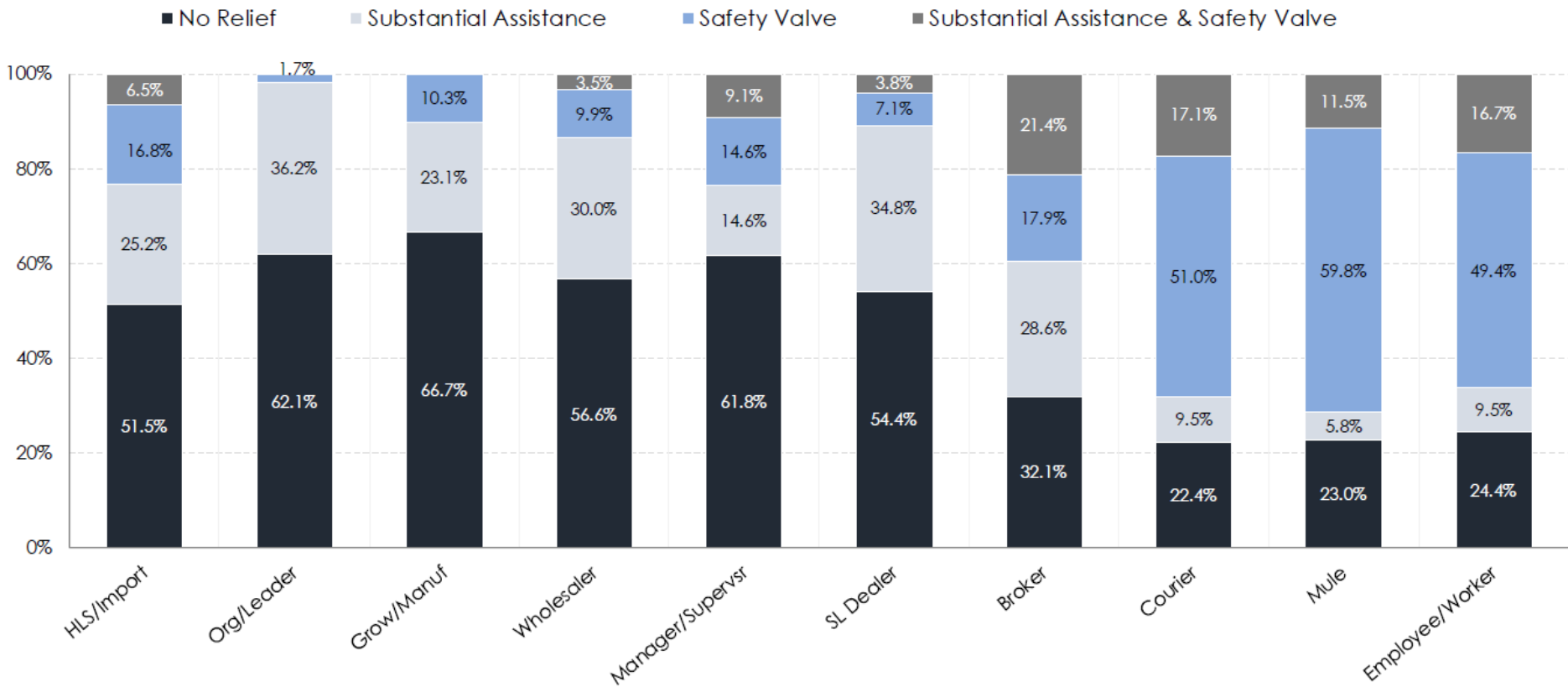
SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Percent of drug offenders receiving substantial assistance – FY 2016

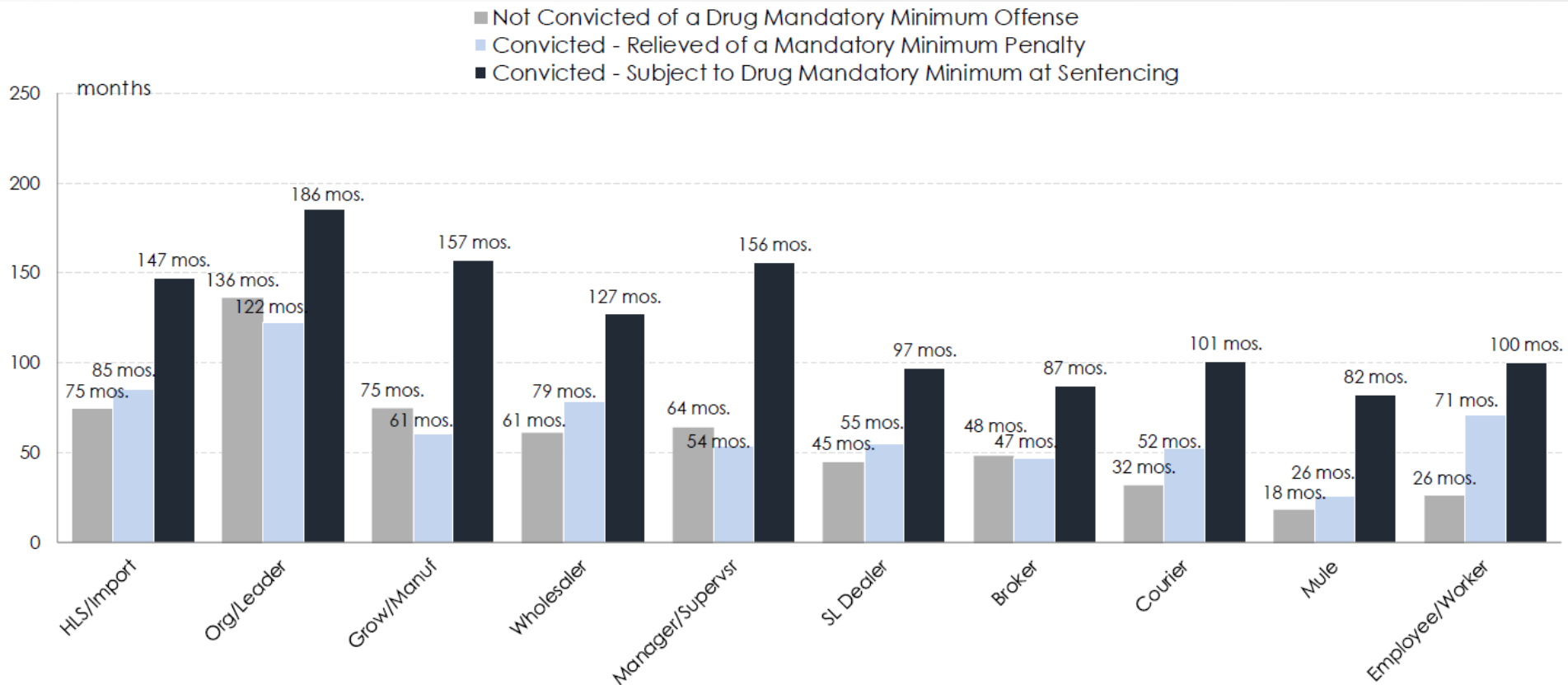


SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Percent of drug offenders convicted of MM who received relief by offender function



Average sentence by offender function



SOURCE: U.S. Sentencing Commission, 2016 Function Datafile, FUNCSAMPFY16.

Takeaways

- Some reforms have lessened the application of mandatory minimums.
- At the same time, mandatory minimums continue to result in significantly harsher sentences compared to drug offenders not facing them.
- Dramatic effect on prison population continues.
- Still affects drug offenders across the spectrum of roles, which is expressly against the stated legislative purpose of mandatory minimum sentencing.



UNITED STATES SENTENCING COMMISSION

INTERACTIVE SOURCEBOOK OF FEDERAL SENTENCING STATISTICS

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Demographic Data

Click here to view tables and figures about offender demographic information such as gender, race, age, and citizenship information.

Sentencing Information

Click here to view tables and figures related to sentence type and length.

Drug Data

Click here to view tables and figures related to drug offenses and offenders who commit these crimes.

Immigration Data

Click here to view tables and figures related to immigration offenses and offenders who commit these crimes.

Departures and Variances

Click here to view tables and figures related to the relationship between the sentence imposed and the guideline range.

Appeals Data

Click here to view tables and figures related to decisions of the Courts of Appeals in criminal cases that have been appealed, including type of appeal and disposition.

Resentencing Data

Click here to view tables and figures on resentencings and other modifications of sentence (including resentencings under Fed. R. Crim P. 35(b)).

Organizational Offender Data

Click here to view tables and figures related to the sentences imposed in cases where an organization is the offender.

*The
End*