



Life Sentences in the Federal System

United States Sentencing Commission

July 2022





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There are numerous federal criminal statutes authorizing a sentence of life. While convictions under these statutes are common, sentences of life imprisonment are rare (less than 1% of the federal sentencing caseload).

Introduction

There are numerous federal criminal statutes authorizing a sentence of life as the maximum sentence allowed, such as for offenses involving drug trafficking,¹ racketeering,² and firearms³ crimes. While convictions under these statutes are common,⁴ sentences of life imprisonment are rare, accounting for only a small proportion of all federal offenders sentenced during the last six fiscal years. During fiscal years 2016 through 2021, federal judges imposed a sentence of life imprisonment (“life imprisonment sentence”) on 709 offenders. Another 799 offenders received a sentence so long that it had the practical effect of a life sentence (*i.e.*, 470 months or longer) (“*de facto* life sentence”). Together these two groups of offenders represent only 0.4 percent of the total federal offender population during the last six fiscal years. By comparison, other federally sentenced offenders during this time received a median sentence of imprisonment of 24 months.

Due to the infrequency and nature of life imprisonment, such sentences are of heightened interest to policymakers. In February 2015, the United States Sentencing Commission released *Life Sentences in the Federal System*, examining the application of life sentences by federal courts during fiscal year 2013.⁵ Using data from fiscal years 2016 through 2021, this report updates and augments the Commission’s previous findings by examining the offenses that led to the life sentences imprisonment imposed, along with offender demographics, criminal histories, and victim-related adjustments.⁶

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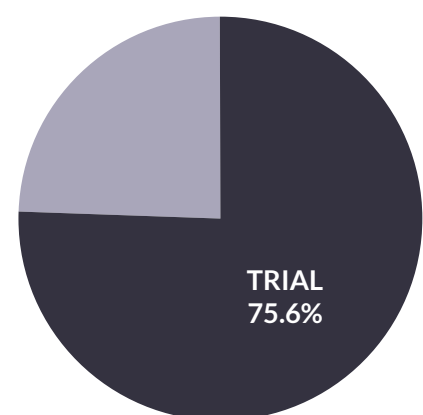
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Key Findings

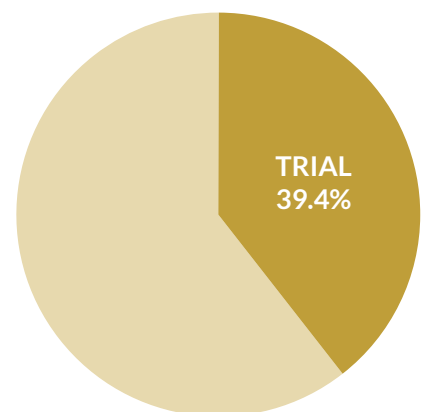
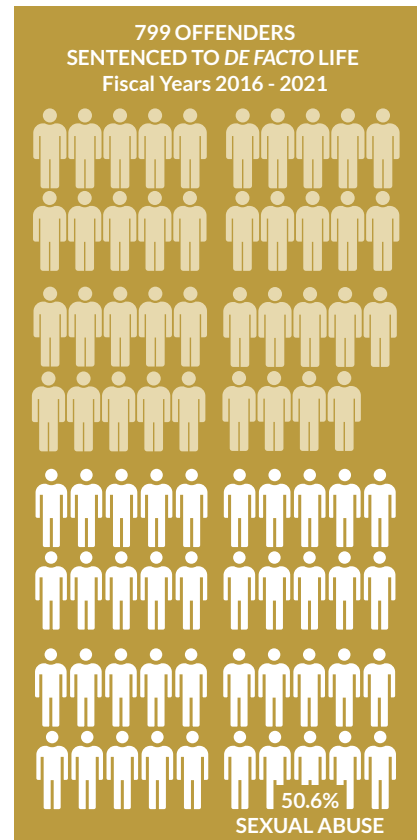
Offenders Sentenced to Life Imprisonment

- During fiscal years 2016 through 2021, there were **709 federal offenders sentenced to life imprisonment**, which accounted for 0.2 percent of the total federal offender population.
- **Almost half (48.7%)** of offenders sentenced to life imprisonment were **convicted of murder**.
- **Approximately half (47.5%)** of offenders sentenced to life imprisonment were found to either have **possessed a weapon in connection with their instant offense or were convicted under 18 U.S.C. § 924(c)**—for possession or use of a firearm in furtherance of a crime of violence or drug trafficking crime. This is almost five times the rate for offenders who were sentenced to less than life imprisonment (9.8%).
- **Nearly one-third (31.4%)** of offenders sentenced to life imprisonment received an **aggravating role** enhancement as an organizer, leader, manager, or supervisor in the offense, which is approximately eight times higher than those sentenced to less than life imprisonment (4.2%).
- Offenders sentenced to life imprisonment qualified as **repeat and dangerous sex offenders** in **11.8 percent** of cases, in comparison to 0.6 percent of offenders sentenced to less than life imprisonment.
- The **trial rate** of offenders sentenced to life imprisonment was **75.6 percent**, which was over thirty times higher than the 2.3 percent trial rate for all other federal offenders.



Offenders Sentenced to De Facto Life Imprisonment

- There were **799 offenders sentenced to de facto life imprisonment**, which accounted for 0.2 percent of the total federal offender population.
- **Half (50.6%)** of offenders sentenced to *de facto* life imprisonment were **convicted of sexual abuse**.
- **One-third (33.2%)** of offenders sentenced to *de facto* life imprisonment were found to either have **possessed a weapon in connection with their instant offense or were convicted under 18 U.S.C. § 924(c)**—for possession or use of a firearm in furtherance of a crime of violence or drug trafficking crime.
- **More than one-in-seven (15.4%)** offenders sentenced to *de facto* life imprisonment received an **aggravating role** enhancement as an organizer, leader, manager, or supervisor in the offense.
- Offenders sentenced to *de facto* life imprisonment qualified as **repeat and dangerous sex offenders** in **39.4 percent** of cases.
- The **trial rate** of offenders sentenced to *de facto* life imprisonment was **39.4 percent**.



Life Sentences Under the Federal Sentencing Guidelines

For most federal crimes, the *Guidelines Manual* provides for a sentencing range based upon the seriousness of the instant offense and the offender's previous criminal history. Each guideline contains at least one *base offense level*, which serves as a starting point for the court to determine the guideline sentence.⁷ The court then uses the guideline's specific offense characteristics to raise or lower the offense level based on the offender's conduct during the crime.⁸ Further, the court then determines whether any additional adjustments, which address general aggravating and mitigating factors, may apply to raise or lower the offense level.⁹ After accounting for these factors, the court determines a *final offense level* which ranges from a low of one to a high of 43.¹⁰

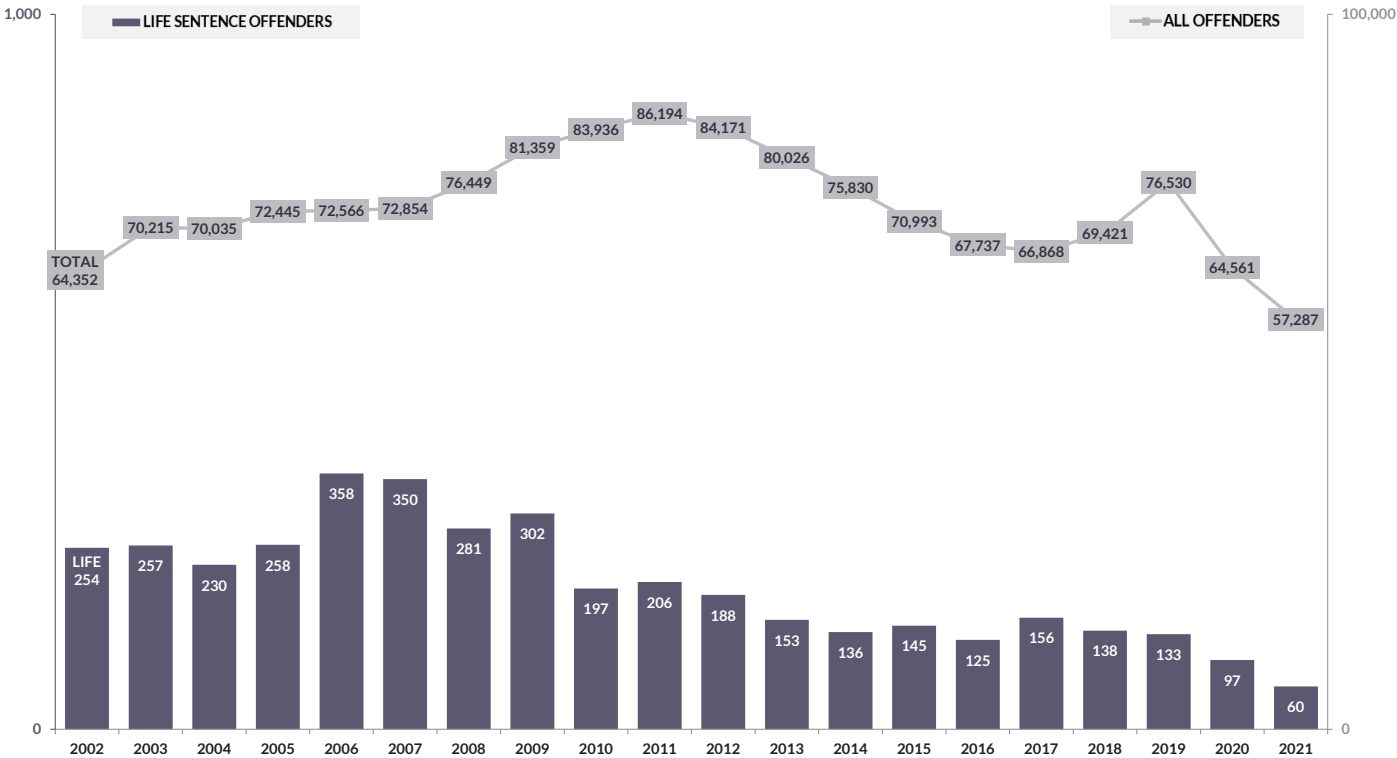
Once the final offense level is calculated, points are assigned for prior criminal convictions to determine the offender's Criminal History Category (CHC).¹¹ The criminal history points indicate the seriousness of the prior crime or crimes of conviction.¹² This criminal history score places the offender into one of six criminal history categories.

Using the final offense level and the CHC, the court consults the Sentencing Table to find the corresponding sentencing range.¹³ Under its authority to promulgate sentencing guidelines,¹⁴ the Commission has reserved the sentence of life imprisonment for only the most serious of offenses. As such, only 10.5 percent of guideline ranges provided in the Commission's sentencing table include a term of life imprisonment as part of the sentencing range. In 21 out of the 27 specified sentence ranges where life imprisonment is included, life is provided at the top of the range (*i.e.*, 360–life).¹⁵ For the remaining six sentencing ranges, for offenders with a final offense level of 43, the guidelines specify a sentence of life imprisonment irrespective of the offender's criminal history category.¹⁶

While it is possible to reach a final offense level of 43 based on the application of sentencing enhancements, only three Chapter Two guidelines of the more than 150 sentencing guidelines—§2A1.1 (First Degree Murder), §2D1.1(a)(1) (Unlawful Manufacturing, Importing, Exporting or Trafficking), and §2M1.1(a)(1) (Treason)—specifically establish a base offense level of 43.¹⁷ A life imprisonment sentence is within the guideline range for a final offense level as low as 37, but only for the most serious criminal history category (CHC VI).¹⁸

Life Imprisonment Sentences in the Federal System

Figure 1. Offenders Sentenced to Life Imprisonment Over Time, Fiscal Years 2002 – 2021



From fiscal years 2016 through 2021, there were 709 offenders sentenced to life imprisonment.¹⁹ Life sentences have remained a very small proportion of the federal offender population over the last 20 years (between 0.1% and 0.5%). The

number of life sentences imposed has fallen steadily from a high of 358 in 2006 to a low of 60 in 2021. Comparatively, in the last 20 fiscal years, the population of federal offenders also reached a 20-year low in 2021 (Figure 1).

Life Imprisonment Sentences and the First Step Act of 2018

Some of the recent decline in life imprisonment sentences may also be attributable to the enactment of the First Step Act of 2018.²⁰ Section 401 of the First Step Act changed the extent and severity of statutory sentencing enhancements for repeat drug offenders.²¹ Federal drug trafficking offenders are primarily convicted of offenses under title 21 of the United States Code, which prohibits the distribution, manufacture, or importation of controlled substances, and possession with intent to distribute controlled substances.²² As specified drug quantity thresholds are met, a ten-year mandatory

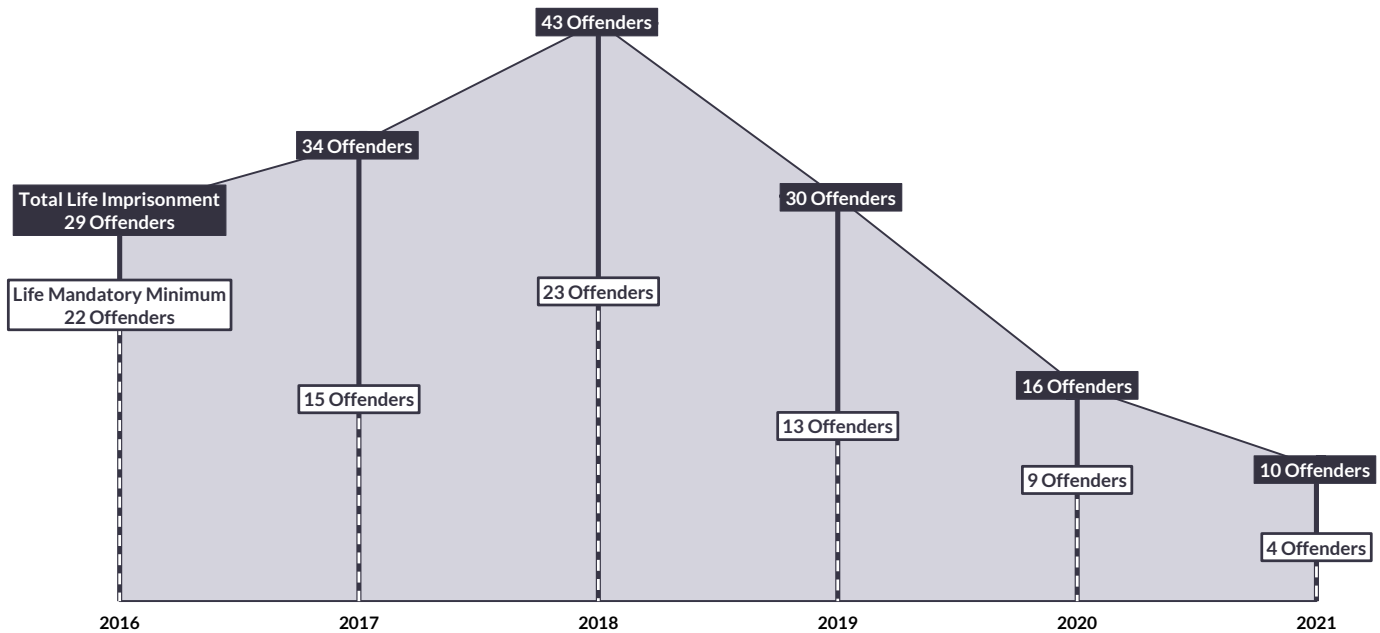
minimum penalty and a maximum term of life imprisonment is applied.²³ These mandatory minimum penalties may be enhanced if a drug offender has a qualifying prior conviction or convictions and if prosecutors take affirmative steps for these higher penalties to apply.²⁴

Before the First Step Act, offenders who otherwise qualified for the ten-year mandatory minimum penalty were subject to an enhanced mandatory minimum penalty of 20 years if they had one qualifying prior conviction, and a **mandatory term of life imprisonment** if they had two qualifying prior convictions.²⁵ As shown in the following table (Table 1), the First Step Act reduced the 20-year

Table 1. Common 851 Enhancements

Provisions	Statutory Penalty	Common 851 Enhancements	
		Before First Step Act	After First Step Act
21 U.S.C. § 841(b)(1)(A)	10-year mandatory minimum	20-year mandatory minimum <i>after one</i> prior "felony drug offense" conviction	15-year mandatory minimum <i>after one</i> prior "serious drug" or "serious violent" felony conviction
		Life mandatory minimum <i>after two or more</i> prior "felony drug offense" convictions	25-year mandatory minimum <i>after two or more</i> prior "serious drug" or "serious violent" felony convictions
21 U.S.C. § 841(b)(1)(B)	5-year mandatory minimum	10-year mandatory minimum <i>after one</i> prior "felony drug offense" conviction	10-year mandatory minimum <i>after one</i> prior "serious drug" or "serious violent" felony conviction
21 U.S.C. § 841(b)(1)(C)	20-year statutory maximum	30-year statutory <i>maximum</i> <i>after one</i> prior "felony drug offense" conviction	30-year statutory <i>maximum</i> <i>after one</i> prior "felony drug offense" conviction

Figure 2. Drug Trafficking Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021



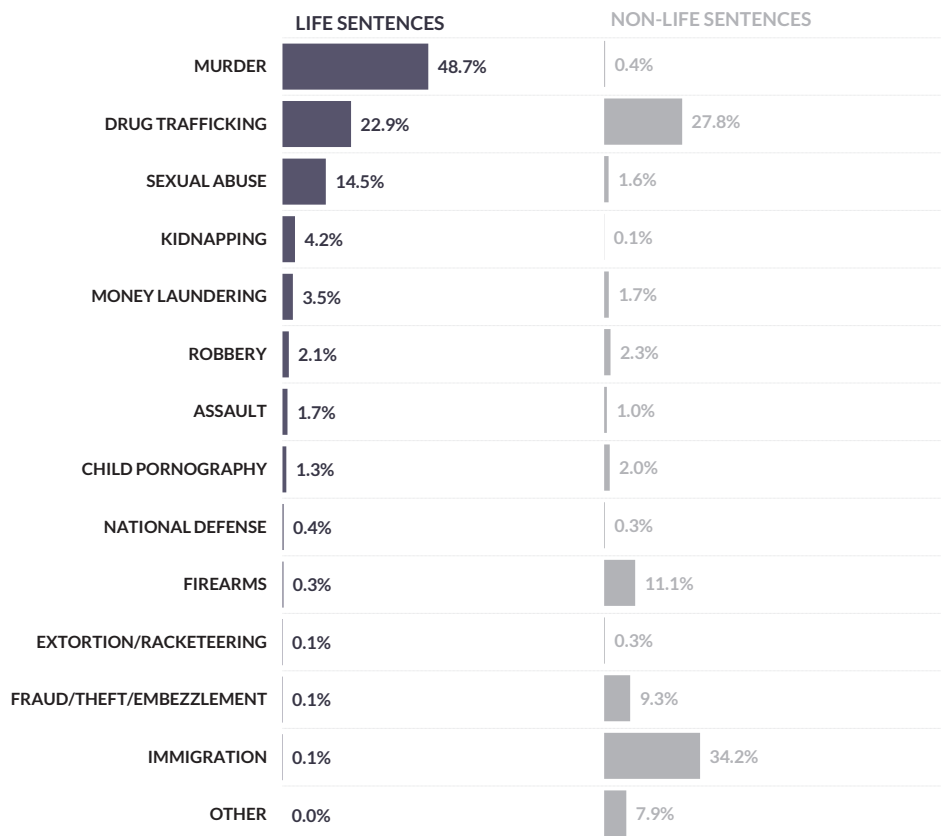
mandatory minimum penalty for offenders with one prior qualifying offense to 15 years and the *life mandatory minimum penalty* for two or more prior qualifying offenses to 25 years.²⁶

As reflected in Figure 2, there was a 76.7 percent decrease in the number of drug trafficking offenders receiving a life imprisonment sentence between fiscal year 2018 and fiscal year 2021. The new 25-year enhanced mandatory minimum penalty applied to 21 offenders in the initial year after the First Step Act was enacted.²⁷ In fiscal year 2021, ten drug trafficking offenders were given a life imprisonment sentence, of which four had a statutory mandatory minimum of life imprisonment.

Crimes for which Life Sentences were Imposed

Of the 709 offenders sentenced to life imprisonment during fiscal years 2016 through 2021, more than three-quarters (76.6%) were convicted of violent crimes. This is more than nine times higher than for offenders without life sentences (8.3%). Of the 13 crime types committed by those sentenced to life imprisonment, nearly half (48.7%) were convicted of murder (Figure 3).²⁸ Similar to offenders who received a non-life sentence, drug trafficking offenses were also common (22.9%).

Figure 3. Most Common Crime Type of Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021



As discussed earlier, the sentencing guidelines call for a life imprisonment sentence in drug trafficking offenses when death or serious bodily injury resulted from the use of the drug and when the offender had one or more prior convictions for drug trafficking.²⁹ Among those drug trafficking offenders who received a life sentence, 22.2 percent of drug trafficking offenders received a heightened base offense level under §2D1.1 because their offense of conviction established that death or serious bodily injury resulted from use of the drugs.³⁰ Most (86.1%) of the offenders who received the heightened base offense level had a statutory mandatory minimum of life imprisonment.

Even where a heightened base offense level does not apply, the guideline range may include life imprisonment when extremely large quantities of drugs are involved, or where the court applies other sentence enhancements relating to drug trafficking. Combined across the six fiscal years, the primary drug type for drug trafficking offenders sentenced to life imprisonment and whose base offense level was calculated using the Drug Quantity Table³¹ was methamphetamine (53.2%; n=66), followed by powder cocaine (20.2%; n=25) and crack cocaine (13.7%; n=17) (Figure 4).

Figure 4. Primary Drug Type for Drug Trafficking Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021

	N	METH (n=66)	POWDER COCAINE (n=25)	CRACK COCAINE (n=17)	HEROIN (n=11)	FENTANYL (n=1)	MARIJUANA (n=2)	OTHER (n=2)
		%	%	%	%	%	%	%
TOTAL	124	53.2%	20.2%	13.7%	8.9%	0.8%	1.6%	1.6%
FY 2016	26	46.2%	11.5%	23.1%	7.7%	0.0%	7.7%	3.9%
FY 2017	29	58.6%	20.7%	6.9%	13.8%	0.0%	0.0%	0.0%
FY 2018	36	52.8%	22.2%	16.7%	5.6%	0.0%	0.0%	2.8%
FY 2019	20	65.0%	25.0%	5.0%	5.0%	0.0%	0.0%	0.0%
FY 2020	8	37.5%	12.5%	25.0%	12.5%	12.5%	0.0%	0.0%
FY 2021	5	40.0%	40.0%	0.0%	20.0%	0.0%	0.0%	0.0%

Most drug trafficking offenders sentenced to life imprisonment committed offenses involving large quantities of drugs. Table 2 provides the median drug quantities³² and corresponding base offense levels for cases in which the base offense level was calculated using the Drug Quantity Table.³³ The median weights of both powder and crack cocaine corresponded to a base offense level of 36.

Table 2. Median Drug Quantity³⁴ for Drug Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021

Drug Type	Median Quantity (Grams)	Base Offense Level
Powder Cocaine	240,000	36
Crack Cocaine	23,970	36
Heroin	19,000	34
Methamphetamine	5,212	34-38

As reflected in Figure 3, after murder and drug trafficking, the most common offenses committed by offenders sentenced to life imprisonment were sexual abuse (14.5%), kidnapping (4.2%), and money laundering (3.5%)—all of which were less common among offenders who did not receive a life sentence. The most common primary sentencing guidelines for offenders sentenced to life imprisonment for sexual abuse were: §2G1.3 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with a Minor) (32.4%), §2G2.1 (Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material) (31.4%), and §2A3.1 (Criminal Sexual Abuse) (31.4%). There were some similarities in the criminal behavior of life imprisonment offenders convicted under the guidelines for criminal sexual abuse and kidnapping. For example, one-third (34.5%) of life imprisonment offenders sentenced under §2A4.1 for kidnapping received a 6-level increase for the sexual exploitation of the victim during the kidnapping,³⁵ while 12.5 percent of life imprisonment offenders sentenced under §2A3.1 for criminal sexual abuse received a 4-level increase for abducting the victim.³⁶

Offense Characteristics

Offenders sentenced to life imprisonment also had some offense characteristics that distinguish them from other offenders. Almost half (47.5%) of offenders sentenced to life imprisonment either possessed a weapon in connection with their offense or were convicted under 18 U.S.C. § 924(c), which is approximately five times higher than offenders who did not receive life imprisonment (9.8%). Nearly one-third (31.4%) of offenders with life imprisonment sentences received an aggravating role adjustment as an organizer, leader, manager, or supervisor in the offense,³⁷ which is approximately eight times higher than for those without life imprisonment sentences. No offenders sentenced to life imprisonment received a mitigating role adjustment—an adjustment that indicates that offenders were less culpable than their co-participants.³⁸

The guidelines also provide certain adjustments based on the actual or intended victim of the offense.³⁹ Victim-related adjustments were more common among offenders sentenced to life imprisonment, compared to the overall federal offender population. Between fiscal years 2016 and 2021, 5.7 percent of offenders sentenced to life imprisonment received an increase under §3A1.1 for committing a hate crime or targeting a vulnerable victim.⁴⁰ Twenty-one (3.0%) offenders with life sentences received an adjustment for targeting an official victim, such as a government official or employee.⁴¹ Seventeen (2.4%) offenders sentenced to life imprisonment received an adjustment for physically restraining a victim during the course of conduct of the instant offense.⁴² Finally, nine (1.3%) life imprisonment offenders received an upward adjustment for promoting terrorism.⁴³

Table 3. Sentencing Adjustments for Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021







Sentencing Adjustments	LIFE IMPRISONMENT SENTENCES		NON-LIFE SENTENCES		
		%	N	%	N
18 U.S.C. § 924(c) or Weapon SOC		47.5%	337	9.8%	39,146
Aggravated Role (§3B1.1)		31.4%	221	4.2%	15,687
Hate Crime/Vulnerable Victim (§3A1.1)		5.7%	40	0.6%	2,381
Official Victim (§3A1.2)		3.0%	21	0.3%	1,098
Restraint of Victim (§3A1.3)		2.4%	17	0.1%	452
Terrorism (§3A1.4)		1.3%	9	0.1%	181

Table 4. Demographic Characteristics of Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021

	LIFE IMPRISONMENT SENTENCES	NON-LIFE SENTENCES
Race/Ethnicity		
White	22.3%	21.1%
Black	43.6%	20.7%
Hispanic	27.1%	54.4%
Other	7.1%	3.9%
Citizenship		
U.S. Citizen	84.6%	58.1%
Non-U.S. Citizen	15.4%	41.9%
Gender		
Male	98.5%	87.0%
Female	1.6%	13.0%
Education		
Less than High School	35.5%	46.8%
High School Graduate	40.3%	30.7%
Some College	19.9%	16.7%
College Graduate	4.2%	5.8%
Age at Sentencing	39 years (average)	36 years (average)

Demographic Characteristics of Federal Offenders Sentenced to Life

The demographic characteristics of offenders sentenced to life imprisonment differed from that of federal offenders generally. Black offenders comprised the largest proportion of offenders sentenced to life imprisonment (43.6%), followed by Hispanic offenders (27.1%), White offenders (22.3%), and Other race offenders (7.1%). By comparison, the federal offender population sentenced to less than life imprisonment was primarily comprised of Hispanic offenders (54.4%).

Differences were also apparent in other demographic characteristics. The overwhelming majority of offenders sentenced to life imprisonment between fiscal years 2016 and 2021 were male (98.5%) (Table 4). Across that same period, only 11 women received a life imprisonment sentence. The average age of offenders sentenced to life imprisonment was 39 years old, three years older than the average for all other federal offenders. Most (84.6%) offenders sentenced to life imprisonment were U.S. citizens⁴⁴ and had a high school education or less (75.8%).⁴⁵

Criminal Histories of Federal Offenders Sentenced to Life

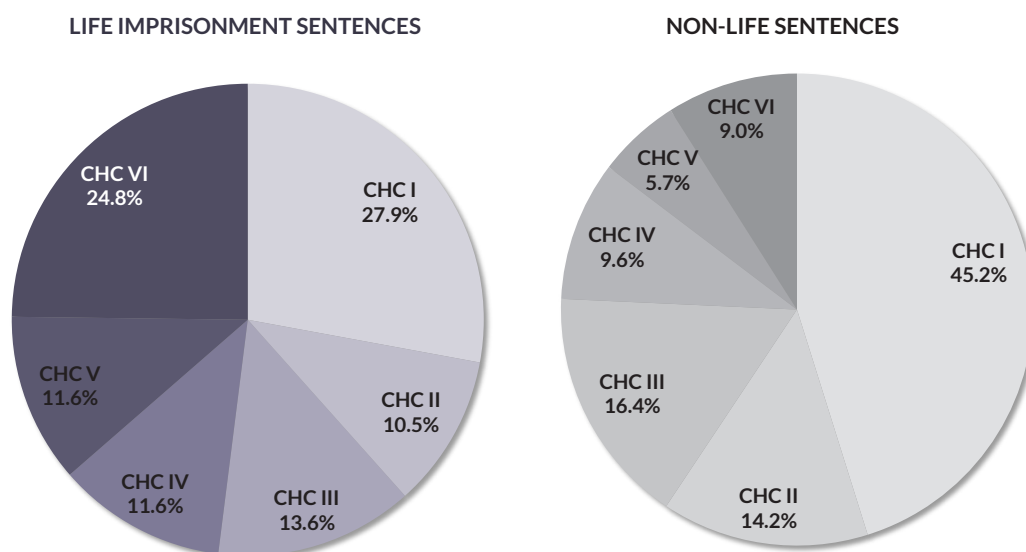
Sentencing courts calculate an offender’s criminal history score, which in turn determines the offender’s CHC.⁴⁶ For offenders in the lowest criminal history category (CHC I), only final offense levels 42 and 43 include life imprisonment as part of the guideline range. In contrast, offenders in the highest criminal history category (CHC VI) have life imprisonment included within their guideline range at final offense levels 37 through 43.⁴⁷

Generally, offenders who received a life imprisonment sentence had more extensive criminal histories of longer duration than offenders with sentences less than life imprisonment.⁴⁸ While the highest proportion of offenders with a life imprisonment sentence were in CHC I (27.9%), this is a substantially smaller proportion than offenders who received non-life sentences (45.2%). Similarly, almost half (48.0%) of offenders with a life sentence were in the three most serious

criminal history categories, with almost a quarter (24.8%) in the highest criminal history category, CHC VI. By comparison, less than one quarter of the remaining federal offender population were in the top three categories and only 9.0 percent were in CHC VI. Offenders who received life imprisonment had an average of six criminal history points, with a median of five.⁴⁹ The average number of criminal history points for offenders who received less than a life imprisonment sentence was four, with a median of three criminal history points.

The higher criminal history categories for offenders who received life imprisonment, not surprisingly, reflects the fact that they had a greater number of prior criminal convictions. The substantial majority (84.4%) of offenders who received life imprisonment had at least one previous criminal conviction. Offenders with criminal history who received life imprisonment had a median of five previous criminal convictions compared to a median of four previous criminal convictions

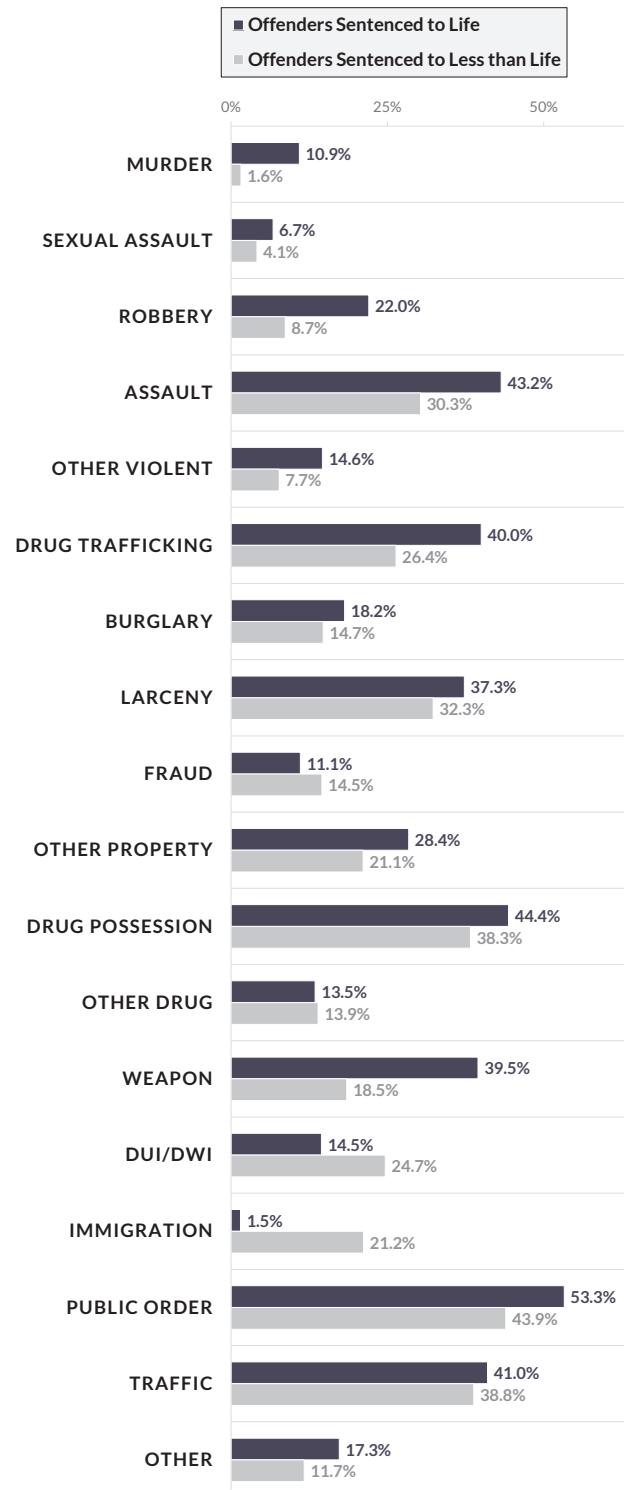
Figure 5. Criminal History Category of Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021



for offenders with criminal history who received a non-life sentence. Furthermore, nearly 30 percent (29.2%) of offenders with criminal history who received life imprisonment sentences began their criminal careers as juveniles, approximately twice the rate (15.6%) of offenders with criminal history who received non-life sentences.⁵⁰ Calculating the difference between the age at first conviction and the age at conviction for the instant federal offense, the median duration of the criminal careers of offenders sentenced to life imprisonment was 19 years. Those without life imprisonment sentences had a median criminal career duration of 13 years.

Offenders who received a life sentence tended to have criminal histories that included more serious crimes. Nearly a quarter (24.0%) of repeat offenders sentenced to life imprisonment had a prior conviction for a federal offense. While public order offenses (53.3%) were the most common prior offense for offenders sentenced to life imprisonment with a criminal history,⁵¹ 64.2 percent of offenders who received life imprisonment and had a prior criminal history committed at least one prior violent offense, with a median of two such prior violent offenses. By comparison, 40.6 percent of offenders who were not sentenced to life imprisonment, but who had a prior criminal history, committed a prior violent offense, with a median of one violent offense. Among offenders with criminal history who received life imprisonment, 10.9 percent had a previous conviction for murder, 6.7 percent for sexual assault, 22.0 percent for robbery, 43.2 percent for assault, and 14.6 percent for another type of violent crime (Figure 6).⁵²

Figure 6. Prior Crime Types of Repeat Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021



Career Offenders, Armed Career Criminals, and Repeat and Dangerous Sex Offenders

Offenders with life imprisonment sentences qualified as career offenders,⁵³ armed career criminals,⁵⁴ and repeat and dangerous sex offenders⁵⁵ at higher frequencies than offenders not sentenced to life imprisonment (Table 5). One out of every eight (12.5%) offenders sentenced to life imprisonment was classified as a career offender compared to 2.5 percent of all other federal offenders. More than 11 percent (11.8%) of federal offenders sentenced to life imprisonment were classified as repeat and dangerous sex offenders, compared to 0.6 percent of all other offenders. Finally, 1.3 percent of offenders with life imprisonment sentences were designated as an armed career criminal, more than twice the rate (0.5%) of all other federal offenders.⁵⁶

How the Life Sentence Was Determined: Mandatory Minimums and the Guideline Ranges

There are multiple federal criminal statutes that establish life imprisonment as the maximum sentence. Additionally, there are 50 statutes that require a court to impose a life sentence as the minimum penalty.⁵⁷ Between fiscal years 2016 and 2021, over two-fifths (43.8%) of offenders sentenced to life imprisonment were convicted under a statute carrying a mandatory minimum penalty of life imprisonment.⁵⁸ Of offenders with a mandatory minimum of life imprisonment, most of these offenders were convicted for murder (58.7%). The next most common offense type for which a mandatory minimum of life was applied was drug trafficking (27.7%). None of the offenders in these cases received relief from the application of the mandatory minimum penalty and, therefore, the court was required to impose the life imprisonment sentence.

Table 5. Career Criminal Status of Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021

Career Criminal Status	LIFE IMPRISONMENT SENTENCES		NON-LIFE SENTENCES	
	%	N	%	N
Career Offender	12.5%	88	2.5%	9,239
Armed Career Criminal	1.3%	9	0.5%	1,750
Repeat and Dangerous Sex Offender	11.8%	83	0.6%	2,303

Offenders sentenced to life imprisonment and who were convicted of murder, had a statutory mandatory minimum of life imprisonment 52.8 percent of the time. More than half (53.1%) of drug traffickers with life sentences had a mandatory minimum of life. Within the remaining top five crime types of those sentenced to life imprisonment, 11.7 percent of sexual abuse offenders, 23.3 percent of kidnapping offenders, and 36.0 percent of money laundering offenders had a mandatory minimum of life.

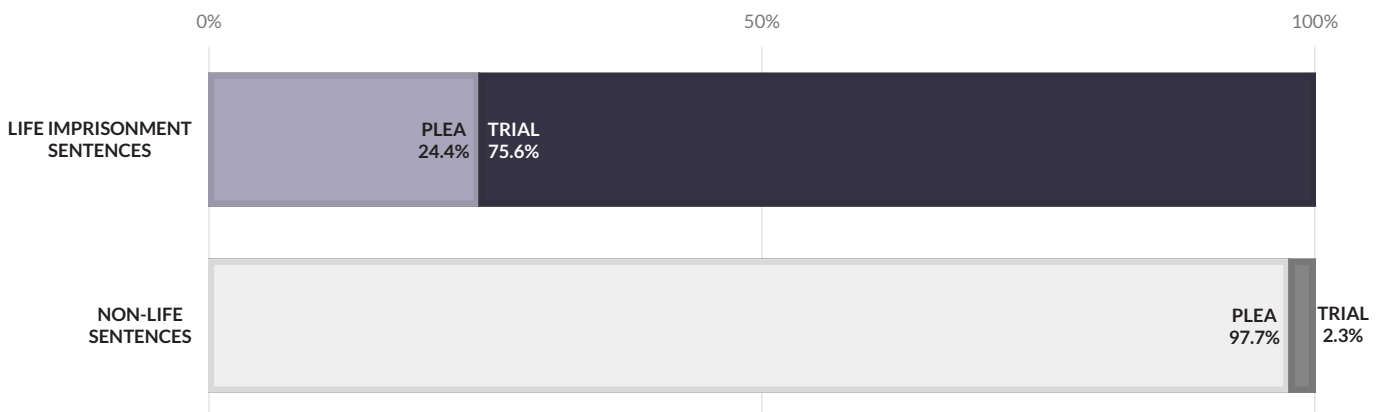
In the remaining 56.2 percent of cases, there was no mandatory minimum penalty requiring the court to impose the life imprisonment sentence. However, as discussed previously, the applicable sentencing range under the sentencing guidelines for most of these remaining offenders sentenced to life imprisonment provided for a lengthy sentence. Of the

offenders sentenced to life imprisonment who did not have a mandatory minimum of life, nearly all (95.2%) were sentenced within the applicable guideline range. Around five percent (4.8%) of life imprisonment sentences imposed without a mandatory minimum of life were above the applicable guideline range.⁵⁹

Trial Rate

Offenders sentenced to life imprisonment were more often convicted after a trial. Of the 709 cases in which a life imprisonment sentence was imposed, the offender was convicted after a trial in 536 cases. This represents a trial rate of three-quarters (75.6%) for these cases, a rate that is over 30 times higher than the 2.3 percent trial rate for all other federal offenders during this period (Figure 7).

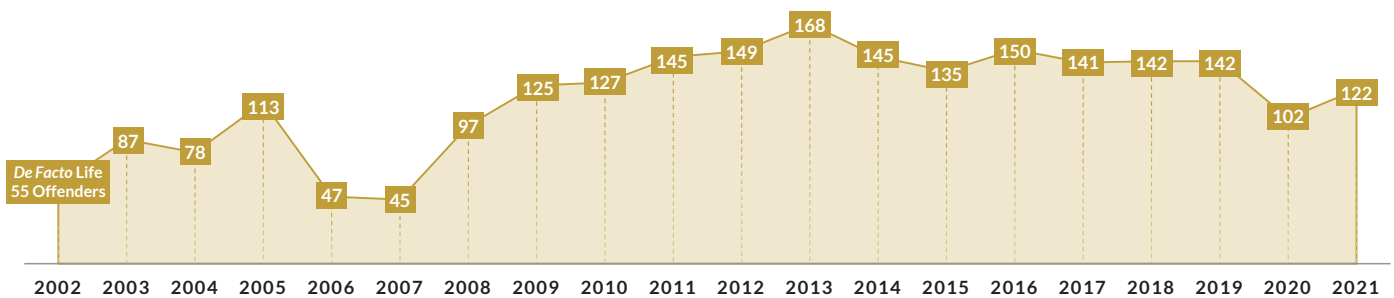
Figure 7. Trial Rate of Offenders Sentenced to Life Imprisonment, Fiscal Years 2016 – 2021



De Facto Life Sentences

Although only a small number of federal offenders are sentenced to life imprisonment each year, additional federal offenders are sentenced to terms of imprisonment of sufficient length to presumably keep the offender in prison for the rest of his or her natural life. Such a sentence, for all practical purposes, is a life sentence. Within this report, any sentence of imprisonment 470 months or longer is considered a *de facto* life sentence. Between fiscal years 2016 and 2021, *de facto* life sentences ranged from 471 months (39.3 years) to 7,200 months—the equivalent of 600 years. The median *de facto* life sentence was 548 months (45.7 years).

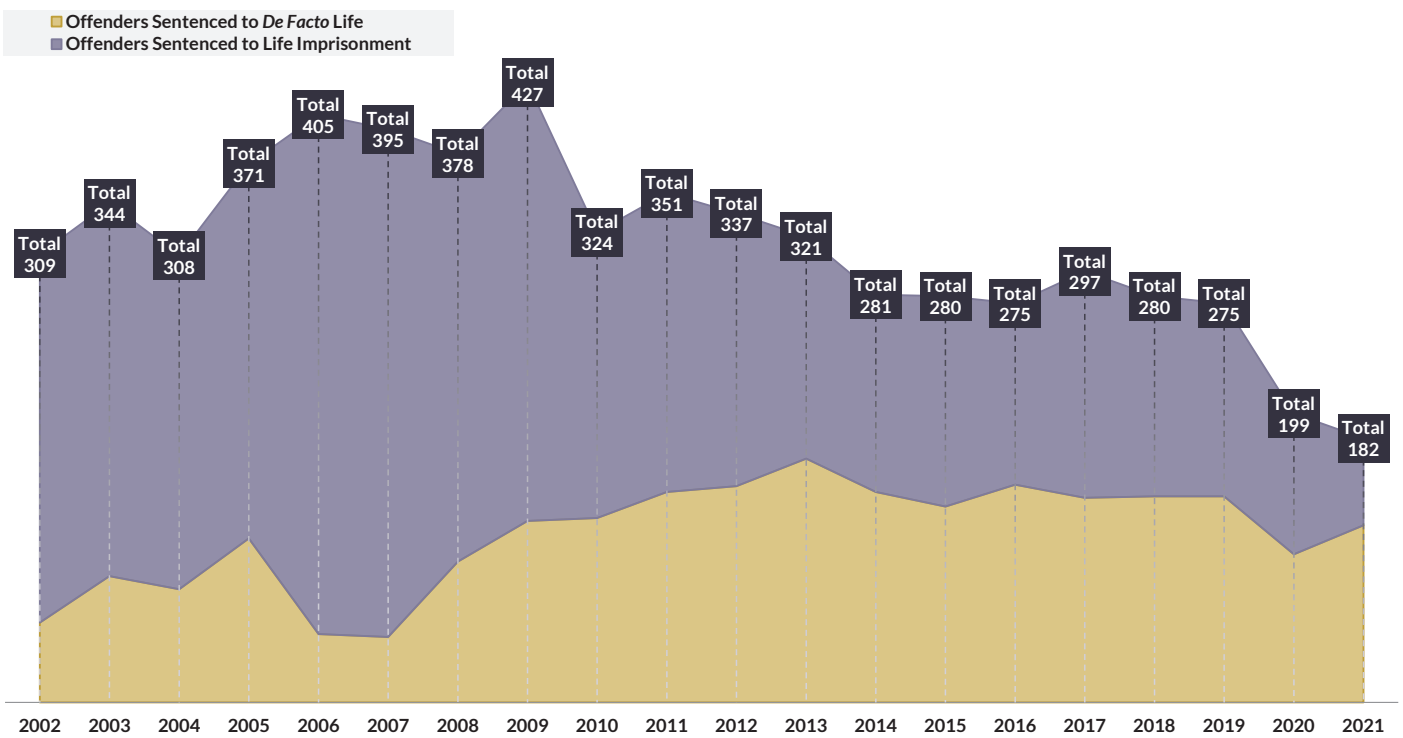
Figure 8. Offenders Sentenced to *De Facto* Life, Fiscal Years 2002 – 2021



During the most recent six fiscal years, the courts imposed *de facto* life sentences on 799 offenders. Although *de facto* life sentences have remained relatively steady over the past six fiscal years, in prior years,

the number of federal offenders sentenced to *de facto* life ranged from a low of 45 offenders in fiscal year 2007 to a high of 168 offenders in fiscal year 2013 (Figure 8). Across all fiscal years, the number of

Figure 9. Offenders Sentenced to *De Facto* Life and Life Imprisonment Over Time, Fiscal Years 2002 – 2021

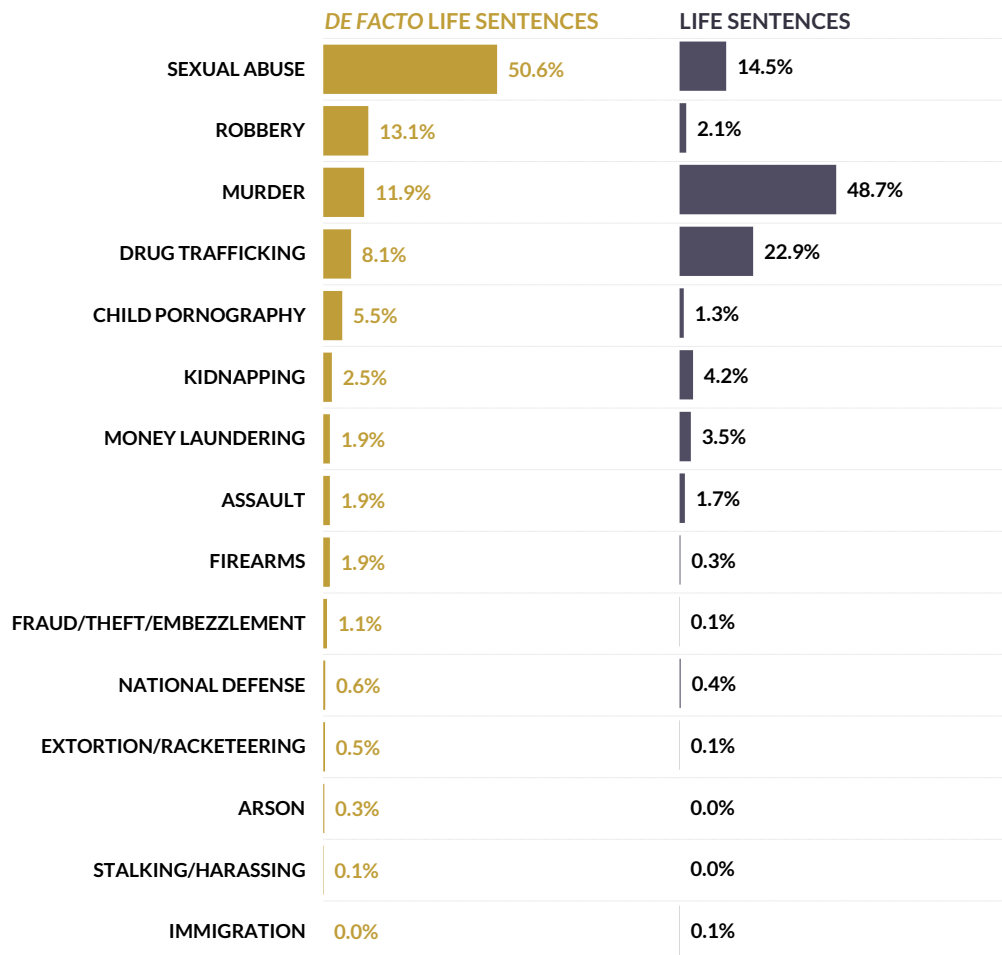


offenders having a *de facto* life sentence equated to between 0.1 percent and 0.3 percent of federal offenders sentenced.

Even as the number of *de facto* life sentences has remained fairly stable, the combined number of life imprisonment and *de facto* sentences has decreased over time, particularly in the last two fiscal years, which corresponds to the overall decrease in federal caseload. As reflected in Figure 9, the sum of offenders who received life imprisonment and *de facto* life peaked in fiscal year 2009 with a combined 427 cases

but has decreased since then with a low of 182 life imprisonment and *de facto* life cases in fiscal year 2021. This decrease is largely attributable to the decrease in life sentences, as *de facto* life sentences have remained relatively stable since 2010, while the number of life imprisonment offenders has trended downward since that time.

Figure 10. Most Common Crime Type of Offenders Sentenced to *De Facto* Life and Life Imprisonment, Fiscal Years 2016 – 2021



Crimes Committed by Offenders with *De Facto* Life Sentences

Approximately nine-in-ten (87.6%) offenders who received *de facto* life had a violent instant offense. Crimes committed by these offenders were encapsulated by 14 crime types.⁶⁰ Although the types of crimes generally overlap with offenders who received life imprisonment sentences, there are notable differences in the

proportion of crime types within the two offender groups. Whereas murder was the most common crime type for offenders who received life imprisonment (48.7%), sexual abuse was the most frequent crime committed by offenders who received *de facto* life sentences (50.6%) (Figure 10). Offenders who received *de facto* life and a sexual abuse conviction were sentenced under the guideline §2G2.1 (Sexually Exploiting a Minor by Production of

Table 6. Sentencing Adjustments for Offenders Sentenced to *De Facto* Life and Life Imprisonment, Fiscal Years 2016 – 2021

Sentencing Adjustments	DE FACTO LIFE SENTENCES		LIFE IMPRISONMENT SENTENCES	
	%	N	%	N
18 U.S.C. § 924(c) or Weapon SOC	33.2%	265	47.5%	337
Aggravated Role (§3B1.1)	15.4%	123	31.4%	221
Hate Crime/Vulnerable Victim (§3A1.1)	8.5%	68	5.7%	40
Official Victim (§3A1.2)	2.8%	22	3.0%	21
Restraint of Victim (§3A1.3)	1.5%	12	2.4%	17
Terrorism (§3A1.4)	0.6%	5	1.3%	9

Sexually Explicit Visual or Printed Material) 85.2 percent of the time. Robbery was the second most common crime (13.1%) among offenders receiving *de facto* life as compared to 2.1 percent of offenders with a life imprisonment sentence. Murder was the third most common crime (11.9%) among offenders with *de facto* life sentences.

Of the 62 *de facto* life drug trafficking offenders whose base offense level was calculated using the Drug Quantity Table, the primary drug type for the majority was methamphetamine (59.7%). Only three drug trafficking offenders sentenced to *de facto* life (4.6%) involved cases where a death or serious bodily injury had resulted from the use of the substance.⁶¹

Offense Characteristics

One-third (33.2%) of offenders who had a *de facto* life imposed had either a weapon present during their offense or were sentenced under 18 U.S.C. § 924(c) – firearm possession in furtherance of a crime of violence or drug trafficking crime (Table 6). A smaller proportion (15.4%) received the aggravating role enhancement, which was nearly half the rate of life imprisonment offenders (31.4%). No offenders who received *de facto* life were given the mitigating role adjustment.

Victim-based adjustments were uncommon in cases where the court imposed *de facto* life sentences. The most frequently applied victim-based adjustment for offenders who received *de facto* life was hate crime/vulnerable victim (8.5%), followed by the official victim adjustment (2.8%), restraint of a victim (1.5%), and the terrorism enhancement (0.6%).

Table 7. Demographics of Offenders Sentenced to *De Facto* Life and Life Imprisonment, Fiscal Years 2016 – 2021

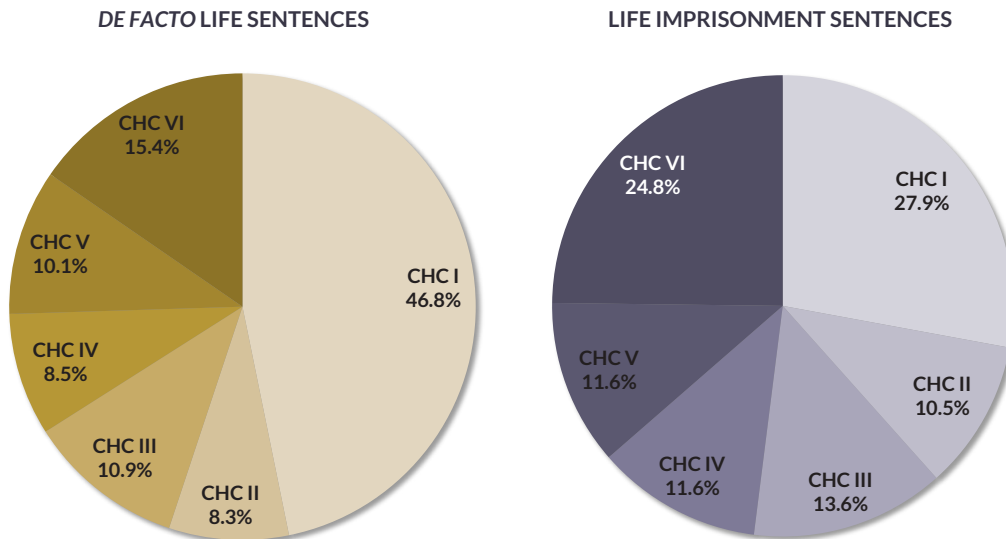
	<i>DE FACTO</i> LIFE SENTENCES	LIFE IMPRISONMENT SENTENCES
Race/Ethnicity		
White	47.3%	22.3%
Black	30.9%	43.6%
Hispanic	16.6%	27.1%
Other	5.3%	7.1%
Citizenship		
U.S. Citizen	92.5%	84.6%
Non-U.S. Citizen	7.5%	15.4%
Gender		
Male	95.4%	98.5%
Female	4.6%	1.6%
Education		
Less than High School	23.9%	35.5%
High School Graduate	39.9%	40.3%
Some College	27.9%	19.9%
College Graduate	8.3%	4.2%
Age at Sentencing	37 years (average)	39 years (average)

Demographic Characteristics of Offenders with *De Facto* Life Sentences

As with offenders who received life imprisonment, the vast majority of offenders who received *de facto* life sentences were male (95.4%) (Table 7). The average age of offenders who received *de facto* life was 37 years old, with a median age of 36. White offenders comprised the largest proportion of offenders who received *de facto* life sentences (47.3%),

followed by Black offenders (30.9%) and Hispanic offenders (16.6%).⁶² Nearly all (92.5%) offenders who had a *de facto* life sentence imposed were U.S. citizens. Offenders with *de facto* life tended to be more educated than offenders sentenced to life imprisonment. This could be related to the high number of sexual abuse and child pornography offenders, who generally have higher levels of education among federal offenders.⁶³ Approximately one-third (36.2%) of offenders with *de facto* life sentences had at least some college or were a college graduate.⁶⁴

Figure 11. Criminal History Category for Offenders Sentenced to *De Facto* Life and Life Imprisonment, Fiscal Years 2016 – 2021

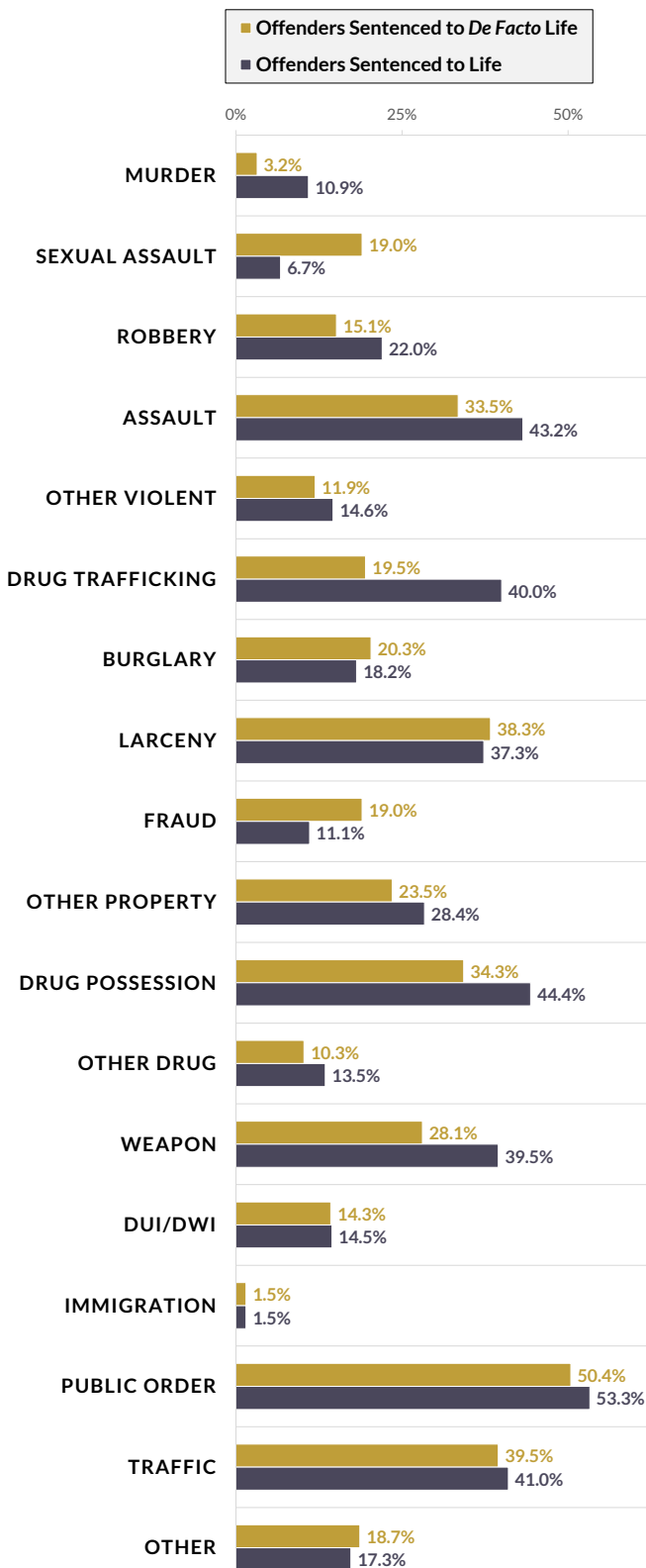


Criminal Histories of Offenders Sentenced to *De Facto* Life

Offenders who received *de facto* life sentences had less extensive criminal histories compared to offenders who received life imprisonment. Nearly half of offenders who received *de facto* life imprisonment were classified as CHC I (46.8%) or CHC II (8.3%) (Figure 11). Offenders who received life imprisonment qualified more often for CHC VI (24.8%) in contrast to offenders who received *de facto* life imprisonment (15.4%). Offenders who received *de facto* life sentences averaged four criminal history points, with a median of two, in contrast to offenders who received life imprisonment, who averaged six criminal history points, with a median of five.⁶⁵

Similar to offenders who were sentenced to life imprisonment, the Commission reviewed the criminal histories of offenders who received *de facto* life sentences. Approximately three-quarters (74.5%) of offenders with *de facto* life sentences had at least one prior criminal conviction. One-in-seven (14.1%) offenders who received a *de facto* life sentence with prior convictions had a prior federal conviction. The most common past criminal conviction for offenders who received a *de facto* life sentence was public order offenses (50.4%), followed by traffic offenses (39.5%), larceny (38.3%), drug possession (34.3%), and assault (33.5%). A prior conviction for a violent offense also was common for offenders with criminal history who received a *de facto* life sentence; nearly six-in-ten (58.8%) had a prior conviction for at least one violent offense, with a

Figure 12. Prior Crime Types for Repeat Offenders Sentenced to *De Facto* Life and Life Imprisonment, Fiscal Years 2016 – 2021









median of two prior violent convictions. Of offenders who received a *de facto* life sentence with criminal history, 3.2 percent had a previous conviction for murder, 19.0 percent for sexual assault, 15.1 percent for robbery, 33.5 percent for assault, and 11.9 percent for another type of violent crime (Figure 12).⁶⁶

Offenders who received *de facto* life sentences with criminal history had a median of five previous convictions with criminal careers that spanned a median of 15 years. Approximately one-in-four (23.0%) began his or her criminal career as a juvenile.

Career Offenders, Armed Career Criminals, and Repeat and Dangerous Sex Offenders

Offenders who received *de facto* life sentences qualified as repeat and dangerous sex offenders at substantially higher rates than offenders who received life imprisonment (Table 8). Almost four out of ten offenders who received *de facto* life sentences (39.4%) were classified as repeat and dangerous sex offenders, compared to 11.8 percent of offenders who received life imprisonment. Career offender and armed career criminal status were applied less frequently to offenders who received *de facto* sentences at 6.0 percent and 1.5 percent, respectively.

Table 8. Career Criminal Status of Offenders Sentenced to *De Facto* Life and Life Imprisonment, Fiscal Years 2016 – 2021

Career Criminal Status	DE FACTO LIFE SENTENCES		LIFE IMPRISONMENT SENTENCES			
		%	N	%	N	
Career Offender		6.0%	48		12.5%	88
Armed Career Criminal		1.5%	12		1.3%	9
Repeat and Dangerous Sex Offender		39.4%	315		11.8%	83

How the De Facto Life Sentence Was Determined

Approximately one-quarter (27.8%) of offenders sentenced to *de facto* life imprisonment had a count of conviction with a statutory maximum of life imprisonment and an applicable guideline range that included life imprisonment. In these cases, the federal courts *could* have imposed a sentence of life imprisonment but decided to impose a sentence of at least 470 months. An additional one-in-five (20.9%) had a count of conviction with a statutory maximum of life imprisonment, but the applicable guideline calculation did not include a sentence of life imprisonment. Approximately half (51.3%) of offenders sentenced to *de facto* life imprisonment were sentenced under statutes that did not authorize a sentence of life imprisonment, to which the court typically imposed consecutive sentences for multiple counts of conviction to achieve the lengthy period of incarceration imposed.

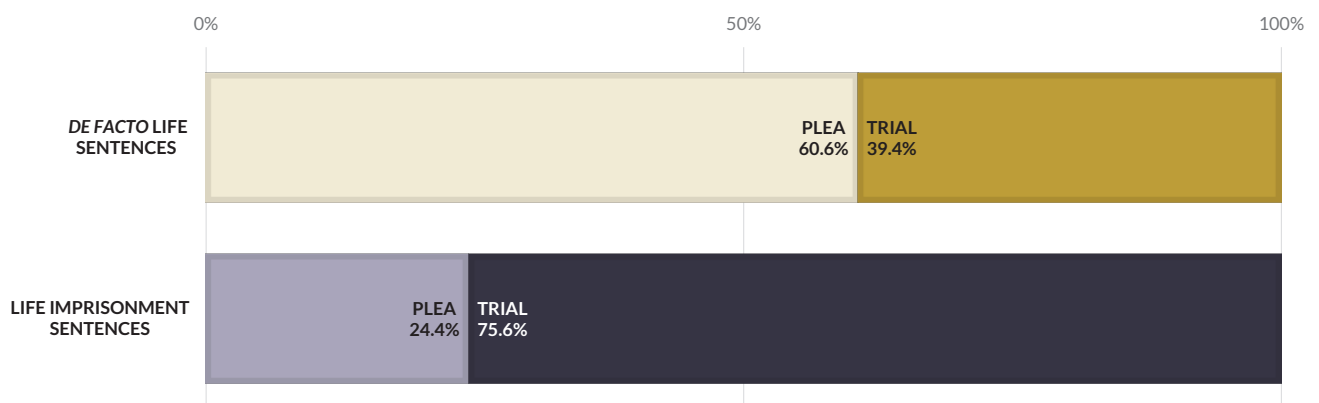
Statutory mandatory minimum sentences were common with offenders who received *de facto* life imprisonment. Nine-in-ten (90.1%) offenders who received *de facto* life sentences were convicted under a statute that carried a mandatory minimum penalty.⁶⁷ However, the sentences imposed were almost always well above the mandatory minimum. For example, of offenders who were subject to a mandatory minimum penalty other than life and received *de facto* life imprisonment, 61.1 percent had a statutory mandatory minimum of 15 years or less, while only 14.3 percent had a statutory minimum of at least 470 months imprisonment.

For a small group of outliers, courts imposed exceptionally long imprisonment sentences. Sentences of 1,200 months (100 years) or longer were imposed for 73 offenders who received *de facto* life sentences (9.1%). The most frequent type of crimes committed by these offenders were sexual abuse (58.9%) and robbery (23.3%).

Trial Rate

As with offenders who received life imprisonment, offenders who received *de facto* life sentences were more likely to be sentenced following a trial compared to the rest of the federal offender population. Almost four-in-ten (39.4%) were convicted at trial; the remaining portion (60.6%) pleaded guilty (Figure 13). Of the 484 offenders who received *de facto* life sentences and pleaded guilty, nearly all (93.0%) received an adjustment for acceptance of responsibility.⁶⁸

Figure 13. Trial Rate of Offenders Sentenced to *De Facto* Life and Life Imprisonment, Fiscal Years 2016 – 2021



Conclusion

Federal courts rarely impose life imprisonment sentences or *de facto* life sentences of at least 470 months. Just 0.4 percent of offenders sentenced during the six-year period examined in this report received life imprisonment or *de facto* life sentences. In any one fiscal year between 2016 and 2021, the highest number of offenders sentenced to life imprisonment was 156. Comparatively, the highest number of offenders receiving a *de facto* life sentence during the same timeframe was 150. Offenders sentenced by federal courts to life imprisonment or *de facto* life commit serious crimes that are usually violent, such as murder and sexual abuse. Offenders sentenced to life imprisonment and *de facto* life frequently have aggravating role adjustments and are more likely than the remaining federal offender population to receive a weapons enhancement at sentencing. Offenders sentenced to life imprisonment and *de facto* life were also more likely to target vulnerable victims or receive a hate crime enhancement, and target official victims, compared to federal offenders with shorter sentences.

Offenders receiving life imprisonment or *de facto* life sentences often had long criminal careers, with some starting as juveniles and spanning decades. A majority of both offenders sentenced to life imprisonment and *de facto* life had a history of violent offenses. Numerous offenders had histories of repeat and dangerous sexual offending. While life imprisonment and *de facto* life sentences affect only a small proportion of the federal offender population, these sentences set them apart from all other offenders in federal cases.

Appendix

Table A-1. Current Statutory Provisions Requiring Mandatory Minimum Terms of Life Imprisonment

<u>Number</u>	<u>Statute</u>	<u>Description</u>
1	7 U.S.C. § 2146(b)	<i>First degree murder of any person engaged in or on account of official duties relating to transportation, sale, and handling of certain animals</i>
2	15 U.S.C. § 1825(a)(2)(C)	<i>First degree murder of horse official</i>
3	18 U.S.C. § 34	<i>If the death of another results from any person who engaged in any offense related to destruction of aircraft or motor vehicles, drive-by shootings, violence at international airports, or pointing a laser at an aircraft</i>
4	18 U.S.C. § 115(b)(3)	<i>First degree murder of certain federal officials or immediate family member</i>
5	18 U.S.C. § 175c(c)(3)	<i>If the death of another results from any person producing, engineering, transferring, or possessing the variola virus</i>
6	18 U.S.C. § 229A(a)(2)	<i>Develop, produce, acquires, transfer, possess, or use any chemical weapon that results in the death of another person</i>
7	18 U.S.C. § 351(a)	<i>First degree murder of a member of Congress, Cabinet, Presidential or Vice-Presidential candidate, Supreme Court Justice, and certain other officials</i>
8	18 U.S.C. § 924(c)(1)(C)(ii)	<i>Second or subsequent conviction under section 924(c)(1)(A) and firearm is a machine gun or destructive device or the firearm is equipped with a silencer or muffler</i>
9	18 U.S.C. § 930(c)	<i>First degree murder involving possession or use of a firearm or other dangerous weapon in a federal facility</i>
10	18 U.S.C. § 1091(b)(1)	<i>Genocide killing</i>
11	18 U.S.C. § 1111(b)	<i>First degree murder</i>
12	18 U.S.C. § 1114(a)(1)	<i>First degree murder of federal officers</i>
13	18 U.S.C. § 1116	<i>First degree murder of foreign officials, official guests, or internationally protected persons</i>

14	18 U.S.C. § 1118	<i>Murder in a federal correctional facility by an inmate under a term of life imprisonment sentence</i>
15	18 U.S.C. § 1119(b)	<i>First degree murder of a U.S. national by a U.S. national while outside the United States</i>
16	18 U.S.C. § 1120(b)	<i>First degree murder of another by escaped federal prisoner incarcerated for a term of life</i>
17	18 U.S.C. § 1121(a)	<i>Killing certain law enforcement officers working with federal law enforcement officials in furtherance of a federal criminal investigation</i>
18	18 U.S.C. § 1201(a)	<i>Kidnapping resulting in the death of any person</i>
19	18 U.S.C. § 1203	<i>Hostage taking resulting in the death of any person</i>
20	18 U.S.C. § 1503(b)(1)	<i>First degree murder of an officer of the court or juror</i>
21	18 U.S.C. § 1512(a)(3)(A)	<i>First degree murder of a witness, victim, or informant to prevent attendance or testimony in an official proceeding</i>
22	18 U.S.C. § 1651	<i>Piracy under the laws of nations</i>
23	18 U.S.C. § 1652	<i>Piracy by U.S. citizen</i>
24	18 U.S.C. § 1653	<i>Piracy against the United States by an alien</i>
25	18 U.S.C. § 1655	<i>Piracy in the form of assault on a commander</i>
26	18 U.S.C. § 1661	<i>Robbery ashore by a pirate</i>
27	18 U.S.C. § 1716(j)(3)	<i>Knowingly depositing in the mail anything nonmailable with intent to kill or injure another, or injure the mails, or other property, and death results</i>
28	18 U.S.C. § 1751(a)	<i>First degree murder of the President, next in order of succession to the Office of the President, any person acting as President, the President-elect or the Vice-President-elect, or any person in the Executive Office of the President or the Vice President</i>
29	18 U.S.C. § 1841(a)(2)(C)	<i>Engaging in specified criminal conduct resulting in the intentional death of an unborn child</i>

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30	18 U.S.C. § 1958(a)	<i>Causing death through the use of interstate commerce facilities in the commission of a murder-for-hire</i>
31	18 U.S.C. § 1959(a)(1)	<i>Murder during racketeering activity</i>
32	18 U.S.C. § 2113(e)	<i>Killing while committing or attempting to avoid apprehension for bank robbery or forcing another to accompany without consent</i>
33	18 U.S.C. § 2241(c)	<i>Second or subsequent offense, engaging in a sexual act with a child under the age of 12, or engaging in a sexual act by force with a child who is above the age of 12, but under the age of 16</i>
34	18 U.S.C. § 2332g(c)(3)	<i>Death resulting from production, use, or transfer of an explosive device or incendiary rocket or missile designed to destroy an aircraft</i>
35	18 U.S.C. § 2332h(c)(3)	<i>Death resulting from production, use, or transfer of a radioactive weapon</i>
36	18 U.S.C. § 3559(c)(1)	<i>Upon conviction for a serious violent felony, if offender has two or more prior serious violent felony convictions, or one or more prior serious violent felony convictions and one or more prior serious drug offense convictions, apply enhancement</i>
37	18 U.S.C. § 3559(d)(1)	<i>Death of a child of less than 14 years results from a serious violent felony as described in section 3591(a)(2), apply enhancement</i>
38	18 U.S.C. § 3559(e)(1)	<i>Where a federal sex offense committed against a minor and the offender has a prior sex conviction in which a minor was the victim, apply enhancement</i>
39	18 U.S.C. § 3559(f)(1)	<i>Murder of a person under 18 years of age if intentional death; intentional serious bodily injury resulting in death; participation in act intending lethal force would be used resulting in death; or intentional act of violence knowing grave risk of death and death resulted</i>
40	21 U.S.C. § 461(c)	<i>First degree murder of any person engaged in or on account of performance of his official duties as a poultry or poultry products inspector</i>

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41	21 U.S.C. § 675	<i>First degree murder of any person engaged in or on account of performance of his official duties as a meat inspector</i>
42	21 U.S.C. § 841(b)(1)(C)	<i>Second or subsequent offense, manufacturing, distributing, or possession with intent to distribute or serious violent felony, death or serious bodily injury results</i>
43	21 U.S.C. § 848(b)	<i>Any offense; principal administrator, organizer, or leader("kingpin") of continuing criminal enterprise</i>
44	21 U.S.C. § 960(b)(1)	<i>Second or subsequent offense, unlawful import or export or serious violent felony, death or serious bodily injury results</i>
45	21 U.S.C. § 960(b)(2)	<i>Second or subsequent offense, unlawful import or export or serious violent felony, death or serious bodily injury results</i>
46	21 U.S.C. § 960(b)(3)	<i>Second offense, unlawful import or export, death or serious bodily injury results</i>
47	21 U.S.C. § 1041(b)	<i>First degree murder of any person engaged in or on account of performance of his official duties for egg production inspection</i>
48	42 U.S.C. § 2272(b)	<i>Violation of prohibitions governing atomic weapons; death of another resulting</i>
49	49 U.S.C. § 46502(a)(2)(B)	<i>Committing or attempting to commit aircraft piracy in special aircraft jurisdiction of the U.S. resulting in death of another individual</i>
50	49 U.S.C. § 46502(b)(1)(B)	<i>Violation of Convention for the Suppression of Unlawful Seizure of Aircraft outside special aircraft jurisdiction of U.S. resulting in death of another individual</i>

Endnotes

1 Examples of drug trafficking statutes where a life imprisonment sentence could be imposed are 21 U.S.C. §§ 841 and 846. *See* 21 U.S.C. §§ 841, 846.

2 Examples of racketeering statutes where a life imprisonment sentence could be imposed are 18 U.S.C. §§ 1959 and 1962. *See* 18 U.S.C. §§ 1959, 1963.

3 Examples of firearms statutes where a life imprisonment sentence could be imposed are 18 U.S.C. §§ 922 and 924. *See id.* § 924.

4 Drug trafficking, extortion/racketeering, and firearms were the primary guidelines for 45.1% of the federal offender population sentenced in 2021. U.S. SENT'G COMM'N, 2021 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS 46 tbl.4 (2022).

5 GLENN R. SCHMITT & HYUN J. KONFRST, U.S. SENT'G COMM'N, LIFE SENTENCES IN THE FEDERAL SYSTEM (2015). Commission materials cited herein are available on the Commission's website at www.ussc.gov.

6 To encapsulate the entirety of the available U.S. Sentencing Commission criminal history files, the majority of analyses in the report uses six fiscal years of data.

7 *See* U.S. SENT'G COMM'N, *Guidelines Manual*, §1B1.1 (Nov. 2021) [hereinafter USSG] (providing application instructions for the federal sentencing guidelines).

8 *Id.*

9 *Id.*; *see also* USSG Ch.3.

10 *See* USSG Ch.5, Pt.A; *see also* USSG Ch.1, Pt.A, Subpt.1(4)(h) ("The Commission has established a sentencing table that for technical and practical reasons contains 43 levels.").

11 *See* USSG §1B1.1.

12 *See generally* USSG Ch.4, Pt.A.

13 *See* USSG Ch.5, Pt.A.

14 *See* 28 U.S.C. §§ 994, 995. The Commission was created by the Sentencing Reform Act of 1984 as part of the Comprehensive Crime Control Act of 1984. It abolished the use of parole in the federal system for all offenses and established a system of determinate sentencing. *See* Pub. L. No. 98-473, § 211, 98 Stat. 1837, 1987.

15 *See* USSG Ch.5, Pt.A.

16 *Id.*

17 *See* USSG §§2A1.1(a), 2D1.1(a)(1), 2M1.1(a)(1). Section 2D1.1(a)(1) requires that a death or serious bodily injury resulted from use of the substance and that the defendant committed the offense after one or more convictions for a previous similar offense to obtain a base offense level of 43, whereas §2M1.1(a)(1) requires conduct that is tantamount to waging war against the United States. *See* USSG §§2D1.1(a)(1),

2M1.1(a)(1).

18 See USSG Ch.5, Pt.A.

19 Due to the small number of offenders who received life sentences within the study period, all cases were included in the analysis for this report, even those without complete sentencing information provided by the courts. Out of the 709 offenders with life imprisonment sentences, 691 (97.5%) had complete sentencing information. Therefore, in cases where the complete court findings were unavailable, data may be missing on the variables of interest.

20 Pub. L. No. 115–391, 132 Stat. 5194.

21 First Step Act § 401.

22 See 21 U.S.C. §§ 841, 960.

23 See, e.g., *id.* §§ 841(b)(1)(A), 960(b)(1).

24 See *id.* § 851.

25 See 21 U.S.C. § 841(b)(1)(A) (2017).

26 First Step Act § 401.

27 JULIE ZIBULSKY & CHRISTINE KITCHENS, U.S. SENT’G COMM’N, *THE FIRST STEP ACT OF 2018: ONE YEAR OF IMPLEMENTATION* 14 (2020).

28 Percentages in report figures may not sum to 100% due to rounding.

29 See *supra* note 17.

30 See USSG §2D1.1(a). One such offender was sentenced under §2D1.2 with a cross-reference to §2D1.1 due to death or serious bodily injury.

31 USSG §2D1.1(c). The majority (96.9%) of drug trafficking offenders were sentenced under guideline §2D1.1. Three of the four offenders sentenced under §2D1.5 were sentenced using the Drug Quantity Table at §2D1.1.

32 The median drug weights for drug trafficking offenders who did not receive a life sentence by primary drug type were: 6,990.0 grams for powder cocaine, 54.2 grams for crack cocaine, 548.5 grams for heroin, and 920.0 grams for methamphetamine.

33 The drug weights were unavailable for 30 drug trafficking offenders sentenced to life imprisonment whose base offense level was calculated based on the Drug Quantity Table.

34 Methamphetamine is separated into methamphetamine, methamphetamine (actual), and “Ice” in the Drug Quantity Table and therefore, is represented as a range for base offense level. The Commission does not report the median for any category with fewer than three cases; therefore, marijuana, fentanyl, and “other” are not reported.

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35 USSG §2A4.1(b)(5).

36 USSG §2A3.1(b)(5).

37 USSG §3B1.1.

38 USSG §3B1.2. Six offenders did not have complete information on the aggravating or mitigating role adjustments and were removed from the calculations of the percentages.

39 See USSG Ch.3, Pt.A. Victim-related adjustments are found in Chapter 3, Part A of the *Guidelines Manual* as §3A1.1 (Hate Crime Motivation or Vulnerable Victim), §3A1.2 (Official Victim), §3A1.3 (Restraint of Victim), §3A1.4 (Terrorism), and §3A1.5 (Serious Human Rights Offenses). *Id.*

40 See USSG §3A1.1. Vulnerable victim status is based on age, physical or mental condition, or another characteristic which makes the victim particularly vulnerable. See USSG §3A1.1, comment. (n.2). Six offenders did not have complete information on the application of the presented adjustments and were removed from the calculations of the percentages.

41 See USSG §3A1.2.

42 See USSG §3A1.3.

43 See USSG §3A1.4.

44 Citizenship status was missing for two offenders sentenced to life imprisonment.

45 Education level was missing for 22 offenders sentenced to life imprisonment.

46 See *supra* notes 11–13 and accompanying text.

47 See USSG Ch.5, Pt.A.

48 Three offenders sentenced to life imprisonment had no information about their CHC as their pre-sentence report was waived or missing.

49 Five offenders were missing information on the total number of criminal history points.

50 Four offenders sentenced to life imprisonment had missing information about their previous criminal convictions and therefore were removed from the calculations.

51 After public order, the most common previous convictions were for drug possession (44.4%), assault (43.2%), traffic offenses (41.0%), drug trafficking (40.0%), and weapons offenses (39.5%).

52 Offenders could have multiple prior convictions of multiple crime types. Other types of violent crimes include crimes such as kidnapping, child abuse, arson, and rioting.

53 See USSG §4B1.1.

54 See USSG §4B1.4.

55 See USSG §4B1.5.

- 56 Six offenders were missing information for their career offender and armed career criminal status. Seven offenders were missing information about their repeat and dangerous sex offender status.
- 57 See *infra* Table A-1.
- 58 One offender sentenced to life was missing information on a statutory minimum.
- 59 Of the 19 offenders without a statutory minimum of life who were sentenced above the applicable guideline range, six were convicted of sexual abuse, four of murder, four of robbery, two of kidnapping, two of assault, and one of firearms.
- 60 Twelve of the 14 crime types were similar between offenders sentenced to life imprisonment and *de facto* life. The only difference was immigration was present for offenders sentenced to life imprisonment, while arson and stalking/harassing were present for offenders sentenced to *de facto* life.
- 61 The majority (98.5%) of drug trafficking offenders were sentenced to *de facto* life under guideline §2D1.1. One offender was sentenced under §2D1.5.
- 62 Race/ethnicity was missing for two offenders sentenced to *de facto* life.
- 63 U.S. SENT'G COMM'N, FEDERAL SENTENCING OF CHILD PORNOGRAPHY: PRODUCTION OFFENSES 18 (2021); U.S. SENT'G COMM'N, FEDERAL SENTENCING OF CHILD PORNOGRAPHY: NON-PRODUCTION OFFENSES 18 (2021).
- 64 Education level was missing for four offenders who received *de facto* life imprisonment.
- 65 Five offenders were missing information on the total number of criminal history points.
- 66 Offenders could have multiple prior convictions of multiple crime types.
- 67 Of the offenders who received a mandatory minimum, none received a reduction for safety valve, while 16 (2.2%) received a reduction for substantial assistance. Six offenders had a statutory mandatory minimum of life imprisonment, all of which received a reduction for substantial assistance. See USSG §§5C1.2, 5K1.1 (guidelines for defining both safety valve and substantial assistance).
- 68 See USSG §3E1.1.



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