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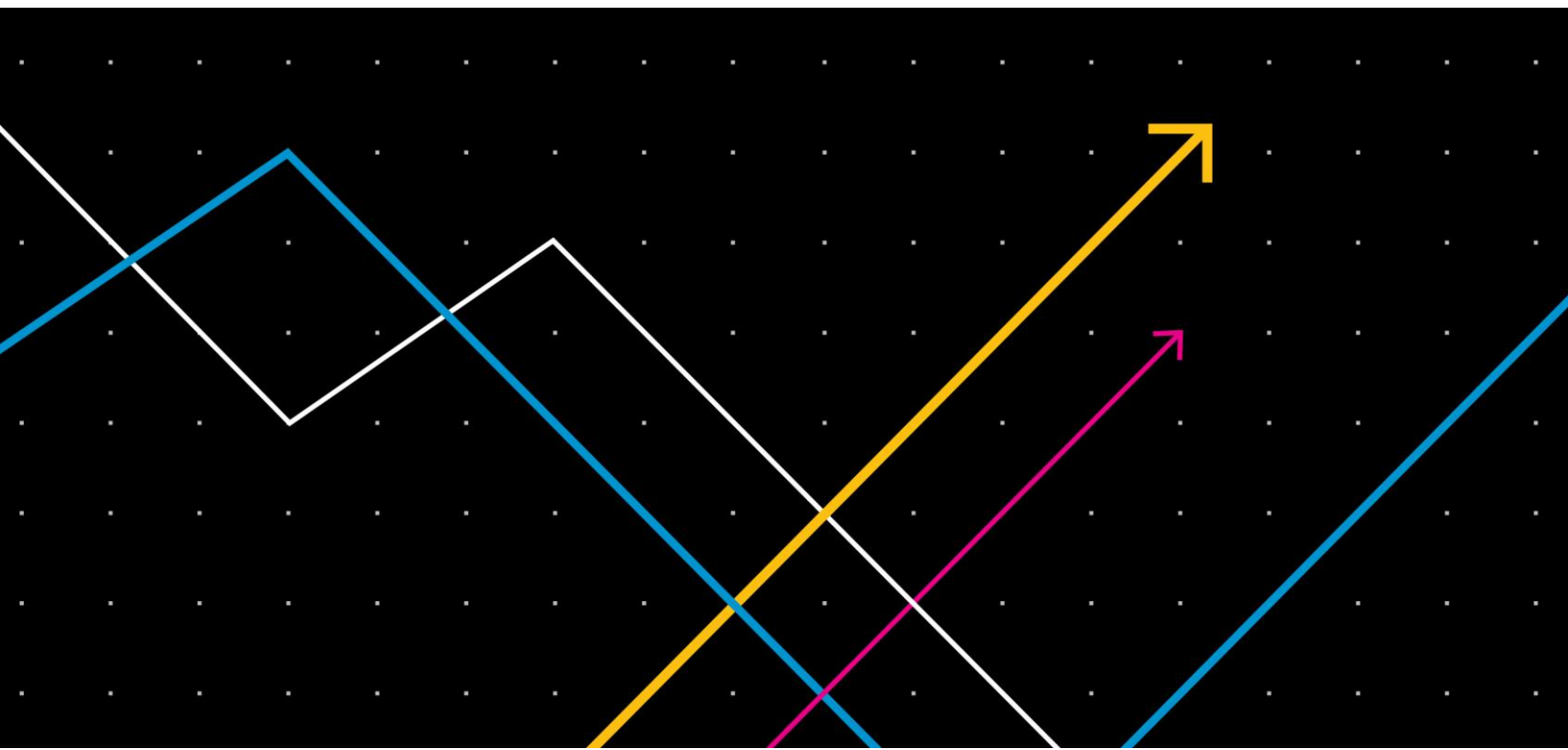
Abstract:

This report was produced by Urban Institute for BJS under award number 2017-BJ-CX-K055. It describes trends associated with the prosecution of firearm offenders in U.S. district courts from 2000 to 2016. It presents data on the following stages of the federal criminal justice system: investigations and referrals of suspects to U.S. attorneys, prosecutions and convictions of defendants in U.S. district court, and sentencing. Statistics are based on analysis of data from BJS’s Federal Justice Statistics Program.

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RESEARCH REPORT

Prosecution of Federal Firearms Offenses, 2000-16

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October 2021

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Executive Summary

States and localities maintain primary responsibility for addressing violent crime in their communities, but the federal government also plays an important role in combating violence. One key part of that role is the enforcement of federal gun laws that regulate receipt and possession of firearms as well as their manufacture, importation, distribution, and transfer. Federal law also penalizes the criminal use of firearms. Most defendants in federal firearms cases are charged pursuant to the Gun Control Act of 1968, which regulates interstate and foreign firearms commerce and prohibits certain persons, such as those with felony convictions, from possessing a firearm (**box 1**). Federal prosecution is sometimes considered more advantageous than state prosecution because it carries more certain and punitive penalties. Moreover, targeted federal prosecutions through federal, state, and local task forces like Project Safe Neighborhoods (PSN) can be a key component of crime-reduction strategies (see **box 5** on page 19).

BOX 1

Types of Federal Firearms Offenses

In this report, federal firearms offenses are classified into the following three types (table A.1 offers a full list of statutes under each type):

- **Possession:** unlawful possession of firearms, such as possession of a firearm by a prohibited person. For example, a person may be prohibited from possessing a firearm if they have a prior felony conviction or are subject to a domestic violence restraining order. Other offenses include possession of a prohibited firearm (e.g., a machine gun or a firearm with an altered or obliterated serial number), possession of a stolen firearm, and theft of a firearm.
- **Transfer:** unlawful transfer of firearms, including distribution of a firearm to a prohibited or underage person, making a false statement to obtain a firearm, and transferring a firearm with reasonable knowledge that it will be used to commit a violent or drug trafficking offense. This category also includes “straw purchases,” in which a person purchases a firearm on behalf of someone else (usually someone prohibited from possessing or purchasing a firearm).
- **Regulatory:** violations of firearms manufacturing and retail regulations, such as distributing a firearm before the end of the five-day waiting period; failing to comply with the Brady Handgun Prevention Act, which requires federally licensed firearms dealers to submit a purchaser to the National Instant Criminal Background Check System before selling them a firearm; and selling firearms without a federal license.

This report describes trends in federal prosecutions of firearms offenses between 2000—the year before the US Department of Justice established PSN—and 2016. Overall US violent crime rates declined during that period, although there were some year-to-year fluctuations.¹ After describing overall trends, this report presents data on several stages of the federal criminal justice system: investigations and referrals of suspects to US attorneys, prosecutions and convictions of defendants in US district court, and sentencing.

This report's statistical findings are based on analysis of data obtained through the Bureau of Justice Statistics' Federal Justice Statistics Program from the following three sources:

- the Executive Office for US Attorneys' (EOUSA) Legal Information Office Network System (LIONS) database, which contains information about investigations and prosecutions of suspects in criminal matters received and concluded by US attorneys
- the Administrative Office of the US Courts' (AOUSC) Criminal Master File, which collects information about defendants in criminal cases filed and terminated in US district court
- the US Sentencing Commission's (USSC) Monitoring Database, which contains information on defendants sentenced pursuant to the federal sentencing guidelines, including the type and length of the sentence imposed

Federal firearms-related statutes were used to define the universe of cases examined from each data source (table A.1 details the specific statutes). For EOUSA data, the lead charge was examined to identify firearms matters. For AOUSC data, all five available filing charges were examined. If any filing charge was firearms-related, the case was included in the analyses, except where noted in the tables and text when the most serious offense was used. For USSC data, the statutes for each count of conviction were searched to define the universe of federal firearms offense cases sentenced. If a statute was a federal firearms statute, the case was included as a federal firearms case sentenced.

The key findings of this report include the following:

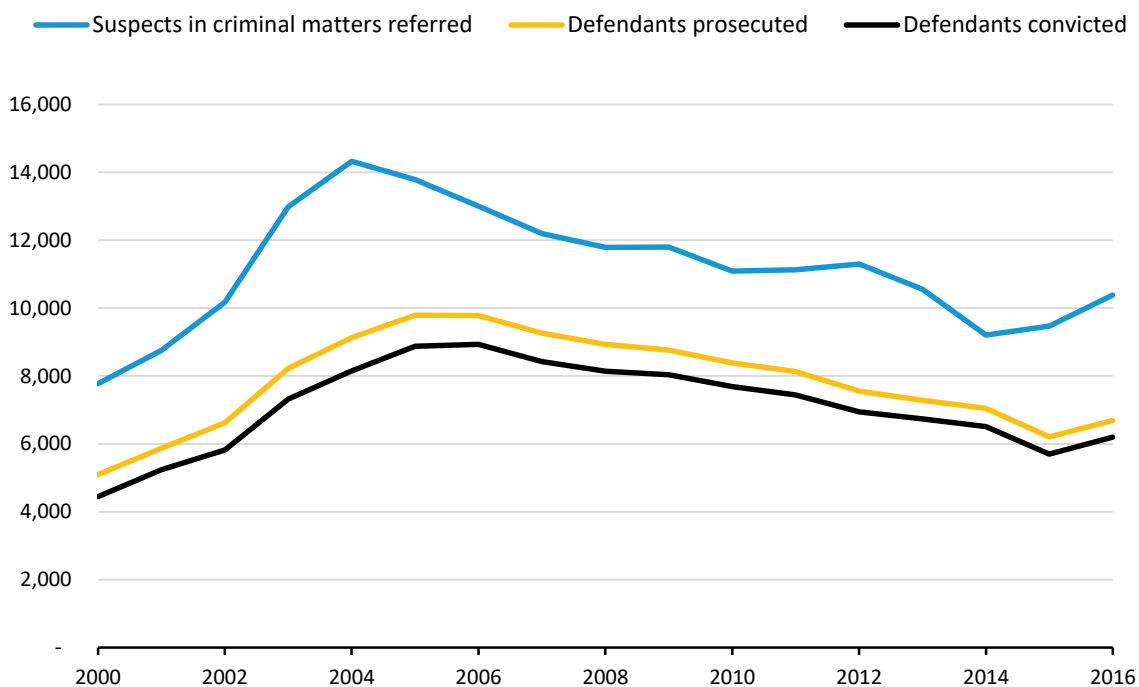
- The number of defendants investigated, prosecuted, and convicted for federal firearms offenses increased overall between 2000 and 2016; the largest increases occurred between 2004 and 2006.
- Much of the increase in investigations, prosecutions, and convictions was driven by firearms possession offenses. Between 2000 and 2016, investigations for possession offenses increased 67 percent, prosecutions increased 63 percent, and convictions increased 72 percent.
- The share of federal firearms offense investigations handled by state and local authorities or task forces increased from 3 percent in 2000 to 9 percent in 2016.

- Average prison sentences decreased 17 percent, also driven by firearms possession offenses. However, average sentences for possession offenses remained longer than sentences for transfer or regulatory offenses.
- The share of defendants sentenced for a firearms offense whose sentences fell within federal sentencing guidelines decreased from 72 to 51 percent between 2000 and 2016. Most sentences that departed from the sentencing guidelines were below the applicable guideline range (“downward departures”).

Prosecution of Federal Firearms Offenses, 2000–16

The number of defendants investigated, prosecuted, and convicted for federal firearms offenses increased overall from 2000 to 2016 (figure 1). These numbers peaked between 2004 and 2006, declined through 2015, and began increasing again by 2016.

FIGURE 1
Suspects Referred, Defendants Prosecuted, and Defendants Convicted for Federal Firearms Offenses, 2000–16



Source: Bureau of Justice Statistics; based on data from the Executive Office for US Attorneys' Legal Information Office Network System database and the Administrative Office of the US Courts' Criminal Master File, FY 2000–16.

Notes: "Suspects in criminal matters referred" are persons investigated for violations of federal criminal law by federal law enforcement agencies who are referred to US attorneys for prosecution; "defendants prosecuted" are defendants in criminal cases filed in US district court; "defendants convicted" are defendants found guilty in criminal cases adjudicated in US district court. "Defendants prosecuted" only includes people whose most serious filing offense was a firearms offense.

The number of suspects in criminal matters referred to US attorneys for federal firearms offenses in 2016 (10,384) was 34 percent higher than in 2000 (7,770), peaking at 14,322 in 2004. Moreover, the number of defendants prosecuted in US district court whose most serious filing charge was firearms-

related increased 31 percent (from 5,093 to 6,690) during this period. However, this increase was not steady. The number of defendants prosecuted for federal firearms offenses nearly doubled between 2000 and 2005 (peaking at 9,794 in 2005) and then decreased through 2015 before increasing 8 percent in 2016 (not shown in tables). Furthermore, the number of convicted defendants whose most serious filing charge was firearms-related increased 39 percent between 2000 (4,448) and 2016 (6,195), peaking at 8,931 in 2006. By 2016, 9 percent of defendants in cases filed in US district court were charged with firearms offenses, up from 7 percent in 2000 (not shown in tables).

Suspects Investigated in Firearms Matters Referred to US Attorneys

A total of 189,723 suspects in criminal matters referred to US attorneys were investigated for a firearms-related charge between 2000 and 2016 (**table 1**), representing 7 percent of the 2,730,728 matters referred for any offense (not shown in tables). In 2016, most firearms suspects investigated (91 percent) were investigated for unlawful possession; fewer investigations were for transfer (8 percent) and regulatory (1 percent) offenses (**figure 2**) (see box 1 above for definitions of these offense types).

In 2016, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) was the lead investigative agency for 67 percent of firearms matters referred for prosecution. All other Department of Justice (DOJ) agencies investigated a combined 15 percent of firearms matters referred. Agencies within the Department of Homeland Security (DHS) were responsible for 5 percent of firearms matters, and state and local authorities were responsible for 9 percent.

From 2000 to 2016, the share of federal firearms offenses investigated and referred by the ATF decreased from 82 to 67 percent. During this period, the share of investigations of federal firearms offenses referred by the Federal Bureau of Investigation (FBI) increased from 6 to 11 percent. Since the DHS was established in 2002, the share of investigations of firearms matters referred by DHS agencies increased from 2 percent in 2005 to 5 percent by 2016. The number of suspects investigated by state, county, and local authorities or task forces increased from 248 (3 percent) in 2000 to 957 (9 percent) in 2016.

TABLE 1

Suspects Referred for Prosecution for Firearms Offenses, by Investigative Agency, 2000, 2005, 2010, and 2016

Agency	2000-16		2000		2005		2010		2016	
	#	%	#	%	#	%	#	%	#	%
<i>Department of Justice</i>										
ATF	150,409	79.2	6,346	81.7	11,404	82.7	8,805	79.4	6,991	67.3
DEA	3,982	2.1	140	1.8	356	2.6	187	1.7	327	3.1
FBI	11,375	6.1	491	6.3	561	4.1	763	6.9	1,165	11.2
Other DOJ	2,299	1.2	170	2.2	111	0.8	88	0.8	76	0.7
Total	168,065	88.6	7,147	92.0	12,432	90.2	9,843	88.7	8,559	82.4
<i>Department of Homeland Security</i>										
ICE	3,796	2.0	N/A	0.0	57	0.4	332	3.0	376	3.6
Other DHS	1,240	0.7	N/A	0.0	195	1.4	33	0.3	163	1.6
Total	5,036	2.7	N/A	0.0	252	1.8	365	3.3	539	5.2
<i>State/county/municipal authority or task force</i>										
Total	10,086	5.3	248	3.2	652	4.7	530	4.8	957	9.2
<i>All other agencies</i>										
Total	6,536	3.4	375	4.8	450	3.3	357	3.2	329	3.2
All agencies	189,723	100.0	7,770	100.0	13,786	100.0	11,095	100.0	10,384	100.0

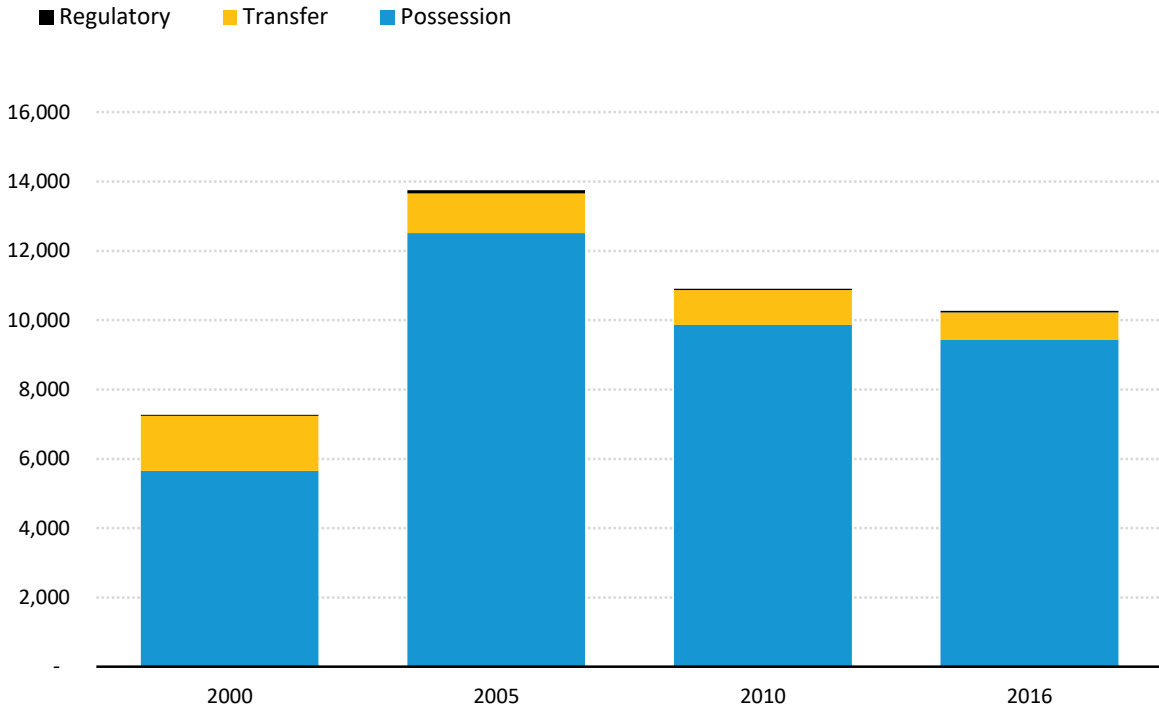
Source: Bureau of Justice Statistics; based on data from the Executive Office for US Attorneys' Legal Information Office Network System database, FY 2000-16.

ATF = Bureau of Alcohol, Tobacco, Firearms and Explosives; DEA = Drug Enforcement Administration; FBI = Federal Bureau of Investigation; ICE = US Immigration and Customs Enforcement; N/A = not applicable.

The 34 percent increase in the number of suspects investigated for a federal firearms offense was driven almost entirely by an increase in investigations of unlawful firearms possession. The number of suspects investigated for possession offenses grew 67 percent from 2000 to 2016 (from 5,658 to 9,428). Investigations of firearms transfer offenses dropped by roughly 50 percent, from 1,584 to 795. The number of suspects investigated for regulatory offenses was small and remained stable throughout that period, accounting for less than 1 percent of firearms offenses referred each year (37 suspects investigated in 2000, 91 in 2005, 37 in 2010, and 49 in 2016).

FIGURE 2

Suspects Referred for Prosecution for Firearms Offenses, by Type of Offense, 2000, 2005, 2010 and 2016



Source: Bureau of Justice Statistics; based on data from the Executive Office for US Attorneys' Legal Information Office Network System database, FY 2000, 2005, 2010, and 2016.

Possession by a prohibited person (18 U.S.C. § 922[g]) accounted for 84 percent of all firearms possession offenses investigated (not shown in tables). This statute includes nine subsections prohibiting certain people from possessing firearms (table 2). The most common reason suspects were prohibited from firearms possession was a prior felony conviction (91 percent); followed by being an undocumented immigrant (4 percent) and being a user of any controlled substance (3 percent).

TABLE 2

Suspects Investigated for Possession by a Prohibited Person (18 U.S.C. § 922[g]), by Statutory Subsection, 2000–16

	#	%
18 U.S.C. § 922(g) subsection		
Felony conviction (1)	126,580	90.8
Fugitive from justice (2)	323	0.2
Unlawful user of or addicted to any controlled substance (3)	3,695	2.7
Adjudicated as a mental defective or committed to a mental institution (4)	303	0.2
Undocumented immigrant (5)	5,589	4.0
Dishonorable discharge from the military (6)	131	0.1
Renounced US citizenship (7)	11	0.0
Subject to a domestic violence protective order (8)	952	0.7
Misdemeanor domestic violence conviction (9)	1,847	1.3
Total ^a	139,431	100.0

Source: Bureau of Justice Statistics; based on data from the Executive Office for US Attorneys' Legal Information Office Network System database, FY 2000–16.

^a Total does not include 723 cases where the subsection was not available.

Prosecutorial Decisions by US Attorneys

Seventy-four percent of suspects investigated in federal firearms matters were prosecuted in US district court in 2016, up from 65 percent in 2000 (table 3). The prosecution rate for suspects charged with firearms possession offenses remained stable during the same period. The percentage of suspects prosecuted for a firearms transfer offense increased from 40 to 58 percent, and the percentage of suspects prosecuted for a regulatory offense increased from 22 to 71 percent, although these categories had relatively few cases. In comparison, the overall prosecution rate for suspects investigated for any federal offense increased from 75 to 84 percent (not shown in tables).²

TABLE 3

Suspects Prosecuted and Prosecution Rates for Firearms Offenses, by Type of Offense, 2000–16

Year	Total		Possession		Transfer		Regulatory		Other ^a	
	#	%	#	%	#	%	#	%	#	%
2000	5,015	64.5	4,184	73.9	632	39.9	8	21.6	191	38.9
2001	5,600	64.0	4,912	73.2	635	34.3	27	62.8	26	17.6
2002	7,089	69.7	6,343	73.2	670	49.4	49	63.6	27	33.3
2003	9,141	70.4	8,385	72.1	701	56.9	49	57.6	6	16.7
2004	9,911	69.2	9,108	70.6	718	57.2	71	57.3	14	40.0
2005	9,587	69.5	8,839	70.7	670	58.4	61	67.0	17	45.9
2006	8,885	68.3	8,172	69.6	638	56.0	60	65.2	15	39.5
2007	8,609	70.6	7,441	71.6	510	51.9	46	62.2	612	82.5
2008	8,167	69.3	7,220	70.6	579	58.3	28	50.0	340	66.1
2009	8,094	68.6	7,482	69.8	487	58.3	29	65.9	96	46.8
2010	7,611	68.6	6,883	69.8	600	59.7	24	64.9	104	55.6
2011	7,619	68.5	6,887	69.3	600	61.5	31	67.4	101	59.8
2012	7,911	70.0	7,152	71.5	687	61.2	17	50.0	55	38.7
2013	7,449	70.6	6,843	72.1	503	56.8	25	62.5	78	59.1
2014	6,534	71.0	6,028	72.1	430	60.5	19	63.3	57	51.4
2015	7,052	74.4	6,507	76.2	452	56.7	23	67.6	70	68.6
2016	7,652	73.7	7,105	75.4	457	57.5	35	71.4	55	49.1

Source: Bureau of Justice Statistics; based on data from the Executive Office for US Attorneys' Legal Information Office Network System database, FY 2000–16.

Note: To conclude a matter, U.S. attorneys may file charges and prosecute defendants in U.S. district court, file charges and prosecute matters before U.S. magistrates, or decline matters, resulting in no further action in U.S. district court. The “prosecution rate” is the share of matters concluded where U.S. attorneys decide to file charges in U.S. district court.

^a Includes records missing type of firearm offense.

Between 2000 and 2016, 41 percent of firearms matters declined for prosecution were declined for insufficient evidence. The declination rate for all firearms offense matters concluded between 2000 and 2016 was 27 percent (not shown in tables). Weak or inadmissible evidence was the most common reason suspects were declined for prosecution, followed by referral to other jurisdictions for prosecution (29 percent) and prioritization of federal resources and interests (19 percent) (**table 4**).³

The share of suspects declined for prosecution because of insufficient evidence increased from 29 to 55 percent between 2000 and 2016. The percentage of suspects declined for prosecution in favor of alternatives (such as pretrial diversion or administrative disciplinary options) also increased, from 1 to 11 percent. Moreover, declinations because of federal policy or lack of resources decreased from 37 to 8 percent. The percentage of suspects declined for prosecution because the federal government was legally barred from filing charges (e.g., the statute of limitations expired) also declined, from 10 to 3 percent.

TABLE 4

Suspects in Firearms Matters Declined for Prosecution by US Attorneys, by Reason for Declination, 2000, 2005, 2010, And 2016

	2000-16	2000	2005	2010	2016
Reason for declination					
Legally barred/lacked jurisdiction	6.8%	10.3%	6.9%	7.3%	3.4%
Insufficient evidence	40.6%	28.7%	37.1%	42.8%	55.2%
Defendant unavailable	1.5%	0.9%	1.6%	1.4%	2.1%
Matter referred to another jurisdiction	28.5%	20.6%	32.8%	31.6%	19.2%
Alternative to Federal prosecution appropriate	2.1%	1.3%	1.2%	0.6%	11.1%
Prioritization of Federal resources and interests	19.2%	36.8%	19.1%	15.1%	8.1%
All other reasons	1.3%	1.7%	1.4%	1.2%	0.8%
Number of suspects	50,670	2,544	3,662	3,096	2,236

Source: Bureau of Justice Statistics; based on data from the Executive Office for US Attorneys' Legal Information Office Network System database, FY 2000-16.

Most defendants prosecuted for federal firearms offenses were charged with unlawful possession. The number of defendants charged in federal criminal cases for whom a firearms offense was one of the five most serious filing offenses (see methodology) peaked in 2006 at 13,679 (table 5). From 2000 to 2016, an annual average of 88 percent of defendants charged with a firearms offense were charged with unlawful possession (not shown in tables). Although yearly prosecutions for possession offenses declined between 2007 and 2015, overall prosecutions for possession increased 63 percent from 2000 to 2016. The number of defendants charged decreased during this period for transfer (-8 percent), regulatory (-12 percent), and other firearms offenses (-55 percent). Of the 9,698 defendants charged for whom a possession offense was one of the five most serious filing offenses in 2016, 7,029 (72 percent) were charged with possession by a prohibited person (18 U.S.C. § 922[g]) and 3,337 (34 percent) were charged with use or possession of a firearm during the commission of a violent or drug trafficking offense (18 U.S.C. § 924[c]) (table A.1).⁴

TABLE 5

Defendants Charged in US District Courts with Firearms Offenses, by Type of Offense, 2000–16

	Total	Possession	Transfer	Regulatory	Other ^a
Year					
2000	7,115	5,932	1,013	66	104
2001	7,882	6,767	954	54	107
2002	8,891	7,692	1,020	72	107
2003	10,908	9,532	1,208	73	95
2004	12,066	10,564	1,286	105	111
2005	13,290	11,887	1,241	87	75
2006	13,679	12,290	1,204	93	92
2007	13,127	11,832	1,111	96	88
2008	12,686	11,254	1,249	96	87
2009	12,436	11,069	1,218	88	61
2010	11,903	10,660	1,112	71	60
2011	11,810	10,435	1,255	60	60
2012	12,129	10,583	1,423	73	50
2013	11,888	10,368	1,415	60	45
2014	11,422	10,087	1,192	92	51
2015	10,342	9,221	994	66	61
2016	10,736	9,698	933	58	47
% Change 2000–16	51%	63%	-8%	-12%	-55%

Source: Bureau of Justice Statistics; based on data from the Administrative Office of the US Courts' Criminal Master File, FY 2000–16.

Note: Statistics represent any firearms offense charged.

^a "Other" offenses include penalty statutes and state offenses prosecuted in US district courts pursuant to the Assimilated Crimes Act (18 U.S.C. § 13), if not charged with any other firearms-related statute.

Half the defendants charged with unlawful firearms possession in 2016 were also charged with a substantive offense (table 6). Defendants charged with unlawful firearms possession as one of the five most serious filing offenses are frequently charged in conjunction with substantive offenses, such as drug trafficking or bank robbery. Among the 51 percent of defendants charged with a firearms possession offense and a substantive offense, 66 percent of possession offenses were for use or possession of a firearm during the commission of a violent or drug trafficking offense (18 U.S.C. § 924[c]) (box 2). The next most common possession offense among this group was possession of a firearm by a prohibited person (54 percent) (18 U.S.C. § 922[g]). The substantive offenses charged include drug trafficking (69 percent), racketeering (12 percent), bank robbery (4 percent), carjacking (3 percent), and other offense types (13 percent). Although possession by a prohibited person was a common charge among defendants charged with both a firearms possession offense and a substantive offense (54%), this charge was more common among defendants charged solely with a firearms offense. For the 49 percent of defendants charged solely with a firearms possession offense, 92 percent were charged with possession by a prohibited person (18 U.S.C. § 922[g]).

TABLE 6

Defendants Charged in US District Courts with Firearms Possession Offenses, 2016

	Statute	Defendants Charged with:			
		Possession only		Possession plus substantive offense	
		#	%	#	%
Firearm possession offense					
Possession of a firearm by a prohibited person	18 U.S.C. § 922(g)	4,397	91.8	2,632	53.6
Possession of stolen firearms	18 U.S.C. § 922(j)]	324	6.8	130	2.6
Transportation, shipment, or receipt of firearms with obliterated or altered serial numbers	18 U.S.C. § 922(k)	87	1.8	59	1.2
Shipment, transportation, or receipt of a firearm by a person under indictment for a felony offense	18 U.S.C. § 922(n)	53	1.1	38	0.8
Possession of a machine gun	18 U.S.C. § 922(o)	71	1.5	32	0.7
Possession of a firearm in a school zone	18 U.S.C. § 922(q)	17	0.4	11	0.2
Use or possession of a firearm during the commission of a violent or drug trafficking offense	18 U.S.C. § 924(c)	85	1.8	3,252	66.3
Receipt or possession of an unregistered firearm	26 U.S.C. § 5861(d)	176	3.7	85	1.7
All other possession offenses		67	1.4	140	2.9
Substantive offense					
Drug trafficking		N/A	N/A	3,364	68.5
Bank robbery		N/A	N/A	187	3.8
Racketeering		N/A	N/A	587	12.0
Carjacking		N/A	N/A	130	2.6
Other		N/A	N/A	640	13.0
Total defendants		4,790	49.0	4,908	51.0

Source: Bureau of Justice Statistics; based on data from the Administrative Office of the US Courts' Criminal Master File, FY 2016.

Note: Details do not sum to totals because defendants could be charged with more than one firearms possession offense. If charged with more than one substantive offense, the most serious offense is counted.

N/A = not applicable.

BOX 2

18 U.S.C. § 924(c): Mandatory Minimum Sentencing Enhancement for Possessing or Using a Firearm in a Violent or Drug Trafficking Offense

Offenses charged under 18 U.S.C. § 924(c) involve the use or carrying of a firearm during a violent or drug trafficking offense and result in fixed mandatory minimum prison sentences. The mandatory minimum penalties are: 5 years for the basic offense (using, carrying, or possessing a firearm); 7 years if the firearm is brandished; 10 years if the firearm is discharged or if it is a short-barreled rifle or shotgun or semiautomatic assault weapon; and 30 years if the firearm is a machine gun, a destructive device, or is equipped with a silencer. The penalty is 25 years for second or subsequent convictions. Furthermore, life imprisonment is imposed for a subsequent conviction that involves a machine gun, destructive device, or a silencer. These penalties run consecutively to any other sentence, such as for the violent or drug trafficking offense.

Defendants Convicted of Federal Firearms Offenses

Among defendants whose most serious charge at case termination was a federal firearms offense, the conviction rate rose from 87 percent in 2000 to 93 percent in 2016 (table 7). Over the same period, the conviction rate for defendants charged with any federal offense rose from 88 to 90 percent (not shown in tables). The conviction rates for possession, transfer, and regulatory offenses all increased between 2000 and 2016, whereas conviction rates for “other” firearms offenses decreased slightly (though few defendants were in this category). Those charged with regulatory offenses in 2016 were convicted at a rate of 99 percent, compared with 93 percent of unlawful firearms possession and transfer offenses and 52 percent of “other” firearms offenses.

TABLE 7

Firearms Offense Conviction Rates in US District Courts, by Type of Offense, 2000-16

Year	Total	Type of Firearms Offense ^a			
		Possession	Transfer	Regulatory	Other ^b
2000	87.2%	87.2%	89.0%	84.1%	58.7%
2001	89.0%	89.0%	90.2%	95.8%	57.7%
2002	87.9%	88.0%	88.7%	90.4%	50.0%
2003	89.0%	89.0%	90.2%	93.1%	50.0%
2004	89.7%	90.0%	88.2%	91.8%	49.0%
2005	90.8%	90.9%	92.0%	90.1%	48.3%
2006	91.5%	91.7%	92.5%	88.2%	38.1%
2007	91.0%	91.1%	90.9%	90.7%	52.2%
2008	91.3%	91.5%	91.9%	86.0%	42.4%
2009	92.0%	91.9%	93.8%	100.0%	28.0%
2010	92.0%	92.0%	94.3%	90.9%	33.3%
2011	91.7%	92.1%	92.3%	87.0%	20.9%
2012	92.5%	92.6%	92.4%	94.0%	66.7%
2013	93.1%	93.2%	92.8%	94.9%	63.2%
2014	93.0%	93.3%	92.0%	90.4%	47.8%
2015	92.4%	92.7%	92.3%	93.2%	50.0%
2016	93.1%	93.2%	92.8%	98.5%	52.0%
2000-16	91.1%	91.3%	91.5%	91.7%	46.5%

Source: Bureau of Justice Statistics; based on data from the Administrative Office of the US Courts' Criminal Master File, FY 2000-16.

^a Includes only convictions in which the firearms offense was the most serious offense at termination.

^b "Other" offenses include penalty statutes and state offenses prosecuted in US district courts pursuant to the Assimilated Crimes Act (18 U.S.C. § 13), if not charged with any other firearms-related statute.

More than half the defendants charged with 924(c) who pleaded guilty in 2016 had the 924(c) charge dismissed. Among defendants charged with using a firearm in relation to a violent or drug trafficking offense (18 § 924[c]) as one of the five most serious offenses at termination (see methodology), the conviction rate from 2000 to 2016 was 94 percent; 90 percent of these convictions

resulted from guilty pleas (**table 8**). Over this period, the number of defendants charged with the weapon enhancement penalty increased, and the conviction rate rose from 92 to 95 percent. The share of convictions resulting from guilty pleas also rose from 88 to 93 percent. The share of defendants who pleaded guilty and had the 924(c) charge dismissed peaked at 52 percent in 2016.

TABLE 8

Defendants in Cases Concluded in US District Courts Charged with Using a Firearm in Relation to a Violent or Drug Trafficking Offense, by Conviction, Guilty Plea, and 924(c) Dismissal, 2000-16

Year	Convicted ^b			Pleaded Guilty		924(c) Dismissed
	# charged ^a	#	% of charged	#	% of convicted	% of pleaded guilty
2000	2,224	2,041	91.8	1,803	88.3	49.0
2001	2,408	2,195	91.2	1,963	89.4	49.7
2002	2,582	2,360	91.4	2,108	89.3	44.3
2003	3,115	2,907	93.3	2,620	90.1	45.6
2004	3,190	2,964	92.9	2,665	89.9	36.9
2005	3,811	3,561	93.4	3,140	88.2	41.5
2006	4,243	4,000	94.3	3,519	88.0	40.2
2007	4,024	3,758	93.4	3,333	88.7	41.9
2008	3,797	3,559	93.7	3,180	89.4	42.8
2009	3,735	3,527	94.4	3,152	89.4	41.6
2010	3,459	3,261	94.3	2,952	90.5	39.3
2011	3,534	3,329	94.2	3,003	90.2	41.5
2012	3,516	3,287	93.5	2,990	91.0	43.9
2013	3,574	3,365	94.2	3,075	91.4	45.9
2014	3,512	3,315	94.4	3,038	91.6	49.3
2015	3,277	3,104	94.7	2,874	92.6	48.9
2016	3,287	3,115	94.8	2,910	93.4	52.1
2000-16	57,288	53,648	93.6	48,325	90.1	44.1

Source: Bureau of Justice Statistics; based on data from the Administrative Office of the US Courts' Criminal Master File, FY 2000-16.

^a Includes all defendants charged with 18 U.S.C. § 924(c) as a terminating offense regardless of whether it was the primary or a secondary offense.

^b Convicted of any offense.

Sentences Imposed in Federal Firearms Offense Cases

In 2016, of the 6,517 defendants convicted of a firearms offense as the most serious offense at case termination (not shown in tables), 5,920 (91 percent) were sentenced to prison (**table 9**). A higher share of people convicted of unlawful firearms possession received an incarceration sentence (92 percent) than people convicted of firearms transfer (79 percent), regulatory (84 percent), and “other” (39 percent) firearms offenses. Defendants convicted of firearms possession offenses had a longer average

sentence (76 months) than defendants convicted of firearms transfer, regulatory, and “other” offenses (less than 60 months).

TABLE 9

Defendants Sentenced to Prison for Firearms Offenses in US District Courts and Average Sentence Imposed, by Type of Offense, 2016

Type of firearms offense	#	%	Average prison sentence in months ^a
Possession	5,412	92.2	76.0
Transfer	447	78.6	53.4
Regulatory	56	83.6	57.7
Other ^b	5	38.5	59.6
Total	5,920	90.8	74.1

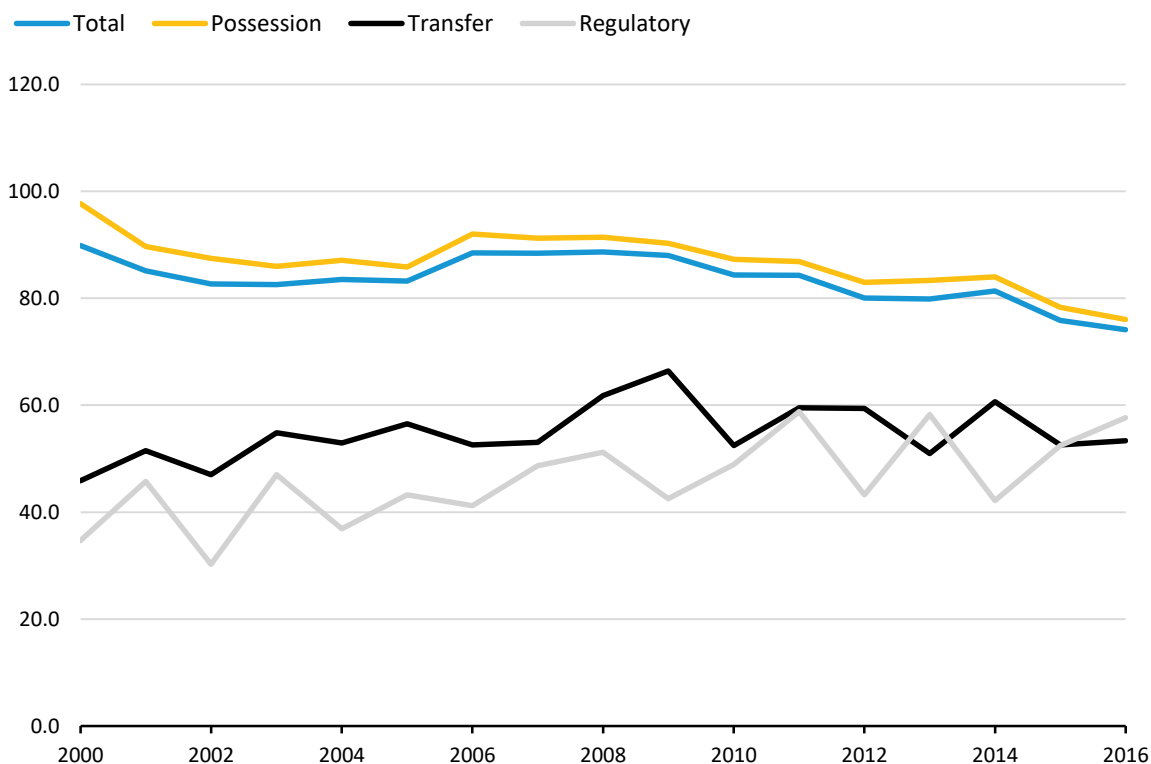
Source: Bureau of Justice Statistics; based on data from the Administrative Office of the US Courts' Criminal Master File, FY 2016.

^a Does not include sentences of community confinement imposed in conjunction with a term of imprisonment or sentences of life imprisonment or death.

^b "Other" offenses include penalty statutes and state offenses prosecuted in US district courts pursuant to the Assimilated Crimes Act (18 U.S.C. § 13), if not charged with any other firearms-related statute.

Among defendants whose most serious conviction charge was a firearms offense, the average prison sentence decreased 17 percent (from 90 to 74 months) between 2000 and 2016 (figure 3). The greatest decrease occurred between 2014 and 2015, when the average sentence decreased from 81 to 76 months. Changes in average prison sentences from 2000 to 2016 varied by firearms offense type. Sentences decreased 22 percent (from 98 to 76 months) for possession offenses, increased 66 percent (from 35 to 58 months) for regulatory offenses, and increased 16 percent (from 46 to 53 months) for receipt and transfer offenses.

FIGURE 3
Average Months of Incarceration Imposed for Federal Firearms Offenses, 2000–16



Source: Bureau of Justice Statistics; based on data from the Administrative Office of the US Courts’ Criminal Master File, FY 2000–16.

Notes: This figure only includes a conviction when a firearms offense was the most serious offense. Total includes convictions where the most serious firearms offense was “other” (e.g., penalty only, Assimilated Crimes Act offense). Excludes sentences of community confinement imposed in conjunction with a term of imprisonment or sentences of life imprisonment or death.

Between 2000 and 2016, the share of defendants in firearms cases who received a downward departure from the guidelines range decreased. About half (51 percent) of the defendants sentenced for federal firearms offenses in 2016 were sentenced within the sentencing guidelines range (box 3), compared with 72 percent in 2000 (table 10). The number of government-sponsored downward departures increased 131 percent over this period, making up 21 percent of sentences imposed on defendants convicted of firearms offenses in 2016. A government-sponsored departure is a departure granted for substantial assistance to authorities under §5K1.1 of the US sentencing guidelines manual.⁵ Another 23 percent received a judicial downward departure. Lastly, 4 percent of federal firearms defendants received an upward departure.

TABLE 10

Defendants Sentenced for Firearms Offenses in US District Courts, by Departure Status, 2000–16

Year	# defendants	Within Guidelines		Upward Departure (Judicial)		Government-Sponsored Downward		Downward Departure (Judicial)	
		#	%	#	%	#	%	#	%
2000	4,820	3,468	72	57	1	766	16	529	11
2001	5,439	3,992	73	51	1	819	15	577	11
2002	6,250	4,455	71	78	1	1,004	16	713	11
2003	8,054	6,082	76	95	1	1,206	15	671	8
2004	9,350	7,279	78	115	1	1,447	15	509	5
2005	10,313	7,145	69	189	2	1,727	17	1,252	12
2006	10,188	6,858	67	219	2	1,787	18	1,324	13
2007	9,874	6,726	68	153	2	1,743	18	1,252	13
2008	9,610	6,279	65	224	2	1,671	17	1,436	15
2009	9,607	5,778	60	292	3	1,707	18	1,830	19
2010	9,186	5,260	57	314	3	1,694	18	1,918	21
2011	9,027	5,235	58	317	4	1,710	19	1,765	20
2012	9,192	5,266	57	352	4	1,809	20	1,765	19
2013	9,076	5,045	56	423	5	1,795	20	1,813	20
2014	8,902	4,596	52	370	4	1,930	22	2,006	23
2015	8,029	4,129	51	375	5	1,792	22	1,733	22
2016	8,254	4,244	51	366	4	1,772	21	1,872	23

Source: Bureau of Justice Statistics; based on data from the US Sentencing Commission's Monitoring Database, FY 2000–16.

Note: Statistics represent any firearms offense conviction and are reported for those defendants that are non-missing on sentencing information.

BOX 3

US Sentencing Guidelines and Departures

The federal sentencing guidelines set out a uniform sentencing policy federal courts use to sentence people convicted of felonies and Class A misdemeanors (USSC 2016).⁶ Established pursuant to the Sentencing Reform Act of 1984, the guidelines prescribe a range of sentences based on the seriousness of the offense and the defendant's criminal history. A sentencing table outlines these sentence ranges, in months, for 43 offense levels and 6 criminal history categories. In 2005, the Supreme Court held in *United States v. Booker* that the guidelines were advisory, not mandatory.⁷ After the court calculates the guideline range, the judge may sentence the defendant above or below the range, or "depart" from the guideline sentence if the court finds "an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described" (18 U.S.C. § 3553[b]).

A judge may impose an upward departure based on certain factors that, although not included in a defendant's criminal history category, contribute to the seriousness of their criminal history (e.g., whether they were awaiting sentencing for another offense at the time of the instant offense). A judge may also depart upward if they think a sentence above the range is warranted.

A downward departure may be warranted if a criminal history category overrepresents the seriousness of a defendant's prior record or offending likelihood. Such departures include judicial and "government-sponsored" departures from the sentencing range. Judicial downward departures are provided for in 18 U.S.C. § 3553. A government-sponsored departure occurs upon the motion of the prosecutor. Under 5K1.1, a downward departure may be granted based on the prosecutor's motion "stating that the defendant has provided substantial assistance to authorities in the investigation or prosecution of another person who has committed an offense."

Defendants whose sentences were enhanced by the Armed Career Criminal Act of 1984 (ACCA) received an average prison sentence of 191 months. This act increased penalties for people previously convicted of violent and drug offenses who unlawfully possess firearms (**box 4**). From 2000 to 2016, 8,902 defendants sentenced to prison in US district court received the armed career criminal penalty enhancement (**table 11**), and 99 percent were convicted of a firearms offense.⁸ Among defendants who were convicted and received the armed career criminal penalty enhancement, the most common offenses were possession offenses (98 percent), followed by transfer offenses (13 percent) and regulatory offenses (0.3 percent) (not shown in tables).⁹ These defendants received an average prison term of 15 years and 11 months, although the annual average prison term declined from 2013 to 2016.

BOX 4

18 U.S.C. § 924(e): The Armed Career Criminal Act and *Johnson v. United States*

The Armed Career Criminal Act of 1984 enhances prison sentences for people convicted of 18 U.S.C. § 922(g) violations who have three previous convictions for separate incidents involving a serious drug offense or violent felony. The mandatory minimum sentence is 15 years, and the maximum is life.

"Serious drug offense" is defined as either certain federal drug offenses with statutory maximums of 10 years or more of imprisonment, or state offenses involving manufacturing, distributing, or possessing with intent to manufacture or distribute with statutory maximums of 10 years or more of imprisonment. "Violent felony" is defined in 18 U.S.C. § 924(e)(2)(B) as any crime punishable by imprisonment for more than one year that (1) involves the use, attempted use, or threatened use of physical force against another person, or (2) is burglary, arson, or extortion, involves explosives, or involves other conduct presenting a serious potential risk of physical injury to another person.

The last part of 18 U.S.C. § 924(e)(2)(B), making any act that "presents a serious potential risk of physical injury to another" a violent felony, became known as the "residual clause." The Supreme Court invalidated this clause in *Johnson v. United States* in June 2015. In that decision, the court held that the residual clause is unconstitutionally vague and therefore violates the Fifth Amendment's due process clause. Therefore, the residual clause may no longer be used to classify offenses as violent felonies.¹⁰

TABLE 11

Defendants Sentenced in US District Courts under the Armed Career Criminal Act, 2000–16

Year	#	Average sentence in months ^a	Percent Convicted of a Firearms Offense			
			Any	Possession	Regulatory	Transfer
2000	218	197.2	100.0%	96.8%	0.5%	11.0%
2001	264	197.2	100.0%	96.2%	0.4%	8.0%
2002	314	195.4	99.8%	98.1%	0.0%	9.2%
2003	474	191.5	100.0%	97.0%	0.6%	12.5%
2004	573	192.8	100.0%	99.1%	0.9%	13.8%
2005	651	190.8	100.0%	98.6%	0.2%	12.3%
2006	599	189.3	100.0%	97.3%	0.3%	13.0%
2007	663	188.8	100.0%	97.9%	0.3%	16.4%
2008	669	190.6	100.0%	97.0%	0.3%	14.7%
2009	708	196.5	100.0%	98.0%	0.3%	13.8%
2010	626	188.8	99.8%	98.7%	0.3%	13.3%
2011	577	191.7	99.8%	97.9%	1.0%	13.9%
2012	637	191.5	100.0%	98.4%	0.0%	15.4%
2013	586	196.0	100.0%	98.6%	0.0%	14.0%
2014	572	186.4	99.8%	99.3%	0.2%	12.4%
2015	453	185.3	100.0%	99.3%	0.0%	15.2%
2016	318	178.8	100.0%	98.4%	0.3%	10.7%
2000–16	8,902	191.0	100.0%	98.2%	0.3%	13.4%

Source: Bureau of Justice Statistics; based on data from the US Sentencing Commission's Monitoring Database, FY 2000–16.

^a Does not include sentences of community confinement imposed in conjunction with a term of imprisonment or sentences of life imprisonment or death.

The share of defendants receiving a mandatory minimum sentence for a 924(c) offense decreased from 28 to 24 percent between 2000 and 2016. Defendants can be sentenced to mandatory minimum prison terms for certain firearms offenses (i.e., 18 U.S.C. § 924[c] and 924[e]) and for any other charges carrying mandatory minimums, including drug offenses. In 2016, about one-quarter (24 percent) of defendants convicted of firearms offenses received mandatory minimum sentences under 924(c), and 4 percent received mandatory minimums under 924(e) (table 12). Moreover, 11 percent of federal firearms defendants received mandatory minimum sentences for drug-related offenses.

TABLE 12

Defendants Convicted of Firearms Offenses in US District Courts, by Firearms and Drug Mandatory Minimum, 2000–16

Year	Total	Firearm Minimum ^{a,b}						Drug Minimum ^a	
		No firearms mandatory minimum applied		924(c) mandatory minimum		924(e) mandatory minimum		Drug mandatory minimum	
		#	%	#	%	#	%	#	%
2000	5,163	3,470	67	1,464	28	263	5	744	14
2001	5,912	4,182	71	1,444	24	315	5	791	13
2002	6,776	4,780	71	1,674	25	351	5	982	14
2003	8,432	5,883	70	2,105	25	493	6	1,179	14
2004	9,630	6,910	72	2,298	24	477	5	1,360	14
2005	10,487	7,158	68	2,777	26	611	6	1,647	16
2006	10,250	6,917	67	2,817	27	569	6	1,819	18
2007	9,905	6,627	67	2,612	26	721	7	1,789	18
2008	9,646	6,501	67	2,493	26	720	7	1,681	17
2009	9,622	6,487	67	2,496	26	693	7	1,562	16
2010	9,197	6,285	68	2,360	26	610	7	1,384	15
2011	9,048	6,180	68	2,361	26	564	6	1,286	14
2012	9,201	6,406	70	2,242	24	618	7	1,053	11
2013	9,092	6,247	69	2,321	26	576	6	1,010	11
2014	8,913	6,128	69	2,271	25	562	6	936	11
2015	8,047	5,472	68	2,183	27	436	5	987	12
2016	8,265	5,969	72	2,009	24	308	4	888	11

Source: Bureau of Justice Statistics; based on data from the US Sentencing Commission's Monitoring Database, FY 2000–16.

Note: Statistics represent any firearms offense convicted.

^a Because defendants may have received a mandatory minimum for more than one offense, percentages add to more than 100 percent.

^b Between 20 and 70 defendants received a mandatory minimum sentence under both 924(c) and 924(e) each year from 2000 to 2016.

Although the share of federal firearms defendants who received mandatory minimum sentences remained stable between 2000 and 2016, the number of defendants receiving a 924(c) mandatory minimum increased 37 percent, from 1,464 to 2,009. The share of defendants receiving mandatory minimums for drug offenses dropped from 14 to 11 percent.

Characteristics of Persons Sentenced for Federal Firearms Offenses

Among defendants convicted of federal firearms offenses, the most common criminal history category was category I. Criminal history is calculated by assigning points for specific prior convictions and is used, together with the total offense level, to determine the advisory sentencing guideline range. It is converted into one of six categories, from I (low) to VI (high). The most common category among

defendants convicted of federal firearms offenses between 2000 and 2016 was category I (23 percent), followed by category VI (21 percent) (table 13). Defendants in category VI were most commonly convicted of possession offenses, whereas defendants convicted of transfer and regulatory offenses were more likely to fall under lower categories.

TABLE 13

Criminal History Categories of Defendants Convicted of Firearms Offenses at Sentencing, by Type of Offense, 2000–16

	Possession	Transfer	Regulatory	Total ^a
Criminal history category^b				
I	19.7%	64.0%	52.6%	22.6%
II	11.0%	11.3%	15.8%	11.0%
III	19.4%	11.4%	12.0%	18.9%
IV	16.1%	5.8%	9.8%	15.5%
V	11.2%	3.1%	3.0%	10.7%
VI	22.5%	4.5%	6.8%	21.4%

Source: Bureau of Justice Statistics; based on data from the US Sentencing Commission’s Monitoring Database, FY 2000–16.

^a Total column includes records missing type of firearm offense.

^b For information about computation of criminal history categories by the USSC, see <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-4>.

Most defendants convicted of federal firearms offenses between 2000 and 2016 were male (97 percent) and US citizens (92 percent) (table 14). Although most defendants received educations that included high school graduation or more (i.e., “some college” or “college graduate”), the most common level of education among those convicted of a federal firearm offense was less than a high school diploma (45 percent). More than three-quarters (79 percent) of those convicted for firearms offenses were younger than 40. Race and ethnicity among convicted federal firearms defendants were more varied: 49 percent were black, 30 percent were white, 19 percent were Hispanic, and 3 percent were another race.

Examining defendant characteristics by offense type, a larger share of defendants convicted of firearms transfer offenses was female (19 percent female) than of defendants convicted of regulatory (9 percent) or possession offenses (2 percent). Seventy-one percent of defendants convicted of regulatory offenses were white, compared with 29 percent of those convicted of possession and 37 percent of those convicted of transfer offenses.

TABLE 14

Characteristics of Defendants Convicted of a Firearms Offense at Sentencing, by Offense, 2000–16

	Possession	Transfer	Regulatory	Total ^a
Sex				
Male	97.7%	81.3%	91.0%	96.6%
Female	2.3%	18.7%	9.0%	3.4%
Race/Hispanic origin				
White	29.4%	36.7%	70.5%	29.9%
Black	49.5%	37.5%	15.3%	48.6%
Hispanic	18.2%	23.5%	10.7%	18.6%
American Indian/Alaskan Native	1.5%	0.7%	1.5%	1.4%
Asian/Native Hawaiian/Other Pacific Islander	1.2%	1.3%	1.5%	1.2%
Other	0.2%	0.3%	0.4%	0.2%
Age				
18–19	1.7%	1.2%	3.0%	1.6%
20–24	19.2%	22.0%	19.2%	19.4%
25–29	24.8%	24.4%	19.2%	24.7%
30–34	19.8%	15.7%	11.7%	19.5%
35–39	13.3%	10.5%	12.4%	13.1%
40–44	8.9%	7.6%	13.9%	8.9%
45–49	5.8%	6.2%	4.9%	5.8%
50–54	3.5%	4.2%	7.1%	3.5%
55–59	1.7%	3.0%	4.9%	1.8%
60–64	0.9%	2.3%	1.9%	1.0%
65 or older	0.5%	2.8%	1.9%	0.6%
Median age	30	30	33	30
Citizenship				
US citizen	91.5%	93.1%	94.3%	91.5%
Non-US citizen	8.6%	6.9%	5.7%	8.5%
Education level				
Less than high school diploma	44.6%	34.7%	30.9%	44.0%
High school graduate	41.6%	40.2%	39.8%	41.5%
Some college	12.5%	21.2%	20.5%	13.0%
College graduate	1.3%	3.9%	8.9%	1.5%

Source: Bureau of Justice Statistics; based on data from the US Sentencing Commission's Monitoring Database, FY 2000–16.

Note: Details may not sum to totals due to rounding.

^a Total column includes records missing type of firearm offense.

BOX 5

Federal Task Forces and Initiatives

Project Safe Neighborhoods was initiated in May 2001 to reduce gun violence through a joint effort between the US Department of Justice and local law enforcement. Modeled after other crime reduction programs such as Project Exile and Operation Ceasefire, PSN was implemented on a national level in all 94 federal districts to enhance gun violence prevention and increase enforcement efforts (McGarrell et al. 2009). The program design centers on five components: partnership, strategic problem-solving, outreach, training, and accountability (McGarrell et al. 2013). The partnership component involves the development and implementation of local task forces that coordinate with federal agencies.

Although various interventions were employed based on the district context, increased prosecution by federal authorities was a key strategy across all districts. Charging people at the federal level may deter gun crime through tougher federal sanctions and incarceration in federal prisons (Decker and McDevitt 2006). Through PSN (along with other federal initiatives), a greater number and variety of firearms offenses, including firearms-related drug and domestic violence offenses, that were previously handled by local officials now come to the attention of federal authorities (McGarrell et al. 2009).

Methodology

Data Sources

The Federal Justice Statistics Program database (the data source for this report) contains information on people processed through the federal justice system and is compiled from data provided by six federal criminal justice agencies. This report uses data from the Executive Office for US Attorneys LIONS database, the Administrative Office of the US Courts, and the US Sentencing Commission. LIONS provides data on suspects in matters investigated and concluded by US attorneys. The AOUSC's Criminal Master File contains data on defendants in cases filed and terminated in US district court. The USSC's monitoring data file provides detailed sentencing information about defendants convicted and sentenced pursuant to the federal sentencing guidelines in US district court. All data sources are reported according to the federal fiscal year, which begins on October 1.

Offense Selection

Table A.1 shows the federal statutes used to define the universe of federal firearms cases for this report. It also shows the type of firearms offense and the number of defendants charged per year.

Throughout the report, firearms statutes that could not be categorized as a possession, transfer, regulatory, or other firearms offense were only included in the “total” column in each table or figure.

Suspects in criminal matters referred to US attorneys were identified from EOUSA’s LIONS data by using the lead charge. If the lead charge was a firearms-related federal statute, the matter was included in the data. A firearms case may also be identified by the “program category” to which a criminal matter is assigned. There are 97 program categories used by the US attorneys to classify criminal matters into substantive offense areas based on an assessment of the overall offense conduct involved. We explored using program category to define the firearms matters by identifying matters assigned to program category code 053, which corresponds to the “Firearms/Triggerlock” program category. A comparison of the annual number of firearms matters identified by each approach is available in table A.2. For this report, we chose to use lead charge to identify the universe of firearms matters to maximize comparability across data sources.

Defendants in criminal cases filed were identified from the AOUSC’s Criminal Master File, which contains the five most serious filing and terminating charges. Offense seriousness is determined through a combination of (1) statutory maximum sentence length, (2) crime type, and (3) statutory maximum fine. If any of the five most serious filing charges were firearms-related, the record was counted in the data. Some tables only present firearms offenses if they were the most serious offenses charged at filing or termination against the defendant in the case.

Defendants sentenced pursuant to federal sentencing guidelines were identified using the USSC monitoring data file. If any of the statutes of conviction were firearms-related, the record was included as a firearms case in analyses. In the AOUSC and USSC data, when multiple firearms offenses were charged, only one offense was reported. If the offenses were of different types (e.g., possession, regulatory), possession offenses were reported over transfer and regulatory offenses, and transfer offenses were reported over regulatory offenses. Based on the five possible filing charges for each defendant in the AOUSC data, this occurred in 6 percent of the 192,452 prosecutions between 2000 and 2016. In the USSC data, which records all charges of conviction for each defendant, it occurred in 31 percent of the 147,586 defendants between 2000 and 2016.

Unit of Analysis

A suspect or defendant is a person or organization against whom a specific action has been taken by federal law enforcement, US attorneys, or the federal judiciary. Defendants identified in multiple proceedings or cases are counted multiple times. A defendant charged with multiple firearms offenses was only counted once, unless the defendant was charged in separate cases.

Appendix. Federal Firearms Offenses Charged

TABLE A.1

Charges of Federal Firearms Offenses against Defendants, by Statutory Provision, Section, and Offense Type, 2000–16

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Statutory provision, section, and offense type																	
18 U.S.C. § 922																	
(a), Unlawful importation, manufacture, distribution, shipment, or receipt of firearms, including making false statement to obtain firearms																	
Transfer	424	395	494	546	657	581	613	618	809	781	600	569	602	592	540	497	500
(b), Distribution of firearms to underage persons, nonresidents, or in violation of State law																	
Transfer	66	61	60	76	63	47	62	62	57	43	30	34	44	17	28	24	26
(c), Distribution of firearms to a person not present in business establishment																	
Transfer	79	74	82	97	113	154	145	131	114	107	101	75	106	82	76	58	44
(d), Distribution of firearms to prohibited persons																	
Transfer	99	126	125	149	184	178	155	137	126	137	147	135	133	123	135	118	116
(e), Unlawful shipment of firearms																	
Transfer	30	33	36	87	68	54	39	30	36	26	34	30	32	42	38	40	27
(f), Unlawful transportation by common carrier																	
Regulatory	2	1	1	2	3	4	9	11	6	9	2	3	10	5	10	15	16
(g), Possession of a firearm by a prohibited person																	
Possession	3085	3902	4607	5956	7045	8018	8447	8246	7874	7887	7582	7379	7410	7237	6939	6263	7029
(h), Receipt of firearms by a person employed by a prohibited person																	

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Statutory provision, section, and offense type																	
Possession	1	6	8	2	1	1	2	3	4	3	7	3	4	2	0	2	1
(i), Shipment of stolen firearms																	
Possession	31	23	40	45	38	30	35	32	32	25	29	16	18	16	9	15	13
(j), Possession of stolen firearms																	
Possession	220	264	322	383	462	489	511	479	520	465	488	415	510	467	465	404	454
(k), Transportation, shipment, or receipt of firearms with obliterated or altered serial numbers																	
Possession	156	201	240	252	250	295	317	272	270	280	221	203	255	218	216	181	146
(l), Unlawful importation of firearms																	
Regulatory	7	8	8	14	9	13	4	7	6	7	6	3	3	5	3	4	4
(m), Record-keeping violation																	
Regulatory	28	14	21	18	30	31	29	26	17	16	10	7	6	10	24	14	7
(n), Shipment, transportation, or receipt of firearms by a person under indictment for a felony offense																	
Possession	352	281	336	385	521	561	428	316	263	226	209	154	151	113	118	95	91
(o), Possession of a machine gun																	
Possession	135	137	138	138	132	130	143	130	106	98	85	95	121	162	126	123	103
(p), Manufacture, transfer, possess any firearm not detectable by walk-through metal detectors or x-ray machines																	
Possession	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
(q), Possession of a firearm in a school zone																	
Possession	95	76	84	94	80	66	72	93	51	34	50	28	40	44	43	50	28
(r), Assembly of a firearm identical to a banned firearm																	
Possession	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Statutory provision, section, and offense type																	
(s), Distribution of firearms by retailer in violation of 5-day waiting period																	
Regulatory	0	0	0	0	0	0	0	0	1	2	3	0	0	0	0	0	0
(t), Failure to comply with Brady Handgun Prevention Act																	
Regulatory	0	0	0	0	2	2	5	5	2	2	4	2	0	0	2	0	0
(u), Theft of firearm from retailer																	
Possession	15	31	58	65	66	86	66	54	81	71	83	76	59	54	52	60	64
(v), Unlawful manufacture, transfer, or possession of a semi-automatic weapon																	
Possession	0	0	1	14	33	34	22	12	0	5	6	6	3	5	7	2	2
(w), Unlawful transfer or possession of a large capacity feeding device																	
Possession	1	1	4	4	4	3	0	0	0	0	1	0	0	0	0	0	0
(x), Unlawful transfer to or possession of a handgun by a juvenile																	
Transfer	6	5	8	6	6	7	12	9	9	5	6	11	7	6	2	5	2
(y) Provisions relating to aliens admitted under nonimmigrant visas																	
Not applicable																	
(z), Distribution of handguns without secure gun storage or safety device																	
Regulatory	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
18 U.S.C. § 923																	
Licensing for firearm sales																	
Regulatory	1	0	3	1	1	3	6	5	2	4	3	0	1	1	4	3	3
18 U.S.C. § 924																	

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Statutory provision, section, and offense type																	
(a), False statements relating to the importation, manufacture, distribution, shipment or receipt of firearms																	
Transfer	635	588	636	700	681	828	852	763	728	749	781	968	1110	1089	902	766	710
(b), Shipment, transportation, or receipt of a firearm with the intent to commit a felony or with reasonable knowledge that a felony will be committed																	
Transfer	99	96	93	93	129	143	102	96	60	65	42	42	37	24	24	20	22
(c), Use or possession of a firearm during the commission of a violent or drug trafficking offense																	
Possession	2307	2448	2643	3193	3232	3919	4319	4130	3865	3818	3512	3601	3603	3654	3571	3337	3337
(d), Seizure and forfeiture of firearms involved or used in knowing firearm violations																	
Not applicable																	
(e), Possession of a firearm by a person with three prior convictions for a violent felony or serious drug trafficking offense																	
Penalty provision only, substantive offense 18 U.S.C. § 922(g) ^a																	
(f), Possession of a gun not detectable by walk-through metal detectors or airport x-ray machines																	
Possession	37	27	47	51	57	52	46	28	17	17	54	42	29	21	23	7	15
(g), Interstate or foreign acquisition of a firearm by a prohibited person																	
Possession	19	18	27	50	27	46	43	32	40	32	38	35	58	27	30	34	26
(h), Transfer of a firearm with reasonable knowledge that the firearm will be used to commit a crime of violence or drug trafficking offense																	
Transfer	48	43	23	33	32	21	26	24	24	16	23	27	13	23	24	11	16
(i), Theft of firearm from retailer																	
Penalty provision only, substantive offense 18 U.S.C. § 922(u) ^a																	
(j), Use of a firearm during the commission of a felony offense resulting in death																	
Penalty provision only, substantive offense 18 U.S.C. § 924(c) ^a																	

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Statutory provision, section, and offense type																	
(k), Smuggling firearms with the intent to commit a violent crime or a controlled substance offense																	
Possession	0	0	0	0	0	0	3	2	3	5	6	1	1	2	1	4	0
(l), Theft of a firearm moved in interstate or foreign commerce																	
Possession	0	0	0	0	6	19	12	16	6	5	7	2	4	4	14	13	7
(m), Theft of a firearm from a licensed importer, manufacturer, dealer, or collector																	
Possession	0	0	0	0	0	1	0	0	0	1	1	0	1	0	1	1	2
(n), Interstate or foreign travel to obtain firearms																	
Possession	0	0	0	0	0	0	0	1	4	9	5	2	6	4	2	2	2
(o), Conspiracy to commit 18 U.S.C. § 924(c)																	
Possession	20	33	73	101	94	95	83	121	141	211	178	246	267	245	229	264	166
(p), Distribution of handguns without secure gun storage or safety device																	
Penalty provision only, substantive offense 18 U.S.C. § 922(z) ^a																	
18 U.S.C. § 929																	
Use of restricted ammunition during the commission of a violent or drug trafficking offense																	
Possession	0	0	0	0	0	0	2	6	3	1	2	0	0	0	0	1	0
18 U.S.C. § 930																	
Possession of a firearm or dangerous weapons in federal facilities																	
Possession	24	32	42	28	47	62	35	35	50	29	22	44	25	24	38	84	57
26 U.S.C. § 5812																	
Transfer of firearms (registration and taxation)																	

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Statutory provision, section, and offense type																	
Regulatory	6	9	10	10	11	6	7	10	12	18	12	9	15	16	8	12	4
26 U.S.C. § 5822																	
Manufacture of firearms (registration and taxation)																	
Regulatory	11	13	23	19	24	20	29	31	25	19	16	18	14	17	18	11	15
26 U.S.C. § 5841																	
Registration of firearms																	
Regulatory	67	76	111	131	179	202	221	198	182	172	138	134	166	149	169	133	125
26 U.S.C. § 5842																	
Identification of firearms																	
Regulatory	3	5	8	9	10	6	9	8	8	5	6	5	7	4	1	12	4
26 U.S.C. § 5844																	
Importation of firearms																	
Regulatory	0	0	0	0	0	0	1	0	0	0	0	0	2	0	0	2	0
26 U.S.C. § 5861																	
(a), Engage in a firearm business without registering or paying occupancy tax																	
Regulatory	6	9	4	14	19	11	22	15	29	18	15	17	15	13	20	11	11
(b), Receive or possess a firearm unlawfully transferred																	
Possession	1	1	3	3	2	2	4	3	3	3	9	0	1	4	1	2	0
(c), Receipt or possession of an unlawfully manufactured firearm																	
Possession	21	19	37	32	34	37	39	39	24	16	16	17	13	14	11	21	10

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Statutory provision, section, and offense type																	
(d), Receipt or possession of certain firearms for which registration is required																	
Possession	275	330	366	469	491	553	608	487	393	385	353	330	335	304	277	226	261
(e), Unlawful transfer																	
Transfer	12	17	30	19	12	16	27	13	17	28	19	26	18	30	7	10	15
(f), Making firearms																	
Possession	37	24	31	41	28	46	44	32	30	17	9	23	13	27	11	8	13
(g), Obliterating, removing, or changing the serial number of a firearm																	
Possession	1	3	3	1	2	0	9	0	2	2	1	1	1	1	0	0	0
(h), Receiving or possessing a firearm with an obliterated serial number																	
Possession	7	8	19	8	14	13	18	4	7	6	8	6	7	6	6	0	2
(i), Receiving or possessing a firearm without a serial number																	
Possession	16	32	31	23	26	31	28	26	15	10	9	14	12	16	11	3	7
(j), Delivering or receiving an unregistered firearm																	
Transfer	3	7	5	9	11	4	13	8	5	4	4	7	1	4	3	0	2
(k), Receiving or possessing a firearm unlawfully imported into the U.S.																	
Possession	5	3	4	6	10	8	4	6	0	1	0	1	0	1	0	0	0
(l), Making a false entry on any required application																	
Regulatory	0	0	1	1	0	0	0	0	4	0	0	0	0	0	1	1	0

Source: Bureau of Justice Statistics; based on data from the Administrative Office of the US Courts' Criminal Master File, FY 2000-16.

^a Penalty provisions in the federal criminal code, typically used in conjunction with a substantive offense.

TABLE A.2

Suspects Investigated in Criminal Matters Referred for Firearms Offenses, by Lead Charge and Program Category, 2004–16

	Lead charge	Program category
Year		
Total	150,045	157,525
2004	14,322	15,359
2005	13,786	14,745
2006	13,008	14,205
2007	12,195	12,853
2008	11,789	12,520
2009	11,802	12,445
2010	11,095	11,608
2011	11,130	11,474
2012	11,298	11,749
2013	10,553	10,781
2014	9,209	9,600
2015	9,474	9,733
2016	10,384	10,453

Source: Bureau of Justice Statistics; based on data from the Executive Office for US Attorneys' Legal Information Office Network System database, FY 2004–16.

Notes

- ¹ “Crime Data Explorer,” Federal Bureau of Investigation, accessed September 6, 2019, <https://crime-data-explorer.fr.cloud.gov/explorer/national/united-states/crime>.
- ² The overall prosecution rates include matters concluded by US magistrates (e.g., in immigration cases), whereas firearm offenses are not typically concluded by US magistrates.
- ³ In 2014, EOUSA collapsed the number of possible declination reasons from 33 to 6. Declination reasons from before the change were recoded to match the new categories using a crosswalk provided in DOJ (2015).
- ⁴ One defendant can be charged with both statutes in a single case, which explains why the sum of these percentages exceeds 100 percent.
- ⁵ See §5K1.1. Substantial Assistance to Authorities (Policy Statement), <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-5>.
- ⁶ See <https://www.ussc.gov/guidelines/2016-guidelines-manual>.
- ⁷ *United States v. Booker*, 543 US 220, 125 S. Ct. 738, 160 L. Ed. 2d 621 (2005).
- ⁸ Between 2000 and 2016, four defendants who received the armed career criminal penalty were convicted of only non-firearm offenses, which included drug trafficking and obstruction of justice.
- ⁹ Defendants may have been convicted of more than one type of firearm offense, so the percentages do not sum to 100%.
- ¹⁰ *Johnson v. United States*, 135 S. Ct. 939, 190 L. Ed. 2d 718 (2015).

References

- Decker, Scott H., and Jack McDevitt. 2006. *Gun Prosecution Case Screening: Case Study 1*. Washington, DC: US Department of Justice.
- DOJ (US Department of Justice). 2015. *Indian Country Investigations and Prosecutions: 2015*. Washington, DC: US Department of Justice.
- McGarrell, Edmund F., Natalie K. Hipple, Timothy S. Bynum, Heather Perez, Karie Gregory, Candice M. Kane, and Charles Ransford. 2013. *Promising Strategies for Violence Reduction: Lessons from Two Decades of Innovation*. Washington, DC: US Department of Justice.
- McGarrell, Edmund F., Natalie K. Hipple, Nicholas Corsaro, Timothy S. Bynum, Heather Perez, Carol A. Zimmermann, and Melissa Garmo. 2009. *Project Safe Neighborhoods - A National Program to Reduce Gun Crime: Final Project Report*. Washington, DC: US Department of Justice.
- USSC (US Sentencing Commission). 2016. *Guidelines Manual*. Washington, DC: US Sentencing Commission.
- . 2017. *Primer on Firearms*. Washington, DC: US Sentencing Commission.

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