



Recidivism Among Federal Firearms Offenders

UNITED STATES SENTENCING COMMISSION



United States Sentencing Commission

Suite 2-500, South Lobby
One Columbus Circle, N.E.
Washington, DC 20002
www.ussc.gov

Charles R. Breyer
Commissioner

Danny C. Reeves
Commissioner

Patricia K. Cushwa
Ex Officio

David Rybicki
Ex Officio



Kenneth P. Cohen
Staff Director

Glenn R. Schmitt
Director
Office of Research and Data

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Matthew J. Iaconetti, J.D., M.A., *Assistant General Counsel*

Tracey Kyckelhahn, Ph.D., *Senior Research Associate*

Mari McGilton, M.A., *Research Associate*

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Chapter One

Executive Summary

The Commission's Ongoing Recidivism Research

The United States Sentencing Commission¹ began studying recidivism shortly after the enactment of the Sentencing Reform Act of 1984 (“SRA”). The Commission’s March 2016 publication, *Recidivism Among Federal Offenders: A Comprehensive Overview*, discusses the history of its recidivism studies in greater detail.² Recidivism information is central to three of the primary purposes of punishment described in the SRA—specific deterrence, incapacitation, and rehabilitation—all of which focus on prevention of future crimes through correctional intervention. Information regarding recidivism rates is also relevant to the Commission’s obligation to formulate sentencing policy that “reflect[s], to the extent practicable, advancements in knowledge of human behavior as it relates to the criminal justice process.”³ The Commission’s consideration of recidivism by federal offenders was also central to its initial work in developing the criminal history provisions in the *Guidelines Manual*.⁴ Additionally, public attention to the size of the federal prison population and the costs of incarceration⁵ have highlighted the importance of studying recidivism among federal offenders.⁶ These factors remain important and continue to be a key consideration in the Commission’s work.

The Commission’s current recidivism research substantially expands on the scope of previous Commission recidivism projects.⁷ In addition to a different set of offenders—U.S. citizen federal offenders released in 2005—the current project’s study group is much larger than those in previous Commission studies. A larger study group provides the opportunity to develop useful conclusions about subgroups of federal offenders.

This Report: Recidivism Among Federal Firearms Offenders

Previous Commission research has examined recidivism among federal offenders generally, as well as recidivism among offenders convicted of specific categories of offenses, including drug trafficking⁸ and violent offenses.⁹ This report provides a recidivism analysis of federal offenders convicted of firearms and ammunition offenses.

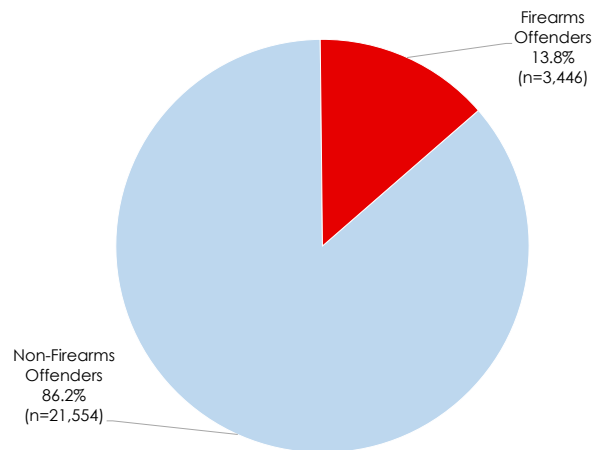
The offenders in this report were selected using criteria that placed them into four groups that collectively form the “firearms offenders:”

- The first group is composed of 2,687 offenders sentenced under §2K2.1, the primary sentencing guideline for unlawful receipt, possession or transportation of firearms or ammunition, and prohibited transactions involving firearms or ammunition.¹⁰
- The second group is composed of 80 offenders sentenced pursuant to 18 U.S.C. § 924(e), the Armed Career Criminal Act (“ACCA”).¹¹
- The third group is composed of 41 offenders sentenced as career offenders pursuant to §4B1.1 who were also convicted of a federal firearms crime as part of the instant offense.¹²
- The fourth group is composed of 638 offenders convicted under 18 U.S.C. § 924(c) who did not otherwise receive the ACCA or career offender enhancement. Section 924(c) prohibits using or carrying a firearm during and in relation to, or possessing a firearm in furtherance of, a “crime of violence” or “drug trafficking crime.”¹³

The statutory provisions and sentencing guidelines applicable to each group are discussed further in Chapter Two.

Taken together, as shown in Figure 1.1 below, the 3,446 firearms offenders sentenced under §2K2.1, sentenced as armed career criminals or career offenders, and offenders convicted under 18 U.S.C. § 924(c) are analyzed in comparison to 21,554 offenders who were not sentenced for a firearms offense as defined above (*i.e.*, the “non-firearms offenders”). Both the firearms and non-firearms offenders analyzed in this report were originally sentenced between fiscal year 1990 and the first quarter of fiscal year 2006.¹⁴ All of the offenders in this report were released from federal custody in calendar year 2005.¹⁵

Figure 1.1 Percentage of Firearms Offenders and Non-Firearms Offenders Released in Calendar Year 2005



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded 431 cases from the analysis, see endnote 10. Totals may not sum to 100.0% due to rounding.

Key Findings

Firearms offenders generally recidivated at a higher rate, recidivated more quickly following release into the community, and continued to recidivate later in life than non-firearms offenders. The key findings of the Commission's study of recidivism among firearms offenders are:

- The 3,446 firearms offenders analyzed in this report represent 13.8 percent of the 25,000 offenders in this study who were released in calendar year 2005.
- Firearms offenders recidivated at a higher rate than non-firearms offenders. Over two-thirds (68.1%) of firearms offenders were rearrested for a new crime during the eight-year follow-up period compared to less than half of non-firearms offenders (46.3%).
- Firearms offenders recidivated more quickly than non-firearms offenders. Of the firearms offenders who recidivated, the median time from release to the first recidivism event was 17 months. Comparatively, the median time from release to the first recidivism event for non-firearms offenders was 22 months.
- A greater percentage of firearms offenders were rearrested for serious crimes than non-firearms offenders. Of the firearms offenders who recidivated, assault was the most serious new charge for 29.0 percent, followed by drug trafficking (13.5%) and public order crimes (12.6%). Of the non-firearms offenders who recidivated, assault was the most common new charge for 21.9 percent, followed by public order crimes (19.4%) and drug trafficking (11.1%).
- Firearms offenders have higher recidivism rates than non-firearms offenders in every Criminal History Category. The difference in recidivism rates between firearms and non-firearms offenders is most pronounced in Criminal History Category I, the lowest Criminal History Category, where firearms offenders recidivated at a rate approximately 12 percentage points higher than non-firearms offenders (45.0% compared to 33.2%).
- Firearms offenders recidivated at a higher rate than non-firearms offenders in every age group at the time of release from custody. Firearms offenders recidivated at nearly twice the rate of non-firearms offenders among those released after age 50 (39.3% compared to 20.6%).
- Offender characteristics and recidivism rates vary depending on the type of firearms offense committed by offenders sentenced under §2K2.1. However, criminal history remains a strong predictor of recidivism regardless of the type of firearms conviction.
- Section 924(c) offenders generally recidivated less frequently, for less serious crimes, and after a longer crime-free period than other firearms offenders. However, among section 924(c) offenders, offenders who engaged in violent criminal conduct—either as part of the instant offense or during prior criminal activity—generally recidivated at a higher rate, more quickly, and for more serious crimes than non-violent section 924(c) offenders who were convicted of drug trafficking as their instant offense underlying the section 924(c) charge.

Measures of Recidivism and Methodology

Defining and Measuring Recidivism

Recidivism “refers to a person’s relapse into criminal behavior, often after the person receives sanctions or undergoes intervention for a previous crime.”¹⁶ Measuring recidivism informs decision-making about issues such as pretrial detention, appropriate sentence type and length, prisoner classification, prison programming, and offender supervision in the community. It also allows policymakers an opportunity to evaluate the performance of the criminal justice system as a whole.¹⁷

Recidivism is typically measured by criminal acts that resulted in the rearrest, reconviction, or reincarceration of the offender over a specified period. These three recidivism measures are used in this report, but the report primarily relies on the first measure—rearrest—with additional data regarding reconviction and reincarceration reported in the Appendix.¹⁸ Providing data about multiple measures of recidivism allows users to review the performance measure most relevant to their interests.

Rearrest classifies a person as a recidivist if he or she has been arrested for a new crime after being released into the community directly on probation or after serving a term of imprisonment. Rearrest also includes arrests for alleged violations of supervised release, probation, or state parole. The number of rearrests in the Commission’s analysis is based on the number of unique arrest dates, regardless of the number of individual charges arising from a single arrest event. Thus, if an offender was arrested on a single occasion for both driving under the influence and possession of cocaine, that arrest date would constitute a single rearrest event.

Reconviction classifies a person as a recidivist if an arrest resulted in a subsequent court conviction. Violations and revocations of supervision are not included as a reconviction event because no formal prosecution occurred.¹⁹

A recent federal study found significant gaps in reporting of dispositions following an arrest.²⁰ Such gaps exist in the criminal records used in this report and lead to an undercounting of reconviction events.

Reincarceration classifies a person as a recidivist if a conviction or revocation resulted in a prison or jail sentence as punishment. The reincarceration measure counts offenders who were reported to have been returned to the Federal Bureau of Prisons, state prison, or local jail for any term of incarceration. Incomplete state criminal records also create missing information about reincarceration events.²¹

Methodology of This Recidivism Study

As explained above, this report examines four categories of firearms offenders: (1) firearms offenders sentenced under §2K2.1; (2) offenders sentenced pursuant to the ACCA, 18 U.S.C. § 924(e); (3) career offenders sentenced under §4B1.1 who were also convicted of an underlying firearms offense; and (4) offenders convicted of violating 18 U.S.C. § 924(c) who were also convicted of either a “crime of violence” or drug trafficking offense. This approach allows for a comprehensive analysis of offenders convicted of firearms and ammunition offenses.²²

In undertaking its current recidivism research, the Commission selected an eight-year follow-up period to track offenders after their release into the community. It considered all recidivism events (including felonies, misdemeanors, and “technical” violations of the conditions of supervision), except minor traffic offenses, which occurred over that eight-year period. Although this report includes summary findings using all three measures (rearrest, reconviction, and reincarceration), it primarily relies on rearrest data in providing more detailed information about the recidivism rates of firearms offenders.

Specifically, the Commission analyzed the time to the first recidivism event for those offenders who recidivated. Studying the timing of recidivism can help in understanding the process of desistance, as some offenders may remain in the community for a considerable time before recidivating, while others recidivate very quickly. The report also provides the median number of recidivism events and the most serious type of post-release offense among those who recidivated. The Commission then explored the association between recidivism, criminal history, and sentence length. Finally, the Commission analyzed the association between age and recidivism. This information is reported first for firearms offenders as a whole, and then select analyses are provided for the four types of firearms offenders identified in this report.

Chapter Two

Firearms Offenses and the Sentencing Process

Federal firearms offenders in this report were convicted primarily under chapter 44 of title 18 or chapter 53 of title 26 of the United States Code.²³ These statutes prohibit a wide array of conduct related to the illegal possession, receipt, purchase, shipping, transportation, and use of firearms²⁴ or ammunition.²⁵

The first step in applying the sentencing guidelines is to identify the applicable Chapter Two guideline based on the statute of conviction by referring to Appendix A of the *Guidelines Manual*. Convictions for violating firearms statutes are sentenced primarily under Part K of Chapter Two of the *Guidelines Manual*. After the proper Chapter Two guideline is identified, an offense level is calculated from that guideline by assigning the applicable “Base Offense Level” combined with any specific offense characteristics and aggravating or mitigating adjustments.²⁶

After calculating the offense level, the guidelines establish a method for evaluating an offender’s criminal history by assigning points to prior criminal convictions and adjudications of juvenile delinquency. An offender’s past convictions are assigned zero, one, two, or three points based on the nature of the offense, when it occurred, and the sentence imposed.²⁷ These point assignments are designed to reflect the seriousness of the prior crime of conviction. Through this process the court calculates a “criminal history score” to assign the offender to one of six Criminal History Categories (“CHCs”). Once the offense level and CHC calculation is complete, the Sentencing Table in Chapter Five of the *Guidelines Manual* provides a recommended term of imprisonment that is expressed in a range of months.²⁸

Section 2K2.1 Offenders

The first group of offenders analyzed in this report were sentenced under §2K2.1, the principal guideline for offenders convicted of a firearms or ammunition offense. The majority of offenders sentenced under §2K2.1 were convicted of violating 18 U.S.C. § 922(g). Section 922(g) bans specified classes of people from transporting or possessing in interstate or foreign commerce any firearm or ammunition or from receiving any firearm or ammunition that has

been transported in interstate or foreign commerce. The banned classes include: convicted felons, fugitives, unlawful users of controlled substances, anyone who has been adjudicated as a mental defective or who has been committed to a mental institution, illegal aliens,²⁹ dishonorably discharged service personnel, those who have renounced their U.S. citizenship, and misdemeanor domestic violence offenders or those subject to certain restraining orders in domestic violence matters. Similarly, section 922(n) prohibits anyone under indictment for a crime punishable by imprisonment for a term exceeding one year from transporting or receiving in interstate commerce any firearm or ammunition. An individual convicted of violating section 922(g) or 922(n) is defined as a “prohibited person” in §2K2.1.³⁰

A violation of section 922(n) carries no mandatory minimum penalty and is punishable by a maximum term of imprisonment of five years.³¹ Ordinarily, a violation of section 922(g) carries no statutory mandatory minimum sentence and a maximum penalty of ten years of imprisonment.³² However, if a section 922(g) offender has been convicted previously of three “violent felonies” or “serious drug offenses,” the ACCA provides a 15-year mandatory minimum prison term and a lifetime maximum.³³ The ACCA is discussed in further detail below.

Offenses involving the illegal purchase of a firearm by one person for another, commonly known as a “straw purchase,” are also sentenced under §2K2.1. Section 922(a)(6) and section 924(a)(1)(A) may be charged in “straw purchaser” cases. Section 922(a)(6) makes it unlawful for any person in connection with the acquisition, or attempted acquisition, of any firearm or ammunition from a licensed dealer to knowingly make any false oral or written statement intended to deceive the dealer with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition. A violation of section 922(a)(6) carries no statutory mandatory minimum penalty and a maximum penalty of ten years of imprisonment.³⁴ Section 924(a)(1)(A) makes it unlawful to knowingly make false statements or representations with respect to information that federally licensed firearms dealers are required to

keep in their records. A violation of section 924(a)(1)(A) carries no mandatory minimum penalty and is punishable by a maximum term of imprisonment of five years.³⁵

The conduct covered by these offenses overlaps with other section 922 provisions. For example, a violation of section 922(d) occurs when a person sells or otherwise transfers a firearm knowing or having a reasonable cause to believe the person is prohibited from acquiring it. Typically, the offense involves the transfer of a firearm to a convicted felon. A violation of section 922(d) carries no statutory mandatory minimum sentence and a maximum penalty of ten years of imprisonment.³⁶

Individuals convicted of National Firearms Act offenses, 26 U.S.C. § 5861 *et seq.*, are also sentenced under §2K2.1. The National Firearms Act restricts the possession, receipt, use, transfer, importation, and manufacturing of certain dangerous firearms, such as machine guns and sawed-off shotguns. National Firearms Act offenses carry no mandatory minimum penalty and a maximum of ten years of imprisonment.³⁷

Additional federal firearms crimes sentenced under §2K2.1 include offenses related to stolen firearms or ammunition and the unlawful importing, manufacturing, or dealing in firearms, among others.³⁸

Guideline Provision

The severity of an offender's Base Offense Level under §2K2.1 is determined primarily by the type of firearm in question, the number and type of the defendant's prior convictions, and the defendant's status as a person prohibited by law from possessing firearms.³⁹ Within §2K2.1, two subgroups of offenders are analyzed in this report. First, the "*Prohibited Class*" subgroup includes offenders who were prohibited from possessing a firearm, "straw purchasers," or offenders who transferred a firearm or ammunition to a prohibited person. The majority of *Prohibited Class* offenders were convicted of violating section 922(g) on the basis of their status as a convicted felon in possession of a firearm, commonly known as a "felon-in-possession."

The Base Offense Level for *Prohibited Class* offenders is set at 14, 20, or 24 depending on the number of felony convictions, if any, in the offender's past for a "crime of violence"⁴⁰ or "controlled substance offense."⁴¹

- **Base Offense Level 14:** Offenders assigned Base Offense Level 14 were prohibited persons, persons convicted under section 922(d), or persons convicted under one of the "straw purchaser" statutes who knowingly transferred the firearm or ammunition to a prohibited person. Offenders assigned Base Offense Level 14 did not have any prior felony convictions for a "crime of violence" or "controlled substance offense."
- **Base Offense Level 20:** Offenders assigned Base Offense Level 20 were convicted of violating a statute referenced to §2K2.1 and either (1) committed the firearms offense—most commonly a violation of section 922(g)—subsequent to sustaining one felony conviction for either a "crime of violence" or "controlled substance offense," or (2) the offense involved a firearm described in the National Firearms Act or a semiautomatic firearm that is capable of accepting a large capacity magazine *and* the defendant was either a prohibited person, a person convicted under section 922(d), or a person convicted under one of the "straw purchaser" statutes who knowingly transferred the firearm or ammunition to a prohibited person.
- **Base Offense Level 24:** Offenders assigned Base Offense Level 24 were convicted of violating a statute referenced to §2K2.1—most commonly section 922(g)—subsequent to sustaining at least two felony convictions, each of which was a "crime of violence" or a "controlled substance offense."

The second subgroup of offenders sentenced under §2K2.1 in this report, the “*Prohibited Weapon*” offenders, were convicted of an offense involving a firearm described in the National Firearms Act, 26 U.S.C. § 5845(a) (e.g., a machine gun), or a semiautomatic firearm that is capable of accepting a large capacity magazine.⁴² The Base Offense Level for these offenders is set at 18, 22, or 26 depending on the number of felony convictions, if any, in the offender’s past for a “crime of violence” or “controlled substance offense.”

- **Base Offense Level 18:** Offenders assigned Base Offense Level 18 were convicted of an offense involving a firearm described in 26 U.S.C. § 5845(a) without a prior felony conviction for a “crime of violence” or “controlled substance offense.”
- **Base Offense Level 22:** Offenders assigned Base Offense Level 22 committed the offense with a firearm described in 26 U.S.C. § 5845(a) or a semiautomatic firearm capable of accepting a large capacity magazine subsequent to sustaining at least one felony conviction for either a “crime of violence” or a “controlled substance offense.”
- **Base Offense Level 26:** Offenders assigned Base Offense Level 26 committed the offense with a firearm described in 26 U.S.C. § 5845(a) or a semiautomatic firearm capable of accepting a large capacity magazine subsequent to sustaining at least two felony convictions, each of which was a “crime of violence” or a “controlled substance offense.”

Armed Career Criminal Act

Armed career criminals comprise the second group of firearms offenders analyzed in this report. The ACCA requires a mandatory minimum of 15 years of imprisonment if the defendant violates section 922(g) and has three or more convictions for offenses that qualify as either a “violent felony”⁴³ or “serious drug offense.”⁴⁴

The sentencing guideline implementing the ACCA is §4B1.4. Section 4B1.4 instructs the court to apply the greater of: (1) the offense level applicable from Chapters Two and Three of the *Guidelines Manual*; (2) the offense level from the career offender guideline at §4B1.1, if applicable; (3) an offense level 34 if the defendant used or possessed a firearm in connection with a “crime of violence” or a “controlled substance offense,” or if the firearm possessed by the defendant was of a type described in 26 U.S.C. § 5845(a); or (4) an offense level of 33, otherwise.⁴⁵ Section 4B1.4 directs that the CHC for an armed career criminal is the greatest of: (1) the CHC from Chapter Four, Part A of the *Guidelines Manual*; (2) the CHC from the career offender guideline at §4B1.1, if applicable; (3) Category VI if the defendant used or possessed a firearm in connection with either a “crime of violence,” a “controlled substance offense,” or if the firearm possessed by the defendant was of a type described in 26 U.S.C. § 5845(a); or (4) Category IV.⁴⁶

Career Offender

Career offenders sentenced pursuant to §4B1.1 who were convicted of a firearms offense as part of the instant offense comprise the third study group in this report. A defendant qualifies as a career offender pursuant to §4B1.1 if: (1) the defendant was at least 18 years old at the time of the instant offense of conviction; (2) the instant offense of conviction is a felony that is either a “crime of violence” or a “controlled substance offense”; and (3) the defendant has at least two prior felony convictions for either a “crime of violence” or “controlled substance offense.”⁴⁷ The terms “crime of violence” and “controlled substance offense” are defined in §4B1.2.⁴⁸

The career offender guideline requires the final offense level to be increased in many cases. A table at §4B1.1(b) provides a range of applicable offense levels based on the statutory maximum penalty for an offender's instant conviction (ranging from level 12 to 37).⁴⁹ The guideline provides that the applicable offense level from this table should be applied when it produces a higher offense level than the offense level that would otherwise apply if the defendant had not qualified as a career offender.⁵⁰ In addition to potentially increasing the applicable offense level, the career offender guideline also assigns all offenders to CHC VI, regardless of the criminal history points assigned in Chapter Four of the *Guidelines Manual*.⁵¹

18 U.S.C. § 924(c)

The fourth category of firearms offenders in this report comprises individuals convicted of violating 18 U.S.C. § 924(c).⁵² Section 924(c) prohibits using or carrying a firearm during and in relation to, or possessing a firearm in furtherance of, a “crime of violence” or “drug trafficking crime.”⁵³ The statute prescribes a mandatory minimum penalty of at least five years of imprisonment, with increasingly longer penalties if the firearm was used (seven years if the firearm was brandished and ten years if the firearm was discharged)⁵⁴ and for certain types of firearms (ten years if the firearm was a short-barreled rifle, a short-barreled shotgun, or a semiautomatic assault weapon and 30 years if the weapon was a machinegun, a destructive device, or was equipped with a silencer or muffler).⁵⁵ Section 924(c) further requires that these mandatory minimum penalties must be imposed in addition to, and must run consecutively to, “any other term of imprisonment imposed on the person, including any term of imprisonment imposed” for the underlying “crime of violence” or “drug trafficking crime.”⁵⁶ The statutory maximum penalty under each of these provisions is life imprisonment.

Section 924(c) also establishes mandatory minimum penalties of 25 years for each “second or subsequent conviction” of an offense under section 924(c).⁵⁷ At the time the offenders in this report were sentenced (from 1990 to 2005), when a defendant was convicted of multiple counts under section

924(c) in the same proceeding, the mandatory minimum penalty of 25 years for the subsequent 924(c) count applied consecutively to the first count.⁵⁸ This practice of charging multiple violations of section 924(c) within the same proceeding is commonly referred to as “stacking” mandatory minimum penalties. Although the offenders in this study were convicted at the time when courts as a matter of law “stacked” 25-year section 924(c) sentences for multiple convictions in the same proceeding, subsequent legislation prohibited this practice.⁵⁹

Pursuant to §2K2.4, the guideline sentence for an offender convicted of an offense under section 924(c) “is the minimum term of imprisonment required by statute.”⁶⁰ When the offender is convicted of offenses in addition to an offense under section 924(c), the guideline range for the additional offenses is determined using the guideline provisions applicable to those crimes.⁶¹ The resulting range guides the sentence for the additional offenses, to which the court must add a consecutive sentence for the section 924(c) offense.⁶²

Chapter Three

*Firearms Offenders
and Non-Firearms Offenders*

This chapter analyzes the offender characteristics and recidivism rates among the 3,446 firearms offenders and 21,554 non-firearms offenders. Over the eight-year study period, firearms offenders recidivated at a rate of 68.1 percent compared to 46.3 percent for non-firearms offenders.

Offender and Offense Characteristics

The 3,446 firearms offenders represent 13.8 percent of the federal offenders who were released in calendar year 2005 and analyzed in this report. Among the 21,554 non-firearms offenders, drug trafficking was the most common offense type (47.2%), followed by fraud (14.5%) and robbery (5.0%).

Demographics

The demographic characteristics of firearms offenders and non-firearms offenders differ in several respects. Black offenders constitute the largest group of firearms offenders (48.1%), while White offenders were the largest group of non-firearms offenders (44.1%). The second largest group of firearms offenders

were White (40.9%), followed by Hispanic offenders (8.4%). Whereas, the second largest group of non-firearms offenders were Black (31.5%), followed by Hispanic offenders (19.4%). A majority of both firearms and non-firearms offenders were male. Males constitute 97.1 percent of firearms offenders and approximately 80 percent of non-firearms offenders (79.2%).

Firearms offenders were younger than non-firearms offenders both when sentenced and when released from prison. At the time of sentencing, the median age was 30 years for firearms offenders compared to 33 years for non-firearms offenders. At the time of release from prison, the median age for firearms offenders was 34 years compared to 36 years for non-firearms offenders.

Tables 3.1 & 3.2 Demographic Characteristics

Table 3.1

Firearms Offenders

Race/Ethnicity	N	%
White	1,408	40.9%
Black	1,657	48.1%
Hispanic	289	8.4%
Other	89	2.6%
Gender	N	%
Male	3,346	97.1%
Female	99	2.9%
Age		
Median Age at Sentencing	30 Years	
Median Age at Release	34 Years	

Table 3.2

Non-Firearms Offenders

Race/Ethnicity	N	%
White	9,491	44.1%
Black	6,779	31.5%
Hispanic	4,187	19.4%
Other	1,076	5.0%
Gender	N	%
Male	17,054	79.2%
Female	4,492	20.9%
Age		
Median Age at Sentencing	33 Years	
Median Age at Release	36 Years	

SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.

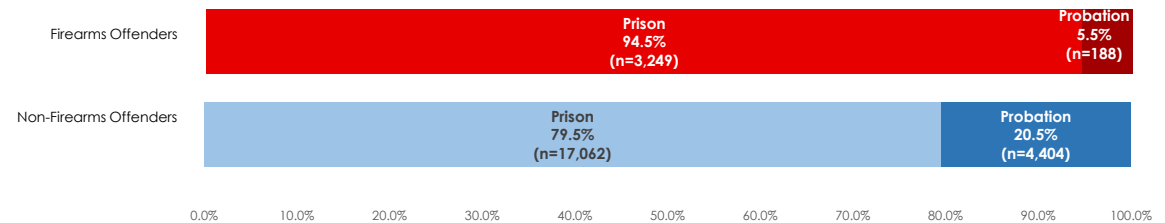
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Sentences Originally Imposed

A greater percentage of firearms offenders were sentenced to a term of imprisonment than non-firearms offenders.⁶³ Approximately 95 percent of firearms offenders (94.5%) were sentenced to at least some term of imprisonment compared to just under 80 percent of non-firearms offenders (79.5%).

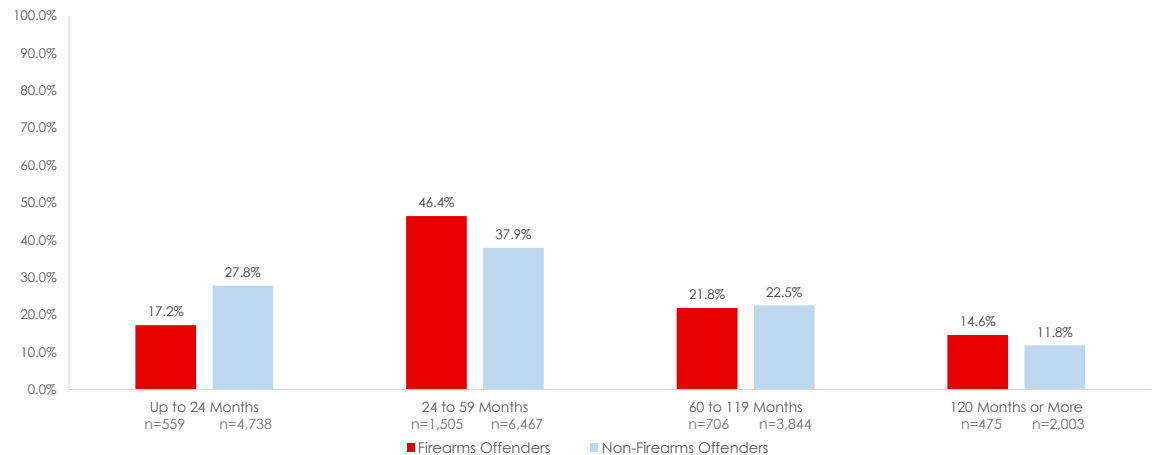
Of those offenders sentenced to a term of imprisonment, firearms offenders received longer sentences than non-firearms offenders. Of the firearms offenders sentenced to prison, 14.6 percent received a sentence of 120 months or more compared to 11.8 percent of non-firearms offenders. A similar percentage of firearms offenders (21.8%) and non-firearms offenders (22.5%) received a sentence between 60 and 119 months. A smaller percentage of firearms offenders than non-firearms offenders received a term of imprisonment of less than 24 months. Approximately 17 percent (17.2%) of firearms offenders received a sentence of less than 24 months compared to 27.8 percent of non-firearms offenders.

Figure 3.1 Sentences Imposed on Firearms and Non-Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 3.2 Sentence Length for Firearms and Non-Firearms Offenders



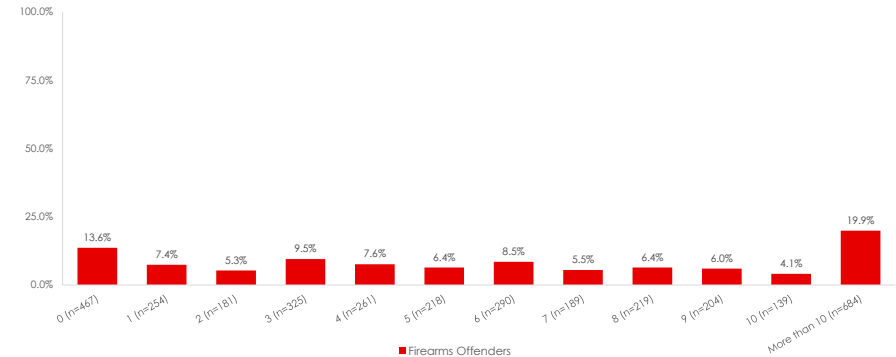
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Criminal History

Firearms offenders have more extensive criminal histories than non-firearms offenders. Only 13.6 percent of firearms offenders were assigned zero criminal history points compared to almost half of non-firearms offenders (46.2%). Conversely, nearly one-fifth of firearms offenders (19.9%) accrued more than ten criminal history points compared to only 7.8 percent of non-firearms offenders.

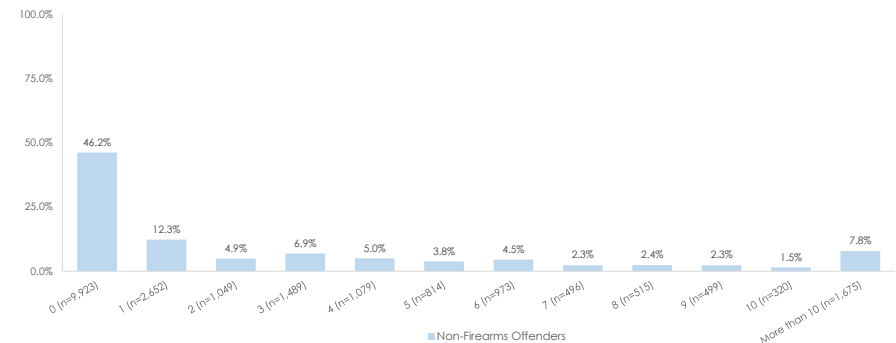
Accordingly, a greater percentage of firearms offenders were placed in higher Criminal History Categories than non-firearms offenders. Just over one-fifth of firearms offenders (21.0%) were in CHC I compared to almost 60 percent of non-firearms offenders (58.6%). Conversely, 42.3 percent of firearms offenders were placed in CHC IV (17.6%), CHC V (10.7%), or CHC VI (14.0%) compared to only 16.5 percent of non-firearms offenders in CHC IV (6.4%), CHC V (3.5%), or CHC VI (6.6%).

Figure 3.3 Criminal History Points of Firearms Offenders



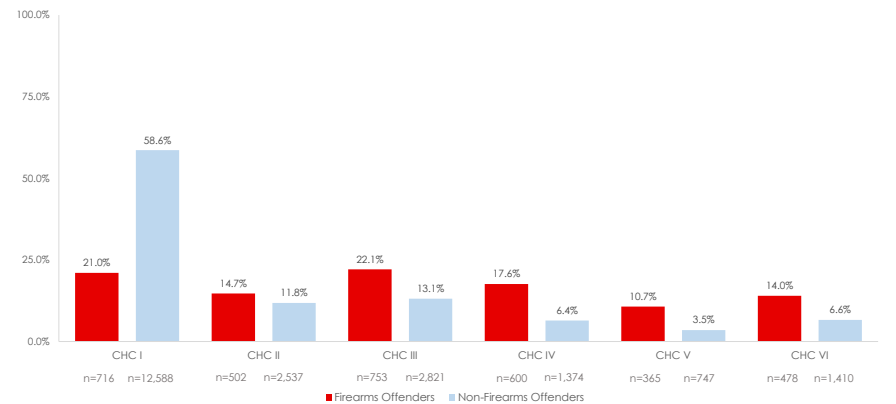
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 3.4 Criminal History Points of Non-Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 3.5 Criminal History Category of Firearms and Non-Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Recidivism Findings

Rearrest, Reincarceration, and Reconviction

Measured by rearrest, firearms offenders recidivated at a higher rate than non-firearms offenders by a margin of over 21 percentage points. The rearrest rate for all firearms offenders was 68.1 percent compared to 46.3 percent for non-firearms offenders. Firearms offenders were also reconvicted at a higher rate (45.5%) than non-firearms offenders (27.6%), and firearms offenders were reincarcerated at a higher rate (38.8%) than non-firearms offenders (22.4%).

Firearms offenders were also rearrested for more new crimes than non-firearms offenders. Among those who recidivated, the median number of recidivism events (events occurring on separate days) was three for firearms offenders compared to two for non-firearms offenders.

The findings that follow use rearrest rates to measure recidivism. The Appendix contains more detailed information using all three measures of recidivism.

Time to Rearrest

Understanding the length of time from an offender's release from prison to his or her first recidivism event can be useful in distinguishing offenders who recidivate early from those who eventually recidivate but are apparently crime-free for a longer interval. Tracking the length of time between release from prison until the first recidivism event can also help policymakers determine an appropriate period of supervision after release, for example, by extending supervision through the peak crime-prone interval.

Firearms offenders recidivated five months sooner than non-firearms offenders. Among those who recidivated, the median time to recidivism for firearms offenders was 17 months, meaning that one-half of the firearms

Table 3.3 Overview of Firearms and Non-Firearms Offenders Recidivism Data

	<i>Rearrest</i>	<i>Reconviction</i>	<i>Reincarceration</i>	<i>Rearrest</i>	<i>Reconviction</i>	<i>Reincarceration</i>
	Firearms Offenders			Non-Firearms Offenders		
Percent	68.1%	45.5%	38.8%	46.3%	27.6%	22.4%
Median Time to Recidivism Event	17 Months	26 Months	24 Months	22 Months	30 Months	28 Months
Median Number of Recidivism Events	3	2	1	2	1	1
Most Serious Post-Release Event	Assault (29.0%, n=679)	Assault (17.7%, n=278)	Other Public Order (22.1%, n=295)	Assault (21.9%, n=2,181)	Other Public Order (18.0%, n=1,067)	Other Public Order (26.8%, n=1,293)

SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.

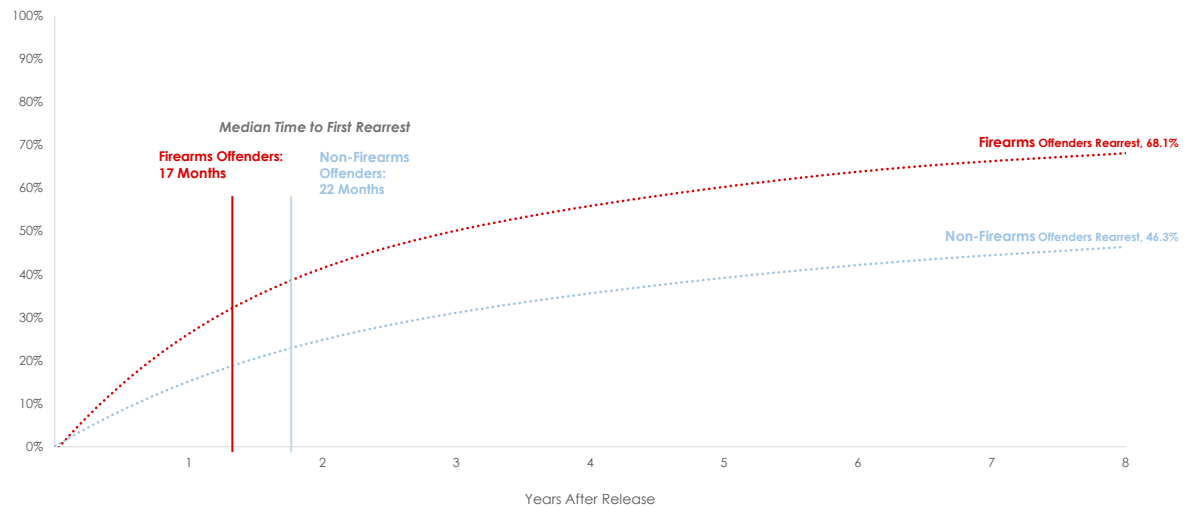
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

offenders were rearrested within 17 months of their release, while the other half recidivated more than 17 months after release. Comparatively, the median time to recidivism for non-firearms offenders was 22 months.

During the first year following release into the community, 26.4 percent of firearms offenders in the study were rearrested for the first time. Each subsequent year fewer people were rearrested for the first time than in the previous year. For example, 15.1 percent of the total firearms offenders were rearrested for the first time in the second year, and 8.8 percent of the total firearms offenders were rearrested for the first time in the third year. Only 1.7 percent of firearms offenders who were not previously arrested recidivated for the first time in the eighth year.

Non-firearms offenders followed a similar pattern, but generally recidivated at a lower rate in each year than firearms offenders. During the first year following release into the community, 15.0 percent of non-firearms offenders recidivated for the first time. The recidivism rate fell to 9.8 percent of the total non-firearms offenders in the second year and 6.3 percent of the total non-firearms offenders in the third year. Only 1.9 percent of non-firearms offenders who were not previously arrested recidivated for the first time in the eighth year.

Figure 3.6 Time to First Rearrest of Firearms and Non-Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Tables 3.4 & 3.5 Time to Rearrest

**Table 3.4
Firearms Offenders**

Years After Release	N	%	Cumulative %
One Year	908	26.4%	26.4%
Two Years	519	15.1%	41.4%
Three Years	304	8.8%	50.2%
Four Years	193	5.6%	55.8%
Five Years	156	4.5%	60.4%
Six Years	120	3.5%	63.8%
Seven Years	85	2.5%	66.3%
Eight Years	60	1.7%	68.1%

**Table 3.5
Non-Firearms Offenders**

Years After Release	N	%	Cumulative %
One Year	3,238	15.0%	15.0%
Two Years	2,106	9.8%	24.8%
Three Years	1,349	6.3%	31.1%
Four Years	980	4.6%	35.6%
Five Years	765	3.6%	39.2%
Six Years	638	3.0%	42.1%
Seven Years	503	2.3%	44.4%
Eight Years	398	1.9%	46.3%

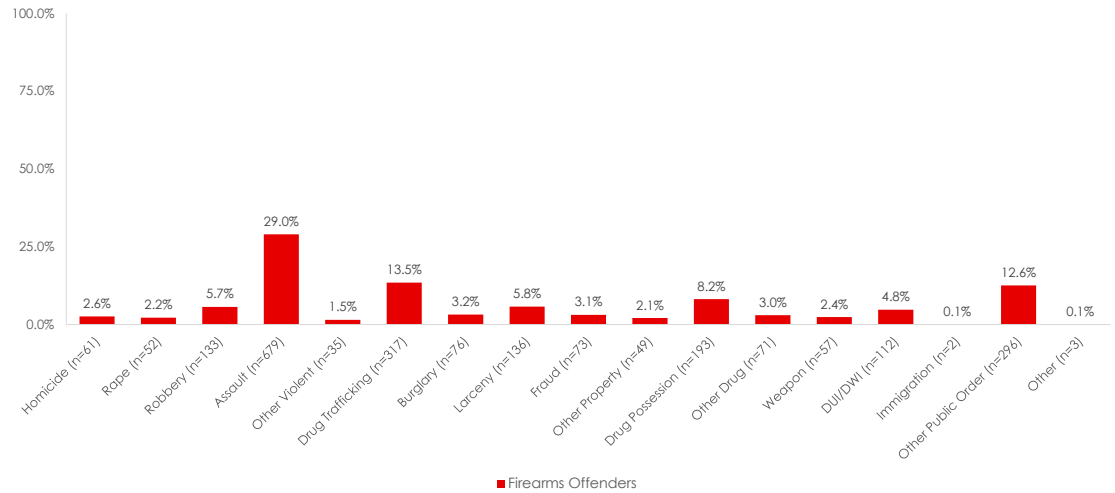
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Most Serious Recidivism Event

The Commission adapted a widely-used ranking of offense types to evaluate the seriousness of the offenses for which offenders were rearrested.⁶⁴ Firearms offenders and non-firearms offenders were rearrested for similar crimes, but a greater percentage of firearms offenders were rearrested for a violent crime as the most serious new offense.⁶⁵ When considering only the single most serious offense type of all offenders who recidivated, assault was the most common charge for both groups, constituting the most serious new charge for 29.0 percent of firearms offenders compared to 21.9 percent for non-firearms offenders. The second most common new charge for firearms offenders was drug trafficking (13.5%) followed by public order crimes (12.6%). In comparison, of the non-firearms offenders who recidivated, the second most common new charge was for public order crimes (19.4%) followed by drug trafficking (11.1%).

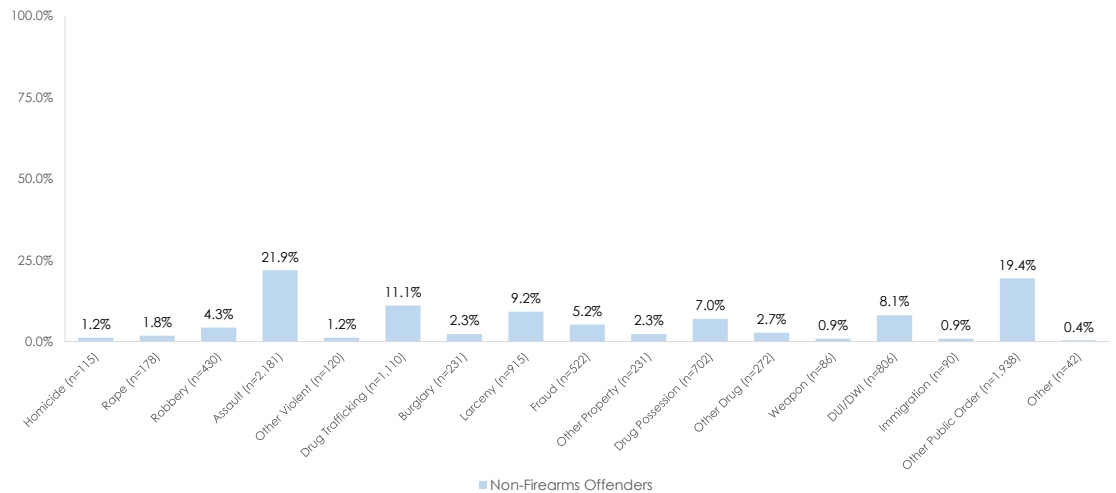
A slightly higher percentage of firearms offenders were rearrested for robbery (5.7%), homicide (2.6%), or rape (2.2%) as the most serious new offense compared to non-firearms offenders who were rearrested for those crimes. Less than five percent of non-firearms offenders were rearrested for robbery (4.3%), and less than two percent of non-firearms offenders were rearrested for homicide (1.2%) or rape (1.8%).

Figure 3.6 Most Serious Offense at Rearrest of Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 3.7 Most Serious Offense at Rearrest of Non-Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Recidivism and Criminal History

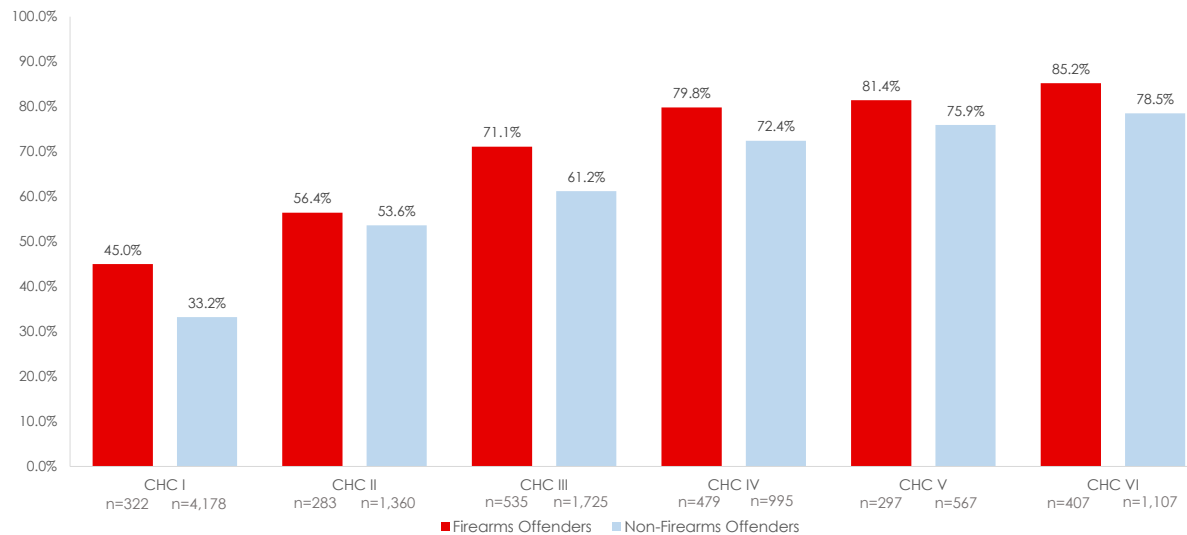
The relationship between an offender's prior criminal record and recidivism has been recognized by the Commission since its inception, as discussed in Chapter Four of the *Guidelines Manual*.⁶⁶ When formulating the criminal history scoring system, the Commission evaluated extant empirical research analyzing recidivism and career criminal behavior. The Commission's recent research has confirmed the strength of the relationship between an offender's prior record and recidivism.⁶⁷

In the current study, recidivism rates for both firearms offenders and non-firearms offenders were strongly associated with total criminal history points, which is consistent with the Commission's prior research.⁶⁸ Among firearms offenders, 39.8 percent with zero criminal history points recidivated within eight years. Comparatively, 84.3 percent of firearms offenders who accrued more than ten criminal history points recidivated during the follow-up period.

Because the number of criminal history points determines the CHC to which an offender is assigned, recidivism rates are also associated with the CHC. That is, the higher the CHC, the higher the recidivism rate. Recidivism rates among firearms offenders ranged from a low of 45.0 percent for those who were in CHC I to a high of 85.2 percent for those who were in CHC VI.

Firearms offenders have higher recidivism rates than non-firearms offenders in every CHC. The difference in recidivism rates is most pronounced at CHC I where firearms offenders recidivated at a rate (45.0%) approximately 12 percentage points higher than non-firearms offenders (33.2%). In CHC II, the difference in recidivism rates narrows to less than three percentage points (56.4% for firearms offenders compared to 53.6% for non-firearms offenders). For offenders in CHC III through CHC VI, firearms offenders recidivated at a rate ranging from five to ten percentage points higher than non-firearms offenders.

Figure 3.8 Rearrest Rates of Firearms and Non-Firearms Offenders by Criminal History Category



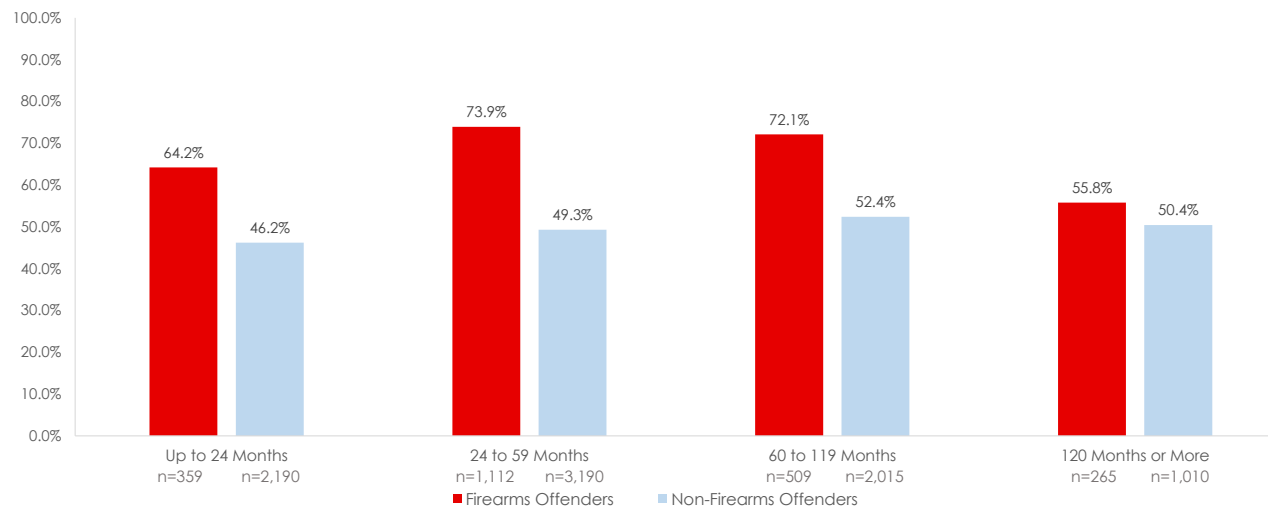
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Recidivism and Sentence Imposed

Firearms offenders recidivated at a higher rate than non-firearms offenders regardless of the length of sentence imposed. However, the association between sentence length and rate of recidivism among both firearms and non-firearms offenders is less clear. Nearly two-thirds of firearms offenders (64.2%) sentenced to the shortest terms of imprisonment (less than 24 months) recidivated. The recidivism rates increased to over 70 percent for firearms offenders who received a sentence between 24 and 59 months (73.9%) and those who received a sentence between 60 and 119 months (72.1%). For firearms offenders who received a sentence of 120 months or greater, the recidivism rate drops to 55.8 percent. Longer sentences result in older ages at release, which may be one factor contributing to the lower recidivism rate for this group.

The recidivism rate for non-firearms offenders varies less among offenders based on the length of sentence imposed. Non-firearms offenders sentenced to the shortest terms of imprisonment (less than 24 months) recidivated at the lowest rate (46.2%). The recidivism rate increased incrementally for non-firearms offenders who received a sentence between 24 and 59 months (49.3%) and non-firearms offenders who received a sentence between 60 and 119 months (52.4%), before dropping slightly to 50.4 percent for non-firearms offenders who received a sentence of 120 months or longer. However, just as with firearms offenders, there are several factors, including age at release from prison, that are correlated with both sentence length and recidivism.

Figure 3.9 Rearrest Rates of Firearms and Non-Firearms Offenders by Sentence Length



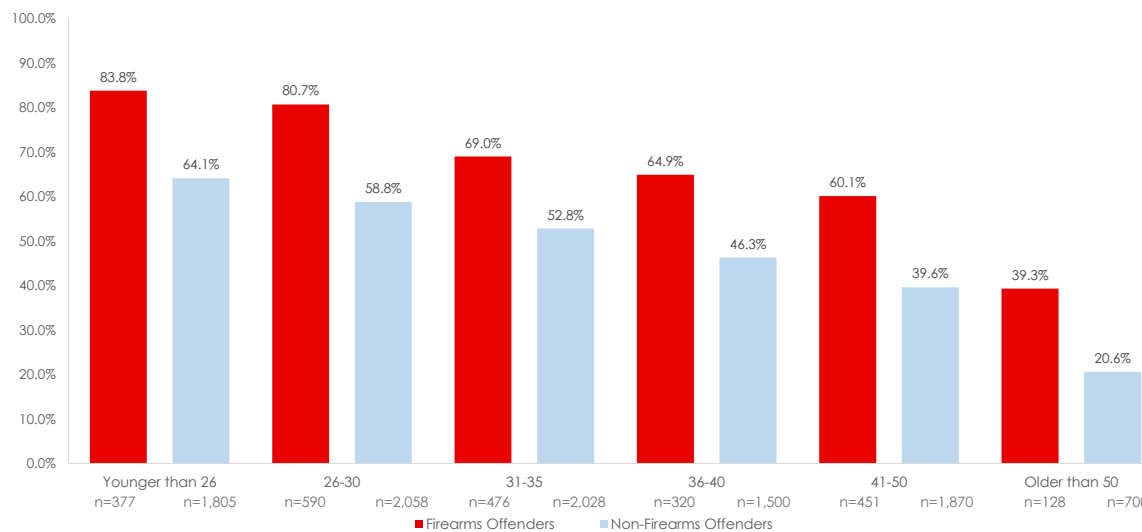
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Recidivism and Age

Firearms offenders recidivated at a higher rate than non-firearms offenders in every age group at the time of release from prison, ranging from 16 to 22 percentage points higher across the spectrum. Firearms offenders who were the youngest when released from prison maintained the highest recidivism rates. Firearms offenders under age 26 recidivated at a rate of 83.8 percent, which is similar to the rate for firearms offenders age 26 to 30 when released (80.7%). These recidivism rates are considerably higher than the rates for non-firearms offenders in the same age groups. Non-firearms offenders under age 26, and those age 26 to 30 when released, recidivated at a rate of 64.1 percent and 58.8 percent, respectively.

Recidivism rates for firearms offenders did not decline as rapidly as the rates for non-firearms offenders in the older age groups. For offenders 41 to 50 years old at the time of release, the recidivism rate for firearms offenders (60.1%) is more than 20 percentage points higher than the rate for non-firearms offenders (39.6%). A substantial difference in recidivism rates persists for the oldest age group. Nearly 40 percent (39.3%) of firearms offenders released after the age of 50 recidivated, which is almost twice as high as the recidivism rate for non-firearms offenders (20.6%) released after age 50. In this regard, the relationship between age at the time of release and recidivism for firearms offenders is similar to the relationship between age and recidivism among violent offenders as described in the Commission's previous publication, *Recidivism Among Federal Violent Offenders*, which showed that violent offenders appear to desist from criminal activity later in life than non-violent offenders.⁶⁹

Figure 3.10 Rearrest Rates of Firearms and Non-Firearms Offenders by Age at Release



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Chapter Four

Section 2K2.1 Offenders, Armed Career Criminals, and Career Offenders

This chapter analyzes the offender characteristics and recidivism rates among 2,589 offenders sentenced under §2K2.1 as the primary sentencing guideline, comparing the *Prohibited Class* offenders to the *Prohibited Weapon* offenders.⁷⁰

This chapter also provides a snapshot of the recidivism characteristics of armed career criminals and career offenders. A limited set of analyses are presented because of the small number of armed career criminals and career offenders who were released in calendar year 2005.

Offender and Offense Characteristics

The *Prohibited Class* group includes 2,231 offenders who were prohibited from possessing a firearm or ammunition, convicted under one of the “straw purchaser” statutes, or transferred a firearm or ammunition to a prohibited person. These offenders were assigned Base Offense Level 14, 20, or 24 under §2K2.1. The 2,231 *Prohibited Class* offenders represent 8.9 percent of the 25,000 federal offenders who were released in calendar year 2005 and analyzed in this report.

Tables 4.1 & 4.2 Demographic Characteristics

Table 4.1

Prohibited Class Offenders

Race/Ethnicity	N	%
White	902	40.5%
Black	1,097	49.2%
Hispanic	173	7.8%
Other	57	2.6%
Gender	N	%
Male	2,166	97.1%
Female	64	2.9%
Age		
Median Age at Sentencing	31 years	
Median Age at Release	34 years	

Table 4.2

Prohibited Weapon Offenders

Race/Ethnicity	N	%
White	218	60.9%
Black	87	24.3%
Hispanic	41	11.5%
Other	12	3.4%
Gender	N	%
Male	349	97.5%
Female	9	2.5%
Age		
Median Age at Sentencing	32 years	
Median Age at Release	35 years	

The *Prohibited Weapon* group includes 358 offenders convicted of an offense involving a firearm described in the National Firearms Act, 26 U.S.C. § 5845(a) (e.g., a machine gun), or a semiautomatic firearm that is capable of accepting a large capacity magazine and were assigned Base Offense Level 18, 22, or 26 under §2K2.1. The 358 *Prohibited Weapon* offenders represent only 1.4 percent of the federal offenders analyzed in this report.

Demographics

The demographic characteristics of the *Prohibited Class* and *Prohibited Weapon* offenders differ in several respects. Black offenders constitute the largest group of *Prohibited Class* offenders (49.2%), while White offenders constitute the largest group of *Prohibited Weapon* offenders (60.9%). The second largest group of *Prohibited Class* offenders was White (40.5%), followed by Hispanic offenders (7.8%). Whereas, the second largest group of *Prohibited Weapon* offenders was Black (24.3%), followed by Hispanic offenders (11.5%). Over 97 percent of the *Prohibited Class* and *Prohibited Weapon* offenders were male.

SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.

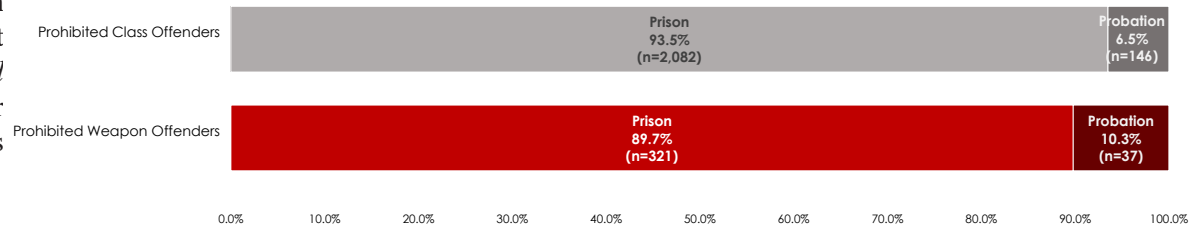
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Prohibited Class offenders were younger than *Prohibited Weapon* offenders at sentencing and at the time of release from prison. The median age for *Prohibited Class* offenders at sentencing was 31 years compared to 32 years for *Prohibited Weapon* offenders. The median age at the time of release for *Prohibited Class* offenders was 34 years compared to 35 years for *Prohibited Weapon* offenders.

Sentences Originally Imposed

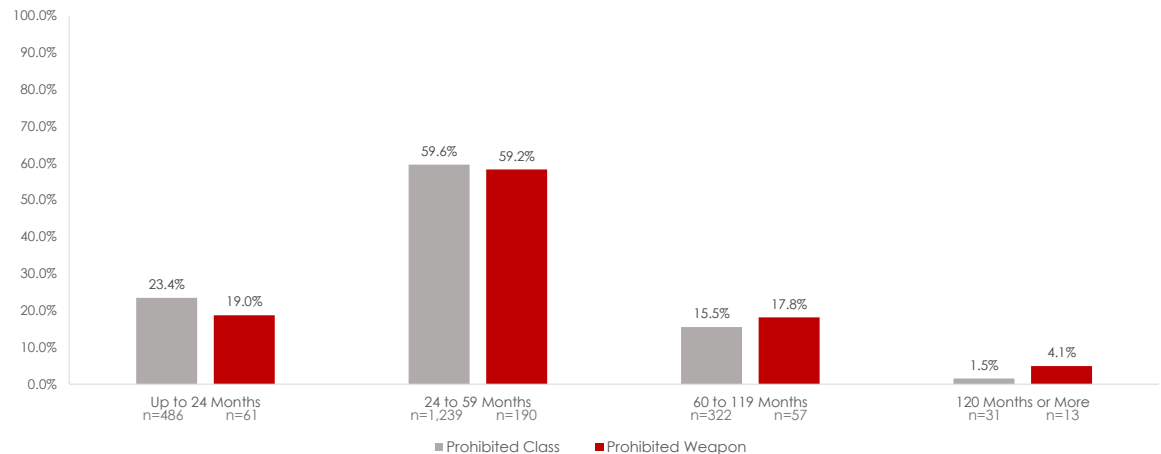
The vast majority of *Prohibited Class* (93.5%) and *Prohibited Weapon* (89.7%) offenders were sentenced to a term of imprisonment. Of those offenders sentenced to a term of imprisonment, *Prohibited Class* offenders received shorter sentences than *Prohibited Weapon* offenders as a group. Of the *Prohibited Class* offenders sentenced to prison, 23.4 percent received a sentence of less than 24 months compared to 19.0 percent of the *Prohibited Weapon* offenders. A nearly identical percentage of *Prohibited Class* offenders (59.6%) and *Prohibited Weapon* offenders (59.2%) received a sentence between 24 and 59 months. A slightly smaller percentage of *Prohibited Class* offenders (15.5%) than *Prohibited Weapon* offenders (17.8%) received a sentence between 60 and 119 months. Likewise, a smaller percentage of *Prohibited Class* offenders (1.5%) than *Prohibited Weapon* offenders (4.1%) received a sentence of 120 months or longer.

Figure 4.1 Sentences Imposed on Prohibited Class and Prohibited Weapon Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 4.2 Sentence Length of Prohibited Class and Prohibited Weapon Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Chapter Four:

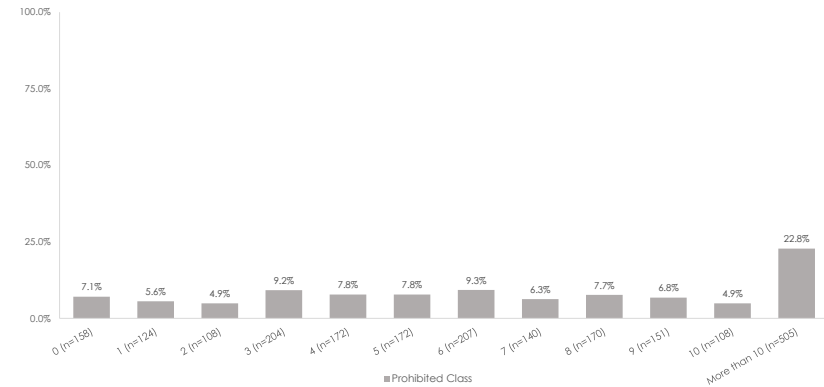
Section 2K2.1 Offenders, Armed Career Criminals, and Career Offenders

Criminal History

Prohibited Class offenders have more extensive criminal histories than *Prohibited Weapon* offenders. Only 7.1 percent of *Prohibited Class* offenders were assigned zero criminal history points compared to just over 30 percent of *Prohibited Weapon* offenders (30.3%). Conversely, 22.8 percent of *Prohibited Class* offenders accrued more than ten criminal history points compared to only 9.0 percent of *Prohibited Weapon* offenders.

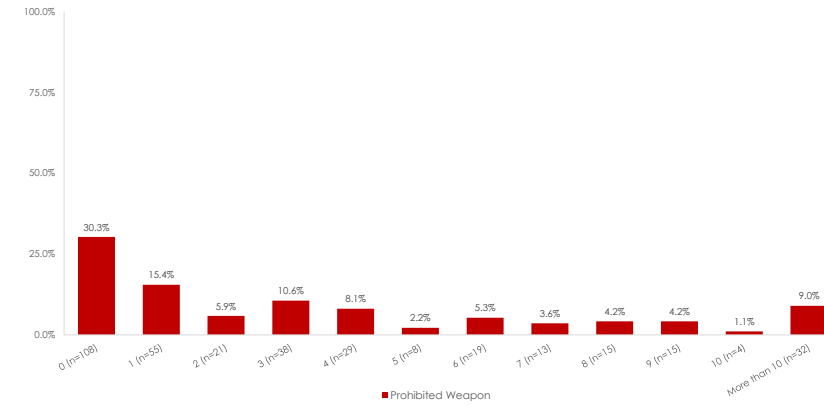
Accordingly, a greater percentage of *Prohibited Class* offenders were placed in higher CHCs than *Prohibited Weapon* offenders. Only 12.7 percent of *Prohibited Class* offenders were in CHC I compared to 45.7 percent of *Prohibited Weapon* offenders. Almost half (48.5%) of the *Prohibited Class* offenders were assigned to CHC IV (20.9%), CHC V (13.2%), or CHC VI (14.4%) compared to less than one-quarter (22.0%) of *Prohibited Weapon* offenders in CHC IV (12.0%), CHC V (5.3%), or CHC VI (4.8%).

Figure 4.3 Criminal History Points of Prohibited Class Offenders



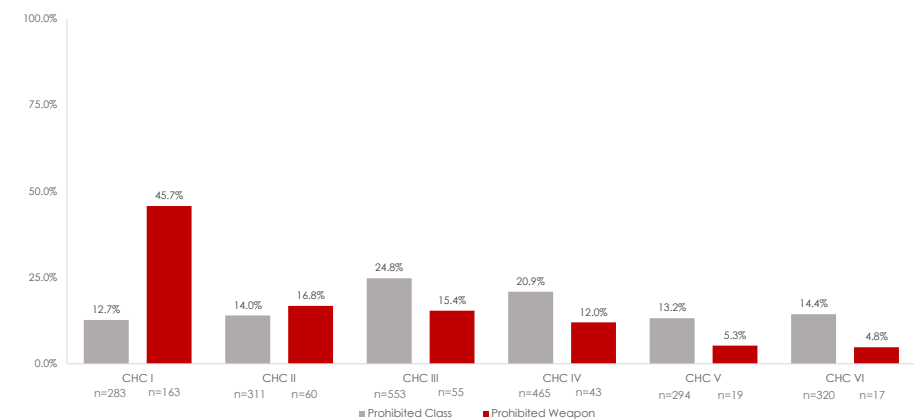
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 4.4 Criminal History Points of Prohibited Weapon Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 4.5 Criminal History Category of Prohibited Class and Prohibited Weapon Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Recidivism Findings

Rearrest, Reincarceration, and Reconviction

Prohibited Class offenders recidivated at a higher rate than *Prohibited Weapon* offenders. The rearrest rate for *Prohibited Class* offenders was 74.2 percent compared to 61.2 percent for *Prohibited Weapon* offenders. *Prohibited Class* offenders were also reconvicted at a higher rate (50.4%) than *Prohibited Weapon* offenders (38.6%), and *Prohibited Class* offenders were reincarcerated at a higher rate (43.7%) than *Prohibited Weapon* offenders (30.7%).

Prohibited Class offenders were also rearrested for more new crimes than the *Prohibited Weapon* offenders. Among those who recidivated, the median number of recidivism events (events occurring on separate days) was three for *Prohibited Class* offenders compared to two for *Prohibited Weapon* offenders.

Time to Rearrest

Prohibited Class offenders recidivated nine months sooner than *Prohibited Weapon* offenders. The median time to rearrest (among those who recidivated) was 16 months for *Prohibited Class* offenders compared to 25 months for *Prohibited Weapon* offenders.

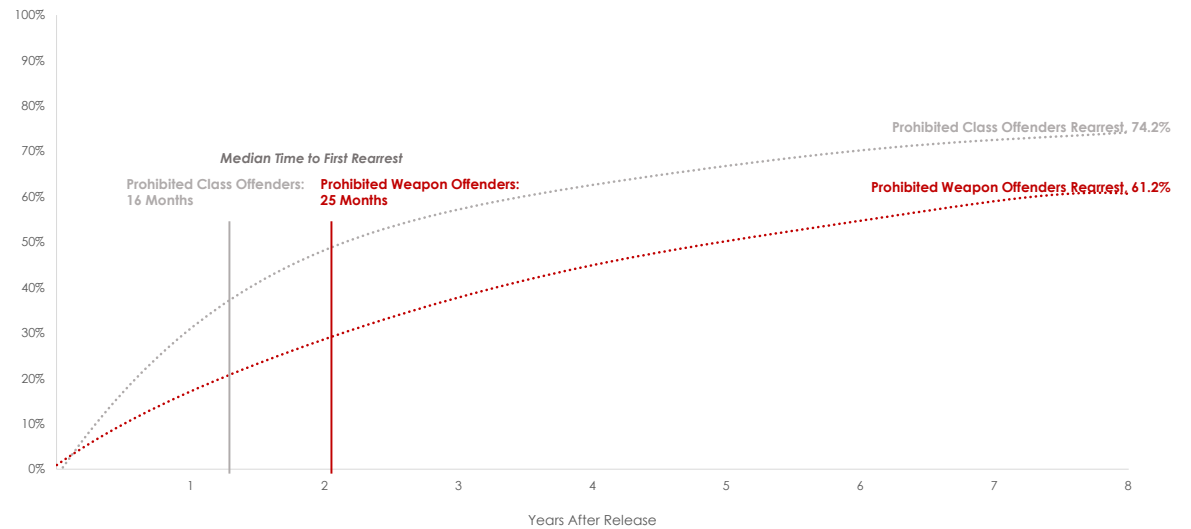
Table 4.3 Recidivism Rates for Prohibited Class and Prohibited Weapon Offenders

	Rearrest	Reconviction	Reincarceration	Rearrest	Reconviction	Reincarceration
	Prohibited Class Offenders			Prohibited Weapon Offenders		
Percent	74.2%	50.4%	43.7%	61.2%	38.6%	30.7%
Median Time to Recidivism Event	16 Months	26 Months	24 Months	25 Months	30 Months	28 Months
Median Number of Recidivism Events	3	2	1	2	2	1
Most Serious Post-Release Event	Assault (30.3%, n=502)	Assault (18.0%, n=202)	Other Public Order (22.2%, n=216)	Assault (23.3%, n=51)	Assault (20.2%, n=28)	Other Public Order (24.6%, n=27)

SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.

NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 4.6 Time to First Rearrest of Prohibited Class and Prohibited Weapon Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.

NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

During the first year following release from prison, 31.3 percent of *Prohibited Class* offenders recidivated for the first time. Each subsequent year fewer people were rearrested for the first time than in the previous year. For example, 16.6 percent of the total *Prohibited Class* offenders were rearrested for the first time in the second year, and 9.5 percent of the total were rearrested for the first time in the third year. Only 1.7 percent of *Prohibited Class* offenders who were not previously arrested recidivated for the first time in the eighth year.

Prohibited Weapon offenders followed a similar pattern but recidivated at a substantially lower rate than the *Prohibited Class* offenders in the first year after release from prison. During the first year following release into the community, 16.2 percent of *Prohibited Weapon* offenders recidivated for the first time. The recidivism rate fell to 13.7 percent of the total *Prohibited Weapon* offenders in the second year and 7.5 percent in the third year. Only 1.4 percent of *Prohibited Weapon* offenders who were not previously arrested recidivated for the first time in the eighth year.

Tables 4.4 & 4.5 Time to Rearrest

**Table 4.4
 Prohibited Class Offenders**

Years After Release	N	%	Cumulative %
One Year	699	31.3%	31.3%
Two Years	370	16.6%	47.9%
Three Years	212	9.5%	57.4%
Four Years	110	4.9%	62.4%
Five Years	101	4.5%	66.9%
Six Years	76	3.4%	70.3%
Seven Years	49	2.2%	72.5%
Eight Years	38	1.7%	74.2%

**Table 4.5
 Prohibited Weapon Offenders**

Years After Release	N	%	Cumulative %
One Year	58	16.2%	16.2%
Two Years	49	13.7%	29.9%
Three Years	27	7.5%	37.4%
Four Years	28	7.8%	45.3%
Five Years	19	5.3%	50.6%
Six Years	16	4.5%	55.0%
Seven Years	17	4.8%	59.8%
Eight Years	5	1.4%	61.2%

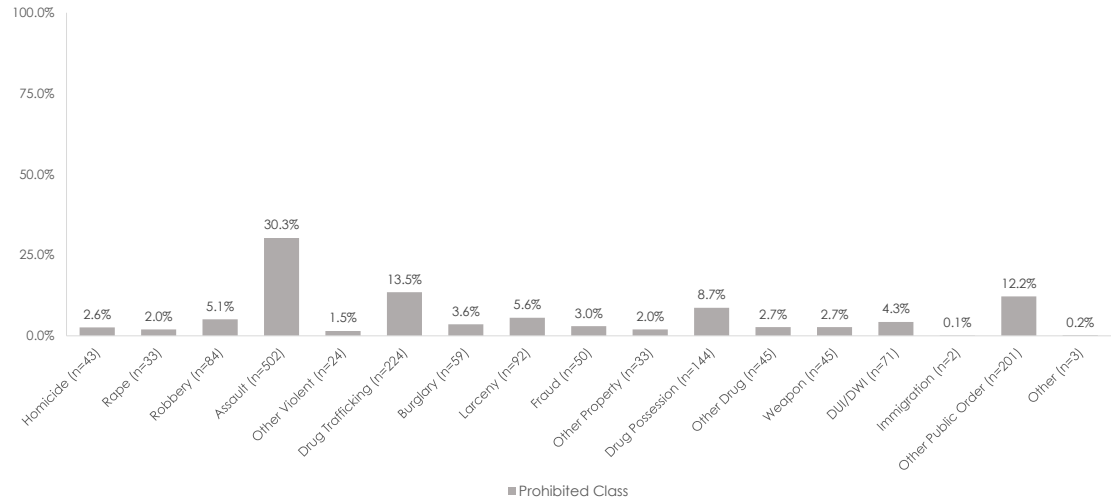
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.

NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Most Serious Recidivism Event

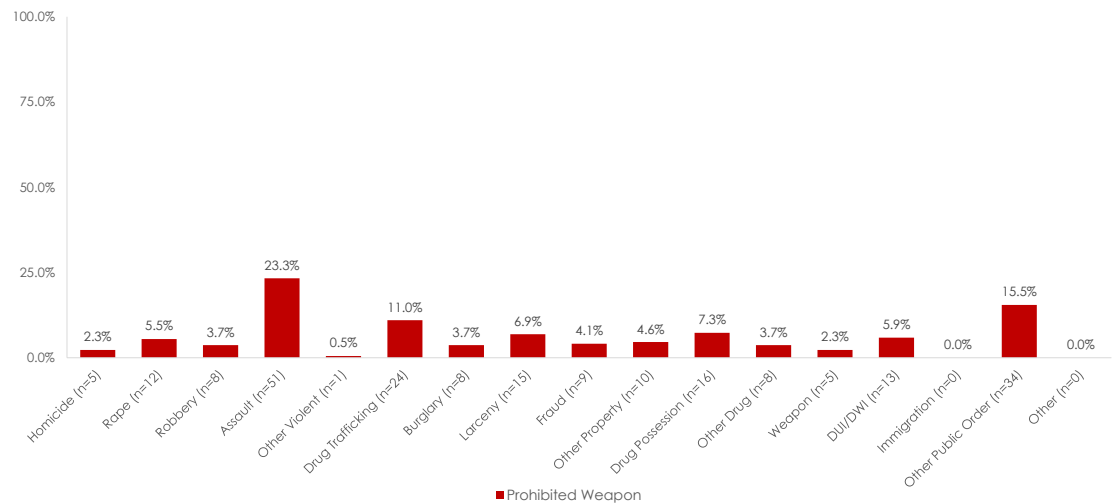
Prohibited Class and *Prohibited Weapon* offenders were rearrested for similar crimes. However, a greater percentage of *Prohibited Class* offenders were rearrested for assault and drug trafficking as the most serious new offense. Among *Prohibited Class* offenders who recidivated, assault was the single most serious new charge for 30.3 percent, followed by drug trafficking (13.5%) and public order crimes (12.2%). In comparison, among *Prohibited Weapon* offenders who recidivated, assault was the most serious new charge for 23.3 percent, followed by public order crimes (15.5%) and drug trafficking (11.0%).

Figure 4.7 Most Serious Offense at Rearrest of Prohibited Class Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 4.8 Most Serious Offense at Rearrest of Prohibited Weapon Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Recidivism and Criminal History

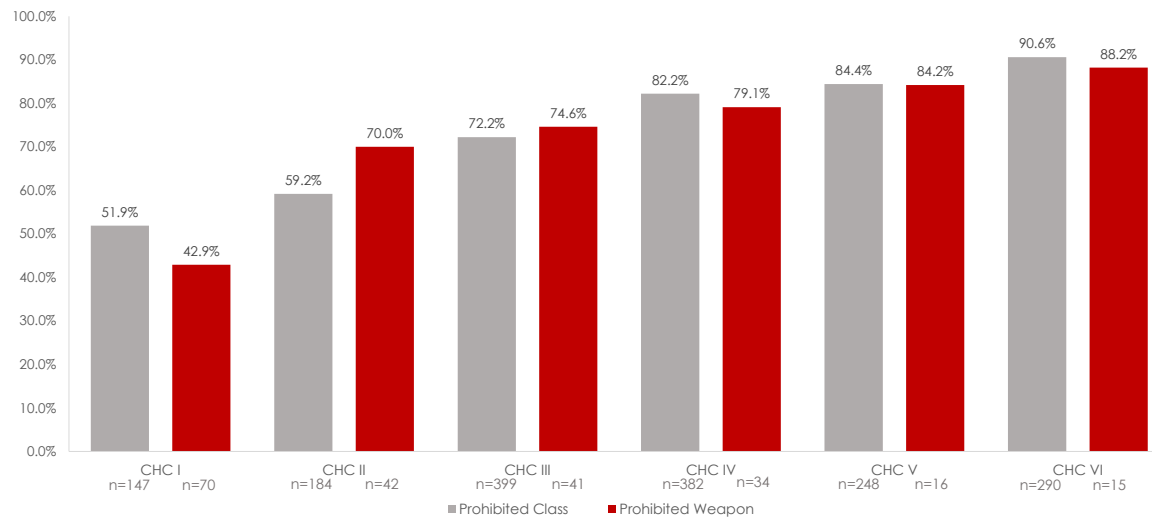
Recidivism rates for both *Prohibited Class* and *Prohibited Weapon* offenders were strongly associated with CHC. Recidivism rates among *Prohibited Class* offenders ranged from a low of 51.9 percent for those in CHC I to a high of 90.6 percent for those who were in CHC VI. Comparatively, recidivism rates among *Prohibited Weapon* offenders ranged from a low of 42.9 percent for those in CHC I to a high of 88.2 percent for those who were in CHC VI.

The starkest difference in recidivism rates between *Prohibited Class* and *Prohibited Weapon* offenders appears in CHC I and CHC II. In CHC I, *Prohibited Class* offenders recidivated at a rate (51.9%) nine percentage points higher than *Prohibited Weapon* offenders (42.9%). The recidivism rate for *Prohibited Weapon* offenders spikes approximately 27 percentage points when moving from CHC I to CHC II. As a result, in CHC II, *Prohibited Weapon*

offenders recidivated at a rate (70.0%) more than ten percentage points higher than *Prohibited Class* offenders (59.2%).

As CHC increases, the recidivism rates between the two groups converge. In CHC III, the difference in recidivism rates is reduced to just over two percentage points between the two groups, with *Prohibited Class* offenders recidivating at a rate (72.2%) slightly lower than *Prohibited Weapon* offenders (74.6%). The recidivism rates for those offenders assigned to CHC V are almost identical, with both groups recidivating at a rate of approximately 84 percent. Of those offenders with the most extensive criminal history and assigned to CHC VI, *Prohibited Class* offenders recidivated at a rate (90.6%) approximately two percentage points higher than the *Prohibited Weapon* offenders (88.2%).

Figure 4.9 Rearrest Rates for Prohibited Class and Prohibited Weapon Offenders by Criminal History Category



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Recidivism and the Offender's Federal Offense

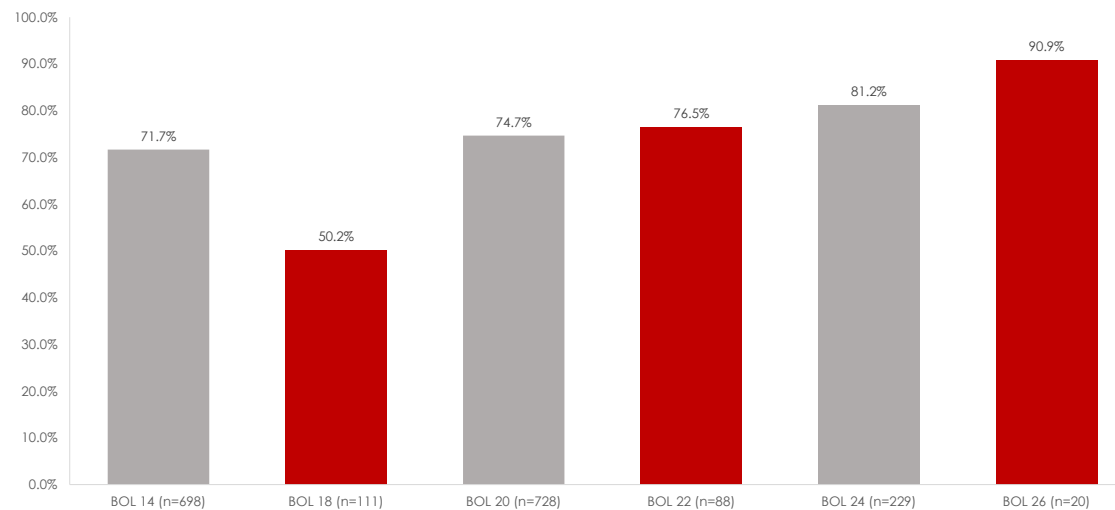
For both *Prohibited Class* and *Prohibited Weapon* offenders, higher recidivism rates are associated with higher Base Offense Levels, which are assigned based on the number and type of prior convictions. As the Base Offense Level increases among the *Prohibited Class* and *Prohibited Weapon* offenders, the corresponding higher recidivism rates within each group are likely associated with the severity of the offenders' criminal history.

The majority of offenders assigned Base Offense Level 14 violated section 922(g) by virtue of being a felon-in-possession of a firearm and necessarily committed a prior crime as an element of the offense. Accordingly, 86.9 percent of the offenders assigned Base Offense Level 14 accumulated criminal history points and only 22.7 percent were placed in CHC I. As shown above, and consistent with previous Commission research, an offender's criminal history score is a strong predictor of recidivism and each additional criminal history point is generally associated with a greater likelihood of recidivism.

Therefore, the relationship between criminal history and recidivism is likely a factor associated with the high recidivism rate (71.7%) for *Prohibited Class* offenders assigned to Base Offense Level 14. The recidivism rates increase to 74.7 percent for *Prohibited Class* offenders assigned Base Offense Level 20 (requiring one predicate offense for a "crime of violence" or "controlled substance offense") and 81.2 percent for those assigned Base Offense Level 24 (requiring two predicate offenses for a "crime of violence" or "controlled substance offense").

Comparatively, *Prohibited Weapon* offenders include some offenders with less extensive criminal history. Of the *Prohibited Weapon* offenders assigned Base Offense Level 18, almost half (47.3%) have zero criminal history points and approximately 70 percent were placed in CHC I (69.2%). Because the *Prohibited Weapon* offenders assigned Base Offense Level 18 have less extensive criminal history, it follows that when analyzing the relationship between Base Offense Level and recidivism, the *Prohibited Weapon* offenders assigned Base Offense Level 18 recidivated at the lowest rate (50.2%) of the

Figure 4.10 Rearrests Rates of §2K2.1 Offenders by Base Offense Level



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

offenders sentenced under §2K2.1. The recidivism rate increases sharply to 76.5 percent for *Prohibited Weapon* offenders assigned Base Offense Level 22 (requiring one predicate offense for a “crime of violence” or “controlled substance offense”). The recidivism rate further increases to 90.9 percent for those assigned Base Offense Level 26 (requiring two predicate offenses for a “crime of violence” or “controlled substance offense”), which is the highest rate for offenders sentenced under §2K2.1 at any Base Offense Level.

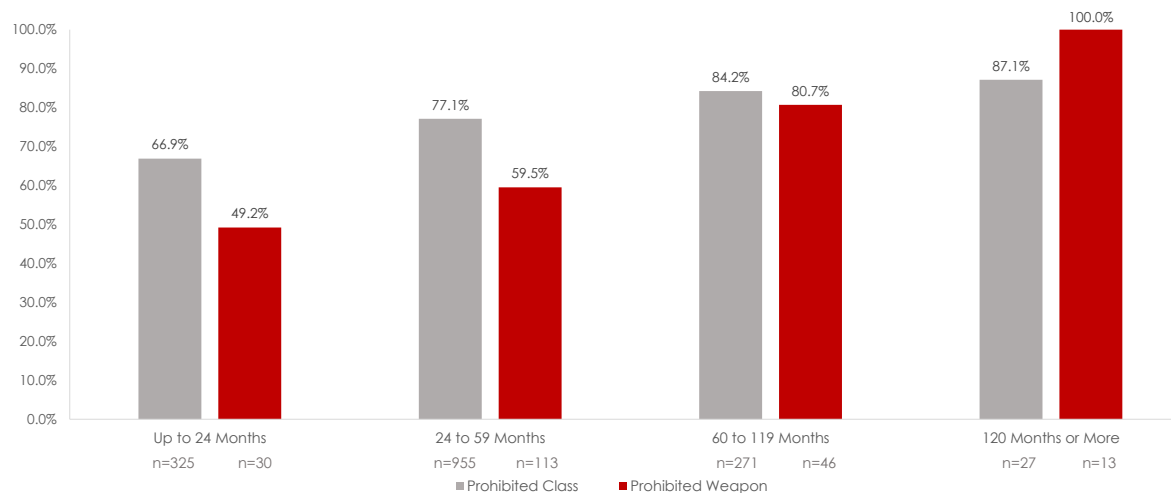
Recidivism and Sentences Imposed

Among those who received a sentence of less than 60 months in prison, the *Prohibited Class* offenders recidivated at a higher rate than *Prohibited Weapon* offenders. Of the §2K2.1 offenders who were sentenced to less than 24 months of imprisonment, *Prohibited Class* offenders recidivated at a rate over 17 percentage points higher than *Prohibited Weapon* offenders. Approximately two-thirds of the *Prohibited Class* offenders (66.9%) were rearrested compared to slightly less than one-half of the *Prohibited Weapon* offenders (49.2%) who

were sentenced to less than 24 months. Likewise, of those offenders who received a sentence between 24 and 59 months of imprisonment, *Prohibited Class* offenders recidivated at a rate (77.1%) over 17 percentage points higher than *Prohibited Weapon* offenders (59.5%).

As discussed above, the enhanced §2K2.1 Base Offense Levels (and corresponding longer sentences) are triggered based on the number and type of the offender’s prior convictions, which is likely a factor associated with the recidivism rates among those §2K2.1 offenders who were sentenced to 60 months or more in prison. Among those who received a sentence between 60 and 119 months of imprisonment, *Prohibited Class* offenders recidivated at a rate of 84.2 percent compared to 80.7 percent for *Prohibited Weapon* offenders. Among those sentenced to 120 months or more of imprisonment, 87.1 percent of the *Prohibited Class* offenders and all 13 of the *Prohibited Weapon* offenders (100%) recidivated.

Figure 4.11 Rearrest Rates of Prohibited Class and Prohibited Weapon Offenders by Sentence Length



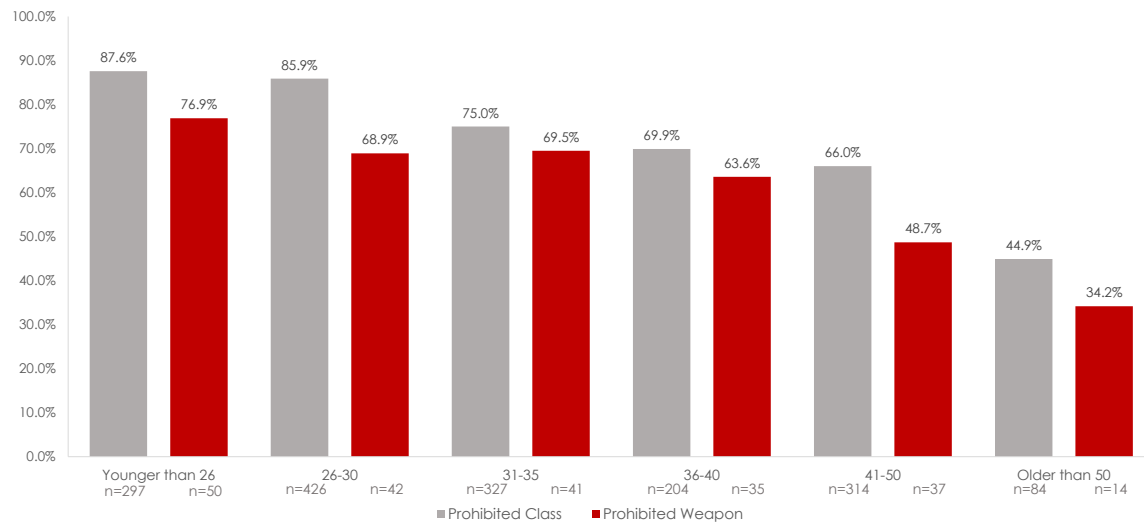
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
 NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Recidivism and Age

Prohibited Class offenders recidivated at a higher rate than *Prohibited Weapon* offenders in every age group at the time of release from prison. *Prohibited Class* offenders under age 26 at the time of release from prison recidivated at a rate of 87.6 percent, which is similar to the rate for *Prohibited Class* offenders age 26 to 30 at the time of release (85.9%). These recidivism rates are considerably higher than the rates for *Prohibited Weapon* offenders in the same age groups. *Prohibited Weapon* offenders under age 26, and those age 26 to 30 at the time of release, recidivated at a rate of 76.9 percent and 68.9 percent, respectively.

The recidivism rates generally decrease as offenders age, but even the oldest §2K2.1 offenders recidivated at a higher rate than non-firearms offenders. For offenders 41 to 50 years old at the time of release, nearly two-thirds of *Prohibited Class* offenders (66.0%) and approximately one-half of *Prohibited Weapon* offenders (48.7%) recidivated. For the oldest age group, offenders over 50 years of age at the time of release, *Prohibited Class* offenders continued to recidivate at a higher rate (44.9%) than *Prohibited Weapon* offenders (34.2%). Comparatively, as shown in Figure 3.10 on page 22, the oldest non-firearms offenders recidivated at a substantially lower rate (20.6%) than either group of §2K2.1 offenders.

Figure 4.12 Rearrest Rates of Prohibited Class and Prohibited Weapon Offenders by Age at Release



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Armed Career Criminals and Career Offenders

The following findings provide a snapshot of the offender characteristics and recidivism rates for the small number of the armed career criminals and career offenders who were released in calendar year 2005:

- The 121 armed career criminals and career offenders who were also sentenced for a firearms offense constitute a small group of offenders in this study, consisting of approximately 3.5 percent of the 3,446 firearms offenders.
- All but one of the 121 offenders sentenced as an armed career criminal or career offender received a term of imprisonment. Of those sentenced to a term of imprisonment, the majority received lengthy prison sentences. Approximately 84 percent of armed career criminals and 78 percent of career offenders were sentenced to more than 120 months of imprisonment.
- The recidivism rates for armed career criminals (67.5%) and career offenders (70.7%) were comparable to the rate for firearms offenders as a whole (68.1%).
- Armed career criminals and career offenders recidivated more quickly than other firearms offenders. The median time to rearrest for armed career criminals was 12 months compared to 16 months for career offenders among those who recidivated. The median time to rearrest for firearms offenders as a whole was 17 months.
- Among those who recidivated, a greater percentage of armed career criminals than career offenders had a violent offense as their most serious new charge. Assault was the most serious new charge for 33.3 percent of armed career criminals compared to 24.1 percent of career offenders who were rearrested.

Chapter Five

Section 924(c) Offenders

This chapter analyzes the offender characteristics and recidivism rates among 638 section 924(c) offenders who were not otherwise designated as armed career criminals or career offenders. The 638 section 924(c) offenders are analyzed in comparison to the other firearms offenders identified in this report. Over the eight-year study period, section 924(c) offenders recidivated at a rate of 52.2 percent compared to 71.7 percent for the other firearms offenders.

This chapter also provides additional analyses of the offense characteristics and recidivism rates of section 924(c) offenders based on the nature of the instant offense and the offenders' criminal history.

Offender and Offense Characteristics

The 638 section 924(c) offenders represent 2.6 percent of the federal offenders who were released in calendar year 2005 and analyzed in this report.

Demographics

Black offenders constitute the largest group of section 924(c) offenders (58.9%), followed by White (29.5%) and Hispanic offenders (9.1%). Comparatively, Black offenders also constitute the largest group of other firearms offenders (45.7%), followed by White (43.5%) and Hispanic offenders (8.2%). The overwhelming majority of section 924(c) offenders (96.4%) and other firearms offenders (97.3%) were male.

Section 924(c) offenders were younger than other firearms offenders when sentenced. At the time of sentencing, the median age was 27 years for section 924(c) offenders compared to 31 years for other firearms offenders. However, at the time of release from prison, the median age for both section 924(c) offenders and other firearms offenders was 34.

Tables 5.1 & 5.2 Demographic Characteristics

Table 5.1
18 U.S.C. § 924(c) Offenders

Race/Ethnicity	N	%
White	188	29.5%
Black	375	58.9%
Hispanic	58	9.1%
Other	16	2.5%
Gender	N	%
Male	615	96.4%
Female	23	3.6%
Age		
Median Age at Sentencing	27 Years	
Median Age at Release	34 Years	

SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Table 5.2
All Other Firearms Offenders

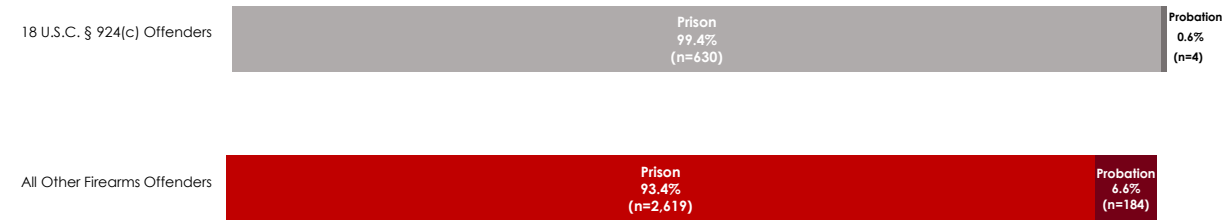
Race/Ethnicity	N	%
White	1,220	43.5%
Black	1,282	45.7%
Hispanic	231	8.2%
Other	73	2.6%
Gender	N	%
Male	2,731	97.3%
Female	76	2.7%
Age		
Median Age at Sentencing	31 Years	
Median Age at Release	34 Years	

Sentences Originally Imposed

The vast majority of section 924(c) offenders (99.4%) and other firearms offenders (93.4%) were sentenced to a term of imprisonment. Of those offenders sentenced to a term of imprisonment, section 924(c) offenders received longer sentences than other firearms offenders. Of the section 924(c) offenders sentenced to prison, 50.3 percent received a sentence of 120 months or more, and 41.9 percent received a sentence between 60 and 119 months of imprisonment. Only 6.8 percent of section 924(c) offenders received a sentence between 24 and 59 months and 1.0 percent received a sentence under 24 months.

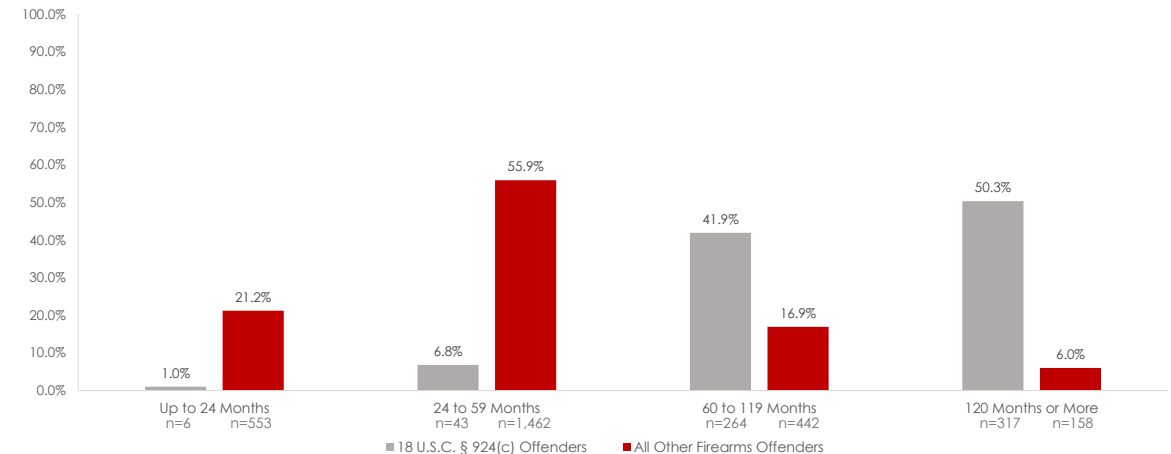
Comparatively, only 6.0 percent of other firearms offenders received a sentence of 120 months or more in prison and another 16.9 percent received a sentence of imprisonment between 60 and 119 months. The majority of other firearms offenders (55.9%) received a sentence between 24 and 59 months, and 21.2 percent received a sentence of under 24 months.

Figure 5.1 Sentences Imposed on 18 U.S.C. § 924(c) and All Other Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 5.2 Sentence Length of 18 U.S.C. § 924(c) and All Other Firearms Offenders



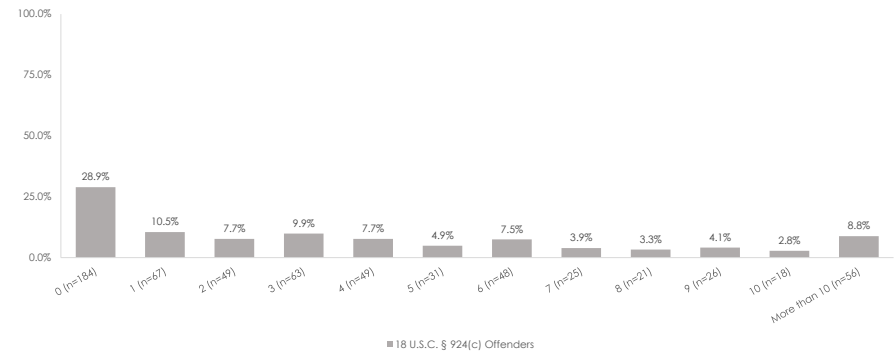
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Criminal History

Section 924(c) offenders have less extensive criminal histories than other firearms offenders. Over one-quarter of section 924(c) offenders (28.9%) were assigned zero criminal history points compared to only 10.1 percent of other firearms offenders. Conversely, only 8.8 percent of section 924(c) offenders accrued more than ten criminal history points compared to 22.5 percent of other firearms offenders.

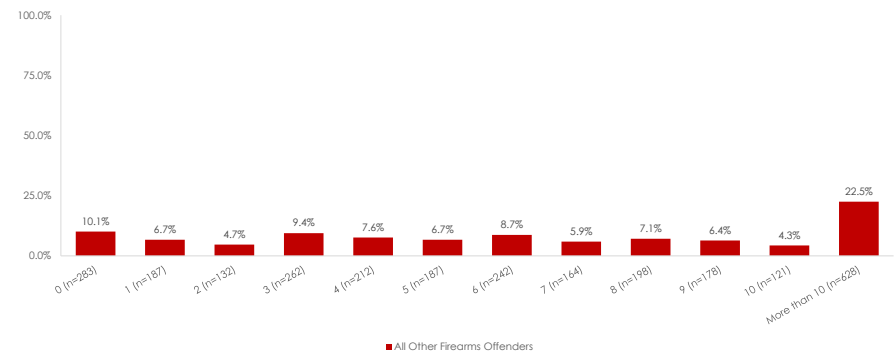
Accordingly, a greater percentage of section 924(c) offenders (40.0%) were placed in CHC I compared to other firearms offenders (16.8%). A smaller percentage of section 924(c) offenders were assigned to CHC IV (10.9%), CHC V (5.4%), or CHC VI (5.9%) compared to other firearms offenders in CHC IV (19.0%), CHC V (11.9%), or CHC VI (15.8%).

Figure 5.3 Criminal History Points of 18 U.S.C. § 924(c) Offenders



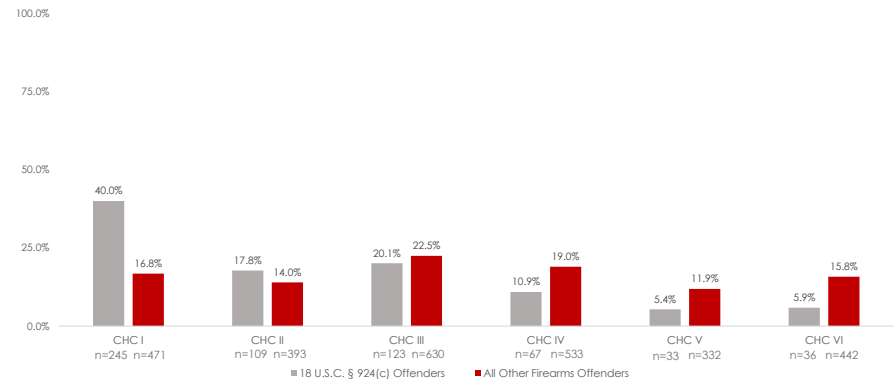
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 5.4 Criminal History Points of All Other Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 5.5 Criminal History Category of 18 U.S.C. § 924(c) and All Other Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Recidivism Findings

Rearrest, Reincarceration, and Reconviction

Section 924(c) offenders recidivated at a substantially lower rate than other firearms offenders. Slightly more than one-half (52.2%) of section 924(c) offenders were rearrested for a new crime compared to 71.7 percent of other firearms offenders.

Section 924(c) offenders were also rearrested for fewer new crimes than the other firearms offenders. Among those who recidivated, the median number of recidivism events (events occurring on separate days) was two for section 924(c) offenders compared to three for other firearms offenders.

Time to Rearrest

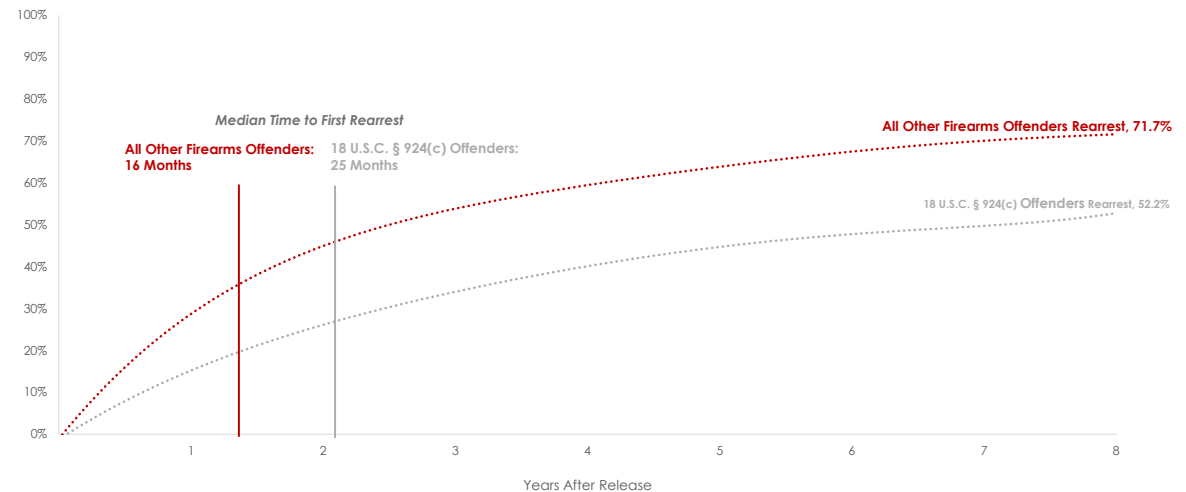
More time passed between release and rearrest for section 924(c) offenders compared to other firearms offenders. The median time from release to rearrest for section 924(c) offenders was 25 months, meaning that for one-half of the section 924(c) offenders who were rearrested, the first rearrest occurred more than two years following their initial release from prison. Comparatively, the median time to rearrest for all other firearms offenders was 16 months.

Table 5.3 Recidivism Rates for 18 U.S.C. § 924(c) Offenders and All Other Firearms Offenders

	Rearrest	Reconviction	Reincarceration	Rearrest	Reconviction	Reincarceration
	18 U.S.C. § 924(c) Offenders			All Other Firearms Offenders		
Percent	52.2%	33.4%	27.1%	71.7%	48.3%	41.5%
Median Time to Recidivism Event	25 Months	25 Months	22 Months	16 Months	26 Months	25 Months
Median Number of Recidivism Events	2	1	1	3	2	1
Most Serious Post-Release Event	Assault (26.4%, n=88)	Other Public Order (15.5%, n=33)	Other Public Order (22.0%, n=38)	Assault (29.4%, n=591)	Assault (18.2%, n=247)	Other Public Order (22.1%, n=257)

SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 5.6 Time to Rearrest for 18 U.S.C. § 924(c) Offenders and All Other Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

During the first year following release from prison, 14.6 percent of section 924(c) offenders recidivated for the first time. Each subsequent year fewer people were rearrested for the first time than in the previous year. For example, 11.4 percent of the total section 924(c) offenders were rearrested for the first time in the second year, and 7.8 percent of the total were rearrested for the first time in the third year. Only 2.4 percent of the section 924(c) offenders who were not previously arrested recidivated for the first time in the eighth year.

Other firearms offenders followed a similar pattern but recidivated at a substantially higher rate than section 924(c) offenders in the first year after release from prison. During the first year following release into the community, 29.0 percent of other firearms offenders recidivated for the first time. The recidivism rate fell to 15.9 percent of the other firearms offenders in the second year and 9.1 percent in the third year. Only 1.6 percent of other firearms offenders who were not previously arrested recidivated for the first time in the eighth year.

Table 5.4 & 5.5 Time to Rearrest

Table 5.4.
18 U.S.C. § 924(c) Offenders

Years After Release	N	%	Cumulative %
One Year	93	14.6%	14.6%
Two Years	73	11.4%	26.0%
Three Years	50	7.8%	33.9%
Four Years	42	6.6%	40.4%
Five Years	29	4.6%	45.0%
Six Years	16	2.5%	47.5%
Seven Years	15	2.4%	49.8%
Eight Years	15	2.4%	52.2%

Table 5.5.
All Other Firearms Offenders

Years After Release	N	%	Cumulative %
One Year	815	29.0%	29.0%
Two Years	446	15.9%	44.9%
Three Years	254	9.1%	54.0%
Four Years	151	5.4%	59.3%
Five Years	127	4.5%	63.9%
Six Years	104	3.7%	67.6%
Seven Years	70	2.5%	70.1%
Eight Years	45	1.6%	71.7%

SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.

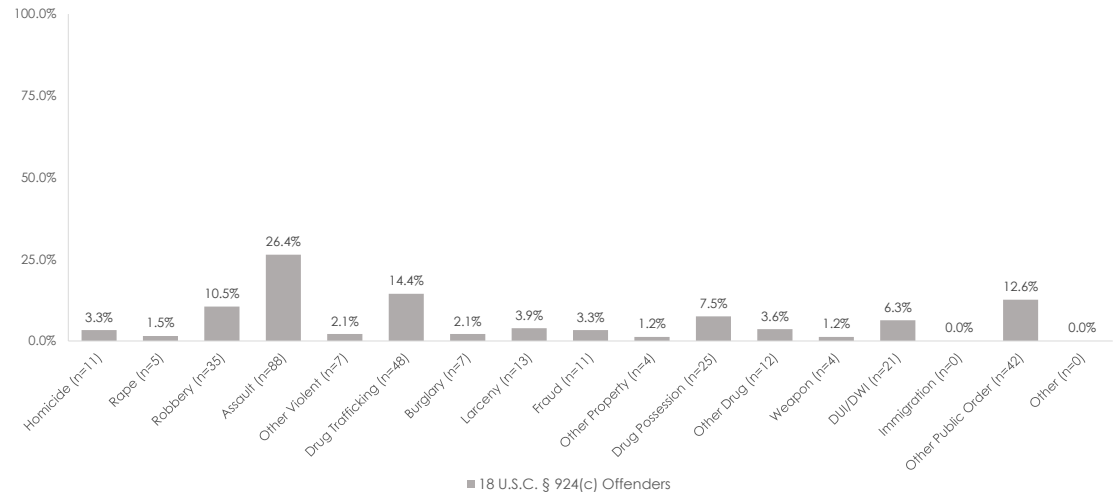
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Most Serious Recidivism Event

Section 924(c) offenders and other firearms offenders were rearrested for similar crimes. When considering only the single most serious offense type of all offenders who recidivated, assault was the most common charge for both groups, constituting the most serious new charge for 26.4 percent of section 924(c) offenders and 29.4 percent for other firearms offenders. The second most common new charge for section 924(c) offenders was drug trafficking (14.4%), followed by public order crimes (12.6%). Likewise, of the other firearms offenders who recidivated, the second most common new charge was for drug trafficking (13.4%), followed by public order crimes (12.6%).

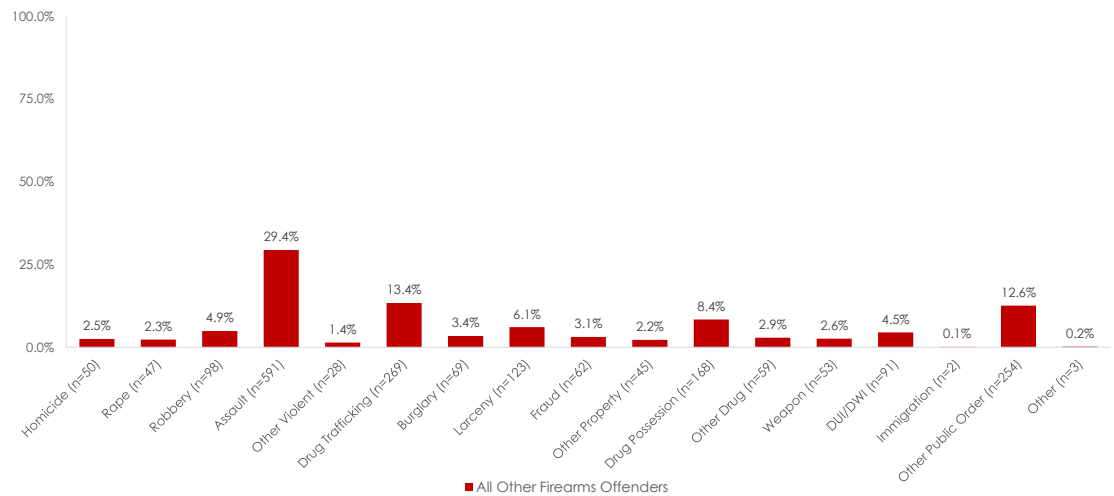
A higher percentage of section 924(c) offenders were rearrested for robbery (10.5%) and homicide (3.3%) as the most serious new crime compared to other firearms offenders. Less than five percent of other firearms offenders were rearrested for robbery (4.9%) and less than three percent of other firearms offenders were rearrested for homicide (2.5%).

Figure 5.7 Most Serious Offense at Rearrest of 18 U.S.C. § 924(c) Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 5.8 Most Serious Offense at Rearrest of All Other Firearms Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

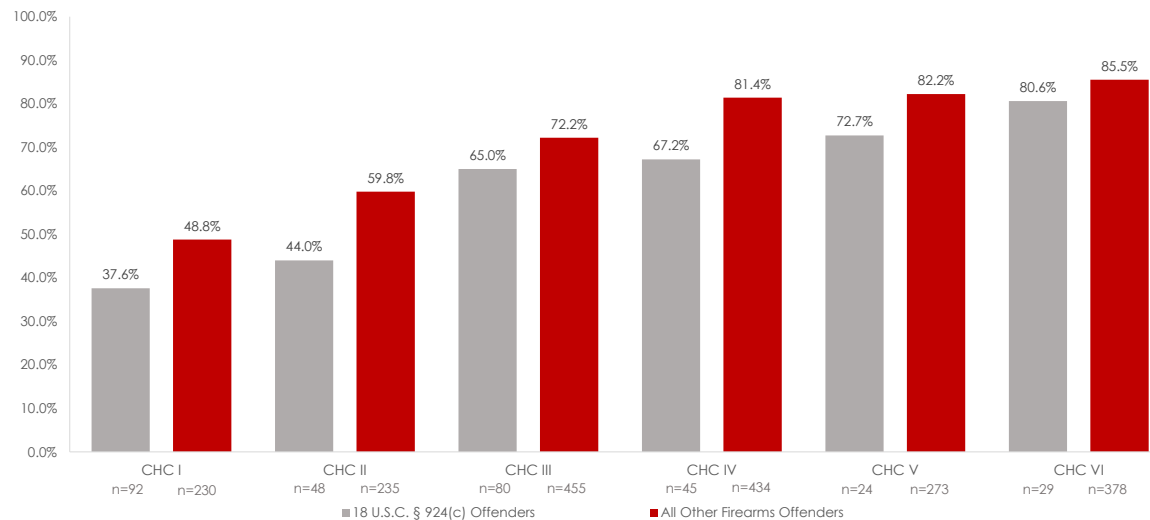
Recidivism and Criminal History

Consistent with prior Commission research, and the findings discussed above, recidivism rates for section 924(c) offenders were strongly associated with CHC. However, the recidivism rates for section 924(c) offenders are lower than the rates for other firearms offenders in every CHC. Recidivism rates among section 924(c) offenders ranged from a low of 37.6 percent for those in CHC I to a high of 80.6 percent for those in CHC VI. Comparatively, the recidivism rates among other firearms offenders ranged from a low of 48.8 percent for those in CHC I to a high of 85.5 percent for those in CHC VI.

Recidivism and Age

The expected pattern emerges when measuring recidivism rates of section 924(c) and other firearms offenders by age—as age increases, the recidivism rates generally decrease for section 924(c) offenders and other firearms offenders. However, section 924(c) offenders recidivated at lower rates than other firearms offenders in every age group, ranging from 11 to 24 percentage points lower than other firearms offenders (see Figure 5.10 on the next page).

Figure 5.9 Rearrest Rates of 18 U.S.C. § 924(c) Offenders and All Other Firearms Offenders by Criminal History Category



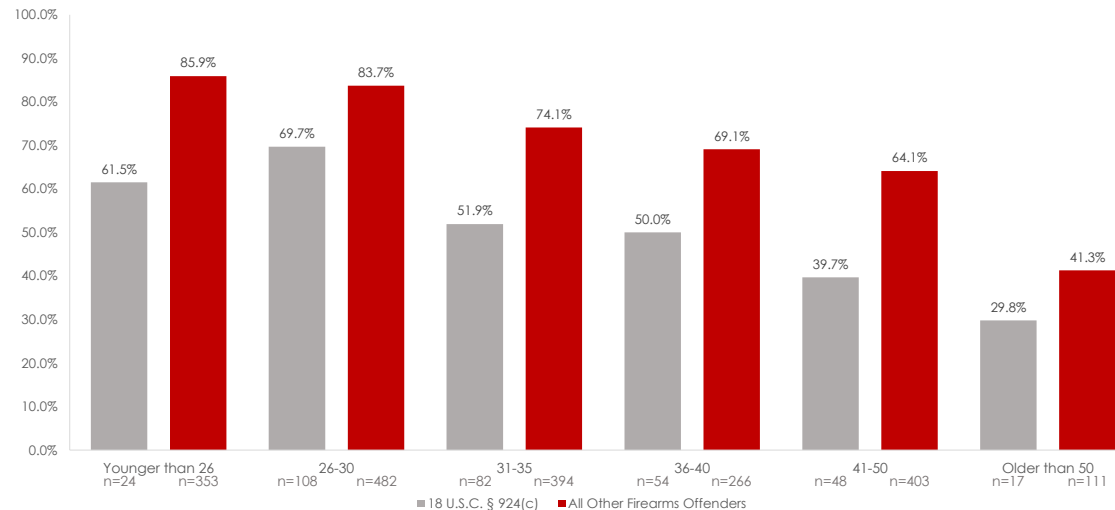
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Pathways to 18 U.S.C. § 924(c) Convictions

To be convicted under section 924(c), an offender must have used or carried a firearm during and in relation to, or possessed a firearm in furtherance of, a “crime of violence” or “drug trafficking crime” for which the person may be federally prosecuted. Previous Commission research has shown that violent offenders have distinct criminal history and recidivism characteristics when compared to drug trafficking and other non-violent offenders. The Commission’s 2016 *Report to the Congress: Career Offender Sentencing Enhancements* showed that career offenders who committed a violent instant offense or violent prior offense generally had a more extensive criminal

history, recidivated at a higher rate, and were more likely to commit another violent offense in the future compared to career offenders who received the designation based solely on drug trafficking convictions.⁷¹ Likewise, the Commission’s 2019 report, *Recidivism Among Federal Violent Offenders*, showed that offenders who engaged in violent criminal activity—whether during the instant offense or as part of prior criminal conduct—generally recidivated at a higher rate, more quickly, and for more serious crimes than non-violent offenders.⁷²

Figure 5.10 Rearrest Rates of 18 U.S.C. § 924(c) Offenders and All Other Firearms Offenders by Age at Release



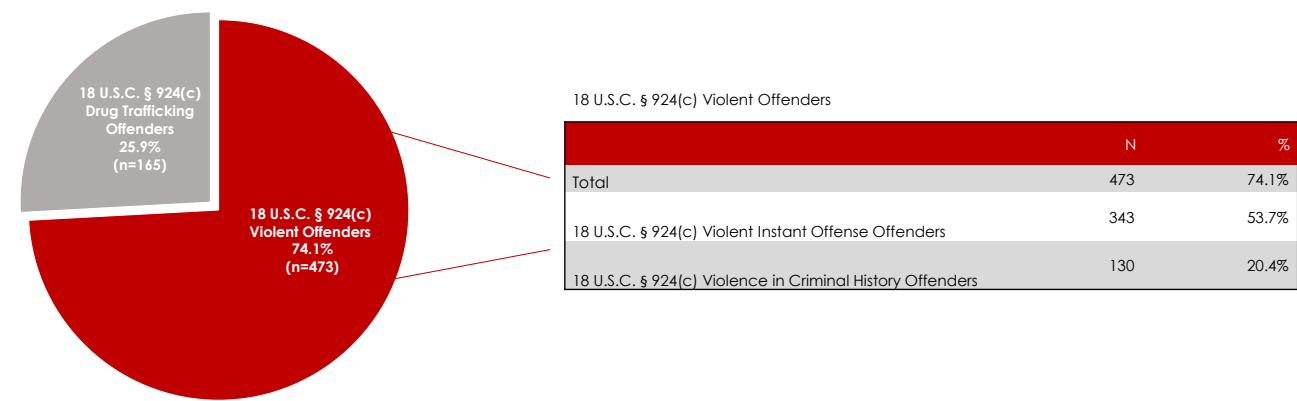
SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.

NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

These findings prompted the Commission to analyze the recidivism characteristics of section 924(c) offenders using a similar dichotomy based on the nature of the offense conduct and criminal history associated with the section 924(c) offenders: (1) drug trafficking section 924(c) offenders, and (2) violent section 924(c) offenders. To be classified as a drug trafficking section 924(c) offender, the instant offense included a drug trafficking conviction and the offender had no prior arrests for a violent offense. Violent section 924(c) offenders are classified using two criteria: (1) the instant offense included a conviction for a “crime of violence” for which the offender was sentenced, or (2) the instant offense included a drug trafficking conviction, but the offender was previously arrested for a violent offense.⁷³

As shown in Figure 5.11, 25.9 percent of section 924(c) offenders were identified as drug trafficking section 924(c) offenders and 74.1 percent were classified as violent section 924(c) offenders (53.7% had a violent instant offense; 20.4% had a drug trafficking instant offense and a violent prior arrest).

Figure 5.11 Percentage of Violent and Drug Trafficking 18 U.S.C. § 924(c) Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

When analyzing the recidivism rates for each of the section 924(c) pathways, clear and noticeable differences emerge between violent and drug trafficking section 924(c) offenders. Violent section 924(c) offenders generally recidivated at a higher rate, more quickly, and were more likely to commit another violent offense in the future. Violent section 924(c) offenders were rearrested for a new crime at a rate (55.4%) that is more than 12 percentage points higher than drug trafficking section 924(c) offenders (43.0%).

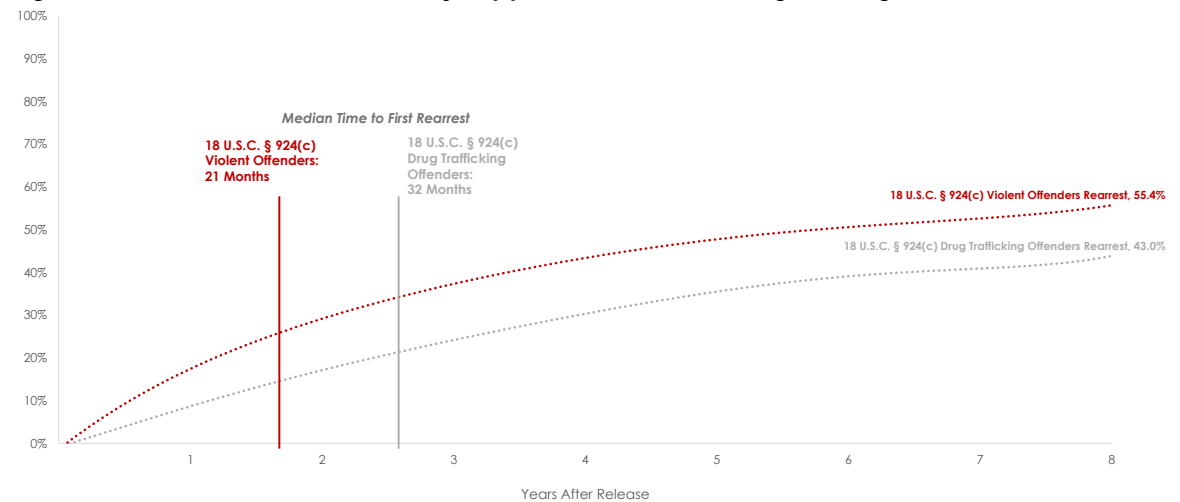
Violent section 924(c) offenders recidivated eleven months sooner than drug trafficking section 924(c) offenders. The median time to recidivism for violent section 924(c) offenders (among those who recidivated) was 21 months, meaning that one-half of the violent section 924(c) offenders were rearrested within 21 months of their release, while the other half recidivated more than 21 months after release. Comparatively, the median time to recidivism for drug trafficking section 924(c) offenders was 32 months, which is the longest median time to rearrest among any of the groups of offenders analyzed in this report.

Table 5.6 Recidivism Rates for 18 U.S.C. § 924(c) Violent Offenders and Drug Trafficking Offenders

	Rearrest	Rearrest
	18 U.S.C. § 924(c) Violent Offenders	18 U.S.C. § 924(c) Drug Trafficking Offenders
Percent	55.4%	43.0%
Median Time to Recidivism Event	21 Months	32 Months
Median Number of Recidivism Events	2	2
Most Serious Post-Release Event	Assault (26.7%, n=70)	Assault (25.4%, n=18)

SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

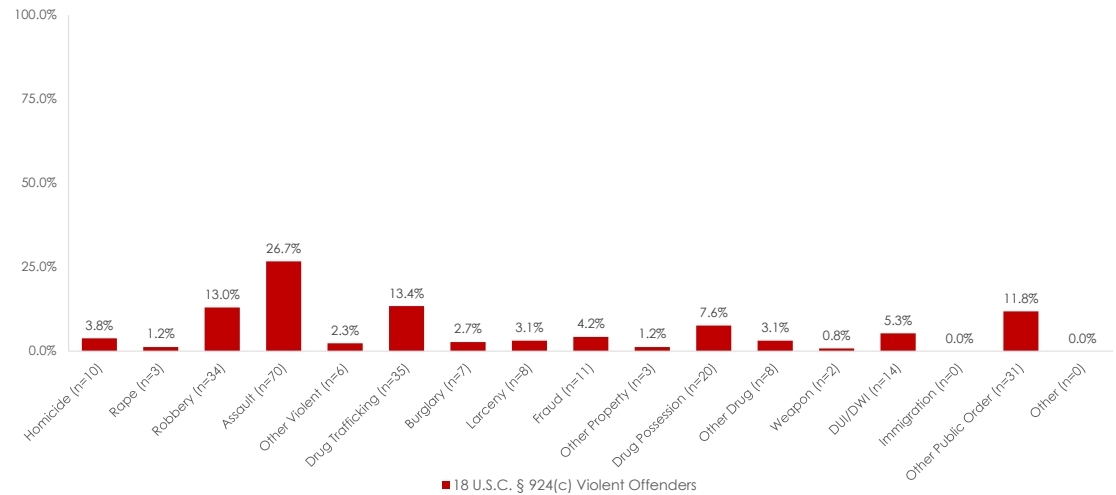
Figure 5.12 Time to First Rearrest of 18 U.S.C. § 924(c) Violent Offenders and Drug Trafficking Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

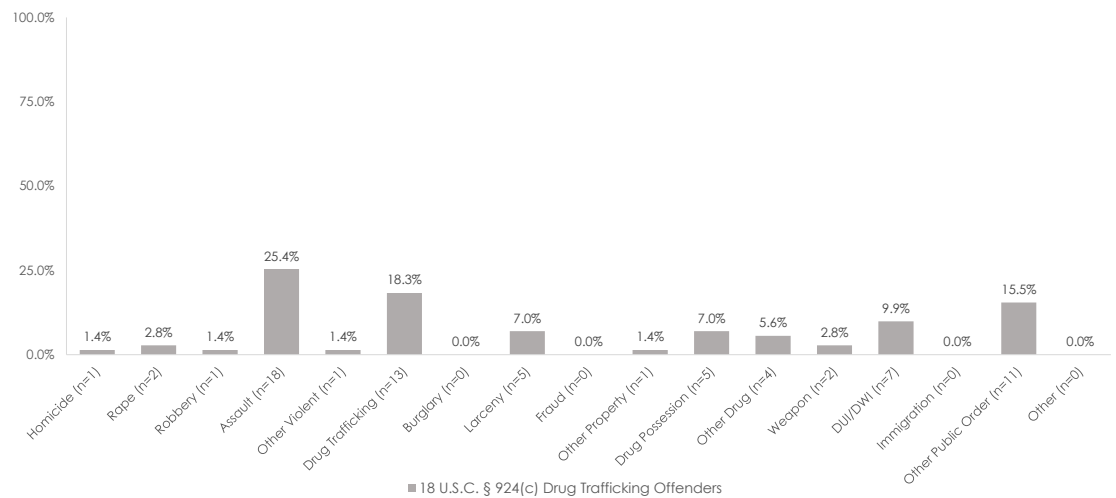
A greater percentage of violent section 924(c) offenders were rearrested for a violent crime as their most serious new offense compared to drug trafficking section 924(c) offenders. Among the violent section 924(c) offenders who recidivated, assault was the single most serious new charge for 26.7 percent followed by drug trafficking (13.4%) and robbery (13.0%). In comparison, of the drug trafficking section 924(c) offenders who recidivated, assault was also the most common new charge (25.4%), followed by drug trafficking (18.3%) and public order crimes (15.5%).

Figure 5.13 Most Serious Offense at Rearrest of 18 U.S.C. § 924(c) Violent Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Figure 5.14 Most Serious Offense at Rearrest of 18 U.S.C. § 924(c) Drug Trafficking Offenders



SOURCE: U.S. Sentencing Commission 2005 Recidivism Release Cohort Datafile, FIREARMS_RECID.
NOTE: The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Totals may not sum to 100.0% due to rounding.

Chapter Six

Conclusion

The Commission examined the recidivism rates of firearms offenders compared to non-firearms offenders. Firearms offenders generally recidivated at a higher rate, more quickly, and for more serious crimes than non-firearms offenders.

Criminal history is strongly associated with recidivism among both firearms offenders and non-firearms offenders. However, firearms offenders have higher recidivism rates than non-firearms offenders in every CHC. The difference in recidivism rates between firearms and non-firearms offenders is most pronounced among those offenders in CHC I, where firearms offenders recidivated at a rate approximately 12 percentage points higher than non-firearms offenders.

Firearms offenders appear to desist from criminal activity later in life than non-firearms offenders—firearms offenders continued to recidivate at a high rate until reaching age 50 at the time of release from prison. Even after age 50, firearms offenders recidivated at nearly double the rate of non-firearms offenders in the same age group.

This report also analyzed the offender characteristics and recidivism rates of different types of federal firearms offenders. Among those sentenced under §2K2.1, noticeable differences exist in the offender characteristics and recidivism rates among the offenders. *Prohibited Class* offenders generally recidivated at a higher rate and more quickly than *Prohibited Weapon* offenders. Likewise, *Prohibited Class* offenders recidivated at a higher rate in every age category than *Prohibited Weapon* offenders. Despite the differences between *Prohibited Class* and *Prohibited Weapon* offenders, criminal history remains a strong predictor of the likelihood of recidivism for both groups. Offenders in both groups recidivated at a rate of 84 percent or higher among the offenders in the most serious Criminal History Categories, CHC V and CHC VI.

Section 924(c) offenders generally recidivated at a lower rate than other firearms offenders. However, among section 924(c) offenders, those who engaged in violent conduct generally recidivated at a higher rate, more quickly, and for more serious crimes than non-violent section 924(c) offenders who engaged in drug trafficking activity.

Endnotes

1 The United States Sentencing Commission is an independent agency in the judicial branch of government. Established by the Sentencing Reform Act of 1984, its principal purposes are (1) to establish sentencing policies and practices for the federal courts, including guidelines regarding the appropriate form and severity of punishment for offenders convicted of federal crimes; (2) to advise and assist Congress, the federal judiciary, and the executive branch in the development of effective and efficient crime policy; and (3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues. *See* 28 U.S.C. §§ 994, 995.

2 *See* U.S. SENTENCING COMM’N, RECIDIVISM AMONG FEDERAL OFFENDERS: A COMPREHENSIVE OVERVIEW 3 (2016), http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/ricidivism_overview.pdf [hereinafter RECIDIVISM OVERVIEW REPORT].

3 28 U.S.C. § 991(b)(1)(C).

4 *See* U.S. SENTENCING COMM’N, SUPPLEMENTARY REPORT ON THE INITIAL SENTENCING GUIDELINES AND POLICY STATEMENTS 41–44 (1987), http://www.ussc.gov/sites/default/files/pdf/guidelines-manual/1987/manual-pdf/1987_Supplementary_Report_Initial_Sentencing_Guidelines.pdf [hereinafter SUPPLEMENTARY REPORT].

5 *See, e.g.*, U.S. Sentencing Comm’n, Final Priorities for Amendment Cycle, 79 FR 49378, 49379 (Aug. 20, 2014) (“Pursuant to 28 U.S.C. § 994(g), the Commission intends to consider the issue of reducing costs of incarceration and overcapacity of prisons, to the extent it is relevant to any identified priority.”).

6 *See* RECIDIVISM OVERVIEW REPORT, *supra* note 2, at 3.

7 *See, e.g.*, U.S. SENTENCING COMM’N, REPORT TO CONGRESS: FEDERAL CHILD PORNOGRAPHY OFFENSES 293–310 (2012), http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/sex-offense-topics/201212-federal-child-pornography-offenses/Full_Report_to_Congress.pdf; U.S. SENTENCING COMM’N, A COMPARISON OF THE FEDERAL SENTENCING GUIDELINES CRIMINAL HISTORY CATEGORY AND THE U.S. PAROLE COMMISSION SALIENT FACTOR SCORE (2005), http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2005/20050104_Recidivism_Salient_Factor_Computation.pdf; U.S. SENTENCING COMM’N, RECIDIVISM AND THE “FIRST OFFENDER” (2004), http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2004/200405_Recidivism_First_Offender.pdf; U.S. SENTENCING COMM’N, MEASURING RECIDIVISM: THE CRIMINAL HISTORY COMPUTATION OF THE FEDERAL SENTENCING GUIDELINES (2004), <http://www.ussc.gov/sites/default/files/pdf/research-and-publications/>

[research-publications/2004/200405_Recidivism_Criminal_History.pdf](http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2004/200405_Recidivism_Criminal_History.pdf) [hereinafter MEASURING RECIDIVISM REPORT]; SUPPLEMENTARY REPORT, *supra* note 4.

8 *See* U.S. SENTENCING COMM’N, RECIDIVISM AMONG FEDERAL DRUG TRAFFICKING OFFENDERS (2017), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170221_Recidivism-Drugs.pdf.

9 *See* U.S. SENTENCING COMM’N, RECIDIVISM AMONG FEDERAL VIOLENT OFFENDERS (2019), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2019/20190124_Recidivism_Violence.pdf [hereinafter RECIDIVISM AMONG FEDERAL VIOLENT OFFENDERS].

10 *See* United States Sentencing Commission, *Guidelines Manual*, §2K2.1 (Nov. 2018) [hereinafter USSG]. Offenders who committed firearms crimes solely related to licensing requirements, record keeping, background checks, and other similar offenses who were assigned base offense level 6 or 12 at §2K2.1 are excluded from this report. Offenders who committed firearms crimes solely related to possession of a firearms or dangerous weapon in a federal facility and were sentenced under §2K2.5 were also excluded from this report. Based on the aforementioned criteria, 431 cases were excluded from the analysis for a total cohort size of 25,000. In cases where multiple Chapter Two guidelines applied because the offender had multiple counts of conviction for different offenses, this report identifies the offender as a firearms offender if §2K2.1 was applied at sentencing, regardless of whether §2K2.1 ultimately produced the highest offense level (*i.e.*, the primary guideline). For example, an offender is categorized as a firearms offender in this report if convicted of both drug trafficking and a firearms offense, even if the primary guideline with the highest offense level was §2D1.1 for the drug trafficking offense. The structure of the sentencing guidelines and §2K2.1 are discussed in further detail in Chapter Two.

11 The ACCA requires a mandatory minimum of 15 years of imprisonment if the defendant violates 18 U.S.C. § 922(g) and has three or more convictions for offenses that qualify as either “violent felonies” or “serious drug offenses.” *See* 18 U.S.C. § 924(e). The ACCA is discussed in further detail in Chapter Two.

12 Individuals sentenced as career offenders may receive enhanced sentencing guideline ranges. The career offender guideline is discussed in further detail in Chapter Two.

13 Section 924(c) is discussed in further detail in Chapter Two. Offenders convicted of a single count of section 924(c) without an additional conviction for an underlying drug trafficking offense or crime of violence were excluded due to missing information necessary to complete all of the analyses (N=119).

14 Each fiscal year begins on October 1 of the preceding calendar year. For example, fiscal year 2006 began on October 1, 2005, and ended on September 30, 2006.

15 Most of the offenders analyzed in this report were sentenced prior to the Supreme Court's decision in *Booker v. United States*, 543 U.S. 220 (2005), which rendered the sentencing guidelines advisory.

16 See NAT'L INSTITUTE OF JUSTICE, U.S. DEPT. OF JUSTICE, RECIDIVISM, <https://www.nij.gov/topics/corrections/recidivism/pages/welcome.aspx> (last modified May 21, 2019).

17 See RECIDIVISM OVERVIEW REPORT, *supra* note 2, at 7–8.

18 Many rearrests do not ultimately result in reconviction or reincarceration for reasons relating to procedural safeguards (for example, the suppression of evidence for an unconstitutional search or seizure), lack of sufficient evidence to convict or revoke, or prosecutorial or judicial resource limitations. To the extent that the rearrest event is an accurate indicator of relapse into criminal behavior, excluding events due to non-conviction or non-incarceration will result in underestimation of recidivism. Even the least restrictive measure, rearrest, does not account for the full extent of offender recidivism, as many crimes go unreported to police or, if reported, do not result in an arrest. For these reasons, no measure is perfect, and reporting several measures provides a more complete picture of reoffending. Generally, the measure of rearrest is larger than the measure of reconviction, which in turn is larger than the measure of reincarceration.

19 Revocations were not counted as reconvictions because the offenders were not convicted of a new offense (even if the basis for revocation was a “new law violation”). Offenders whose terms of supervision were revoked and who were sentenced to imprisonment were treated as having been reincarcerated.

20 Conviction data is under-inclusive as a majority of states did not report dispositions during the relevant time period. A 2015 Government Accountability Office report indicates that only 16 states reported that more than 75% of their arrest records had dispositions during the relevant time-period. See U.S. GOV'T ACCOUNTABILITY OFFICE, CRIMINAL HISTORY RECORDS: ADDITIONAL ACTIONS COULD ENHANCE THE COMPLETENESS OF RECORDS USED FOR EMPLOYMENT-RELATED BACKGROUND CHECKS 18 (2015), <https://www.gao.gov/assets/670/668505.pdf>.

21 See *id.*

22 Offenders who received a “dangerous weapon” enhancement under other Chapter

Two guidelines, *e.g.*, §2D1.1(b)(1), were not included in this report if they did not also have a separate conviction for a firearms offense or §2K2.1 guideline computation applied at sentencing because “dangerous weapon” is defined more broadly than “firearm” in the *Guidelines Manual*. Compare USSG §1B1.1, comment. (n.1(E)) (defining “dangerous weapon”) with *id.* §1B1.1, comment. (n.1(H)) (defining “firearm”).

23 See, *e.g.*, 18 U.S.C. §§ 921–931; 26 U.S.C. §§ 5861, 5871.

24 Section 2K2.1 adopts the definition of “firearm” from 18 U.S.C. § 921(a)(3). See USSG §2K2.1, comment. (n.1). “The term ‘firearm’ means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device,” but does not include an “antique firearm.” 18 U.S.C. § 921(a)(3). Separately, a provision of the National Firearms Act, 26 U.S.C. § 5845, defines “firearm” in a more limited fashion than 18 U.S.C. § 921(a)(3). The National Firearms Act definition includes certain shotguns, rifles, machineguns, silencers, destructive devices, and “any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire.” 26 U.S.C. § 5845(e). Section 5845’s definition excludes antique firearms and those found to be “primarily . . . collector’s item[s].” *Id.* § 5845(a).

25 Section 2K2.1 adopts the definition of “ammunition” from 18 U.S.C. § 921(a)(17)(A). See USSG §2K2.1, comment. (n.1). “The term ‘ammunition’ means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.” 18 U.S.C. § 921(a)(17)(A).

26 The Chapter Two (Offense Conduct) guidelines address aggravating and mitigating factors specific to the particular offense and Chapter Three (Adjustments) addresses general aggravating and mitigating factors that are common across offense types.

27 See USSG §4A1.1(a)–(c). Additional points are added if the offender committed the instant federal offense while still serving a sentence in another case (*e.g.*, probation or parole) or if a prior sentence resulting from a conviction for a “crime of violence” did not receive criminal history points, for example, if it was too old to qualify. *Id.* §4A1.1(d)–(e).

28 See USSG Ch.5, Pt.A. The Sentencing Table is a two-dimensional grid with the seriousness of the offense measured on one axis and the offender’s criminal history measured

on the other axis. There are 43 offense levels forming the vertical axis and six CHCs that form the horizontal axis of the Sentencing Table. The recommended guideline range for an offender is determined by the cell of the table that lies at the intersection of the scores for the offense and criminal history.

29 This study includes only U.S. citizens. Therefore, illegal aliens convicted of violating 18 U.S.C. § 922(g) are not included in the report.

30 USSG §2K2.1, comment. (n.3).

31 18 U.S.C. § 924(a)(1)(D).

32 *Id.* § 924(a)(2).

33 *Id.* § 924(e)(1).

34 *Id.* § 924(a)(2).

35 *Id.* § 924(a)(1)(A).

36 *Id.* § 924(a)(2).

37 26 U.S.C. § 5871.

38 Appendix A of the *Guidelines Manual* references the following statutes to §2K2.1: 18 U.S.C. §§ 922(a)–(p), (r)–(w), (x)(1), 923, 924(a)–(b), (e)–(i), (k)–(o), 1715, 2332g; 26 U.S.C. §§ 5685, 5861(a)–(l), 5871.

39 Other features regarding the offender’s conduct or role in the offense may increase or decrease the Base Offense Level. Section 2K2.1 includes an increase if (1) the offense involved more than two firearms, (2) the offense involved a missile, rocket or destructive device, (3) the offense involved trafficking firearms, (4) the firearm was stolen or had an obliterated or altered serial number, (5) the defendant used the firearm in connection with another felony offense, and (6) if a recordkeeping offense reflected an effort to conceal a substantive offense involving firearms or ammunition. The Base Offense Level can be decreased if the firearm possession was solely for collection or sporting purposes. *See* USSG §2K2.1(b)(1)–(7).

40 “Crime of violence” has the meaning given to that term in the career offender guideline. *See* USSG §2K2.1, comment. (n.1). The term “crime of violence” means any offense under federal or state law, punishable by imprisonment for a term exceeding one

year, that (1) has as an element the use, attempted use, or threatened use of physical force against the person of another, or (2) is murder, voluntary manslaughter, kidnapping, aggravated assault, a forcible sex offense, robbery, arson, extortion, or the use or unlawful possession of a firearm described in 26 U.S.C. § 5845(a) or explosive material as defined in 18 U.S.C. § 841(c). *See* USSG §4B1.2(a).

41 “Controlled substance offense” has the meaning given to that term in the career offender guideline. *See* USSG §2K2.1, comment. (n.1). The term “controlled substance offense” means an offense under federal or state law, punishable by imprisonment for a term exceeding one year, that prohibits the manufacture, import, export, distribution, or dispensing of a controlled substance (or a counterfeit substance) or the possession of a controlled substance (or a counterfeit substance) with intent to manufacture, import, export, distribute, or dispense. *See* USSG §4B1.2(b).

42 Offenders assigned Base Offense Level 20 who were convicted under section 922(d) or as a “straw purchaser” for an offense that involved a firearm described in the National Firearms Act or semiautomatic firearm capable of accepting a large capacity magazine are grouped with the *Prohibited Class* offenders in this report.

43 *See* 18 U.S.C. § 924(e)(1). During the time offenders in this report were sentenced and released, the ACCA defined “violent felony” as any crime punishable by imprisonment for more than one year that: (1) has as an element the use, attempted use, or threatened use of physical force against the person of another; or (2) is burglary, arson, or extortion, involves the use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another. The Supreme Court has since held that the residual clause, providing that violent felonies include those offenses that “otherwise involve[] conduct that presents a serious potential risk of physical injury to another,” violates due process because the clause is unconstitutionally vague. *See* *Johnson v. United States*, 135 S. Ct. 2551, 2555–57 (2015). The Commission subsequently amended the career offender guideline, §4B1.2, to delete the identically worded residual clause in the “crime of violence” definition. *See* USSG App. C, amend. 798 (effective Aug. 1, 2016).

44 A “serious drug offense” is defined as either (1) an offense under the Controlled Substances Act, codified at 21 U.S.C. §§ 801–904, the Controlled Substances Import and Export Act, codified at 21 U.S.C. §§ 951–971, or chapter 705 of title 46, for which a maximum term of imprisonment of ten years or more is prescribed by law; or (2) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act), for which a maximum term of imprisonment of ten years or more is prescribed by law. *See* 18 U.S.C. § 924(e)(2)(A)(i)–(ii).

45 *See* USSG §4B1.4(b).

46 *See id.* §4B1.4(c).

47 *See id.* §4B1.1(a).

48 *See supra* note 40 and 41. The Commission’s 2016 *Report To The Congress: Career Offender Sentencing Enhancements* chronicles changes made to these definitions since the guideline was first promulgated. *See* U.S. SENTENCING COMM’N, REPORT TO THE CONGRESS: CAREER OFFENDER SENTENCING ENHANCEMENTS (2016), https://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/criminal-history/201607_RtC-Career-Offenders.pdf [hereinafter CAREER OFFENDER REPORT].

49 USSG §4B1.1(b).

50 *Id.* For career offenders convicted under section 924(c), §4B1.1 provides that the guideline range is the greater of the range determined by a separate career offender sentencing table, or the range that results by adding the section 924(c) mandatory minimum penalty “to the minimum and maximum of the otherwise applicable guideline range” determined for the non-section 924(c) counts. *See id.* §4B1.1(c).

51 *Id.* §4B1.1(b).

52 Offenders convicted of an offense under section 924(c) who also qualify as career offenders are classified as career offenders in this report.

53 Section 924(c) defines “crime of violence” as any felony that “has as an element the use, attempted use, or threatened use of physical force against the person or property of another,” or “that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.” *See* 18 U.S.C. § 924(c)(3). A “drug trafficking crime” is defined as any felony that is punishable under the Controlled Substances Act, codified at 21 U.S.C. §§ 801–904, the Controlled Substances Import and Export Act, codified at 21 U.S.C. §§ 951–971, or chapter 705 of title 46 of the United States Code. *See id.* § 924(c)(2).

54 *See id.* § 924(c)(1)(A).

55 *Id.* § 924(c)(1)(B).

56 *Id.* § 924(c)(1)(D).

57 *Id.* § 924(c)(1)(C)(i). The mandatory minimum penalty for a second or subsequent violation increases to life imprisonment if the firearm involved in the offense was a machinegun or destructive device, or if it was equipped with a silencer or muffler. *See id.* § 924(c)(1)(C)(ii).

58 *See Deal v. United States*, 508 U.S. 129, 134–35 (1993) (holding that a “second or subsequent [section 924(c)] conviction” does not require that the previous sentence become final prior to commission of the second offense in order for the enhanced sentence to be imposed).

59 *See* First Step Act of 2018, Pub. L. No. 115–391, § 403, 132 Stat. 5194 (effective Dec. 21, 2018). Section 403 of the First Step Act provides that the 25-year enhanced penalty applies only to offenders whose instant 924(c) violation occurs after a prior section 924(c) conviction has become final. As a result, courts are not permitted to “stack” multiple 25-year sentences pursuant to section 924(c)(1)(C) at one sentencing.

60 USSG §2K2.4(b).

61 *Id.* §5G1.2(b) (Sentencing on Multiple Counts of Conviction).

62 *Id.* §5G1.2(a)–(b); *see also id.* §3D1.1(b)(1) (Procedure for Determining Offense Level on Multiple Counts).

63 Offenders who received probation with a condition of confinement are analyzed together with offenders who received probation without such a condition. This decision was made because the vast majority of offenders who received probation with a condition of confinement served that period of confinement in home detention or a halfway house rather than in a jail or prison. Therefore, for ease of analysis and presentation, recidivism rates will be presented for the two larger groups of offenders: (1) offenders who received a probationary sentence, regardless of whether it had a condition of confinement, and (2) offenders who received a sentence of imprisonment, regardless of whether it was a “split” sentence or a sentence of imprisonment only.

64 In general, the Commission followed a ranking scheme used by the Bureau of Justice Statistics in prior recidivism research. *See* MATTHEW R. DUROSE ET AL., BUREAU OF JUSTICE STATISTICS, U.S. DEPT. OF JUSTICE, RECIDIVISM OF PRISONERS RELEASED IN 30 STATES IN 2005: PATTERNS FROM 2005 TO 2010 (2014), <http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>. The primary modification made by the Commission for this project was to increase the relative seriousness of drug trafficking offenses from their position in the original ranking, which correspondingly decreased the relative seriousness of property offenses.

65 Because the analysis focused on only the single most serious offense, an arrest for a more serious offense (such as assault or drug trafficking) is reported in lieu of any less serious offenses, such as drug possession. Accordingly, the data should not be interpreted to represent the overall frequency of the listed offenses among recidivism events.

66 See USSG Ch.4, Pt.A, intro. comment. As the *Guidelines Manual* explains, in order “to protect the public from further crimes of the particular offender, the likelihood of recidivism and future criminal behavior must be considered.” *Id.*

67 See RECIDIVISM OVERVIEW REPORT, *supra* note 2, at 18.

68 See, e.g., MEASURING RECIDIVISM REPORT, *supra* note 7.

69 See RECIDIVISM AMONG FEDERAL VIOLENT OFFENDERS, *supra* note 9, at 16.

70 The analyses in this chapter are limited to offenders for whom §2K2.1 produced the highest offense level (*i.e.*, the primary guideline).

71 See CAREER OFFENDER REPORT, *supra* note 48, at 38–42.

72 See RECIDIVISM AMONG FEDERAL VIOLENT OFFENDERS, *supra* note 9, at 3.

73 Section 924(c) offenders with a violent prior arrest were identified by reviewing criminal records provided from the FBI’s Criminal Justice Information Services. The Commission categorized each of the offenders’ criminal history events into standardized offense codes using a widely accepted standardization scheme pioneered by the Bureau of Justice Statistics and used in other Commission studies. Using the standardized classifications, the Commission next identified certain categories as “violent.” In making these classifications, the Commission identified those offenses that are generally accepted as involving some level of violence, including many of those offenses that courts have found to qualify as “crimes of violence” under section 924(c) and the career offender guideline. For purposes of this analysis, violent prior offenses include those offenses classified as one of the following: murder, attempted murder, unspecified manslaughter, non-negligent manslaughter, kidnapping, rape, statutory rape, fondling, other/unspecified sexual assault, armed robbery, unspecified robbery, unarmed robbery, sodomy, aggravated assault, assaulting a police officer, simple assault, unspecified assault, intimidation, blackmail/extortion, hit and run with bodily injury, child abuse, arson, and rioting.

Appendix

Number of Firearms Offenders Sentenced by Fiscal Year

Fiscal Year Sentenced	N	%
1990	1	0.0%
1991	14	0.4%
1992	72	2.1%
1993	67	1.9%
1994	55	1.6%
1995	65	1.9%
1996	86	2.5%
1997	115	3.3%
1998	123	3.6%
1999	143	4.2%
2000	250	7.3%
2001	314	9.1%
2002	468	13.6%
2003	740	21.5%
2004	604	17.5%
2005	328	9.5%
2006	1	0.0%
TOTAL	3,446	100.0%

SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID.
Totals may not sum to 100.0% due to rounding.

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
Firearms Offenders
Criminal History¹

		Rearrest %	Reconviction %	Reincarceration %
Criminal History Points				
0	467	39.8%	23.3%	17.6%
1	254	54.7%	31.5%	20.9%
2	181	54.7%	32.6%	27.1%
3	325	56.3%	36.0%	28.0%
4	261	64.8%	39.5%	31.8%
5	218	72.5%	50.5%	45.0%
6	290	75.2%	45.5%	39.7%
7	189	74.6%	51.9%	45.0%
8	219	80.8%	57.1%	49.3%
9	204	82.8%	59.8%	53.9%
10	139	80.6%	52.5%	50.4%
More than 10	684	85.1%	63.2%	56.3%
Criminal History Category				
CHC I	716	45.0%	26.3%	18.7%
CHC II	502	56.4%	35.5%	28.1%
CHC III	753	71.1%	45.6%	39.2%
CHC IV	600	79.8%	56.0%	49.3%
CHC V	365	81.4%	57.0%	52.9%
CHC VI	478	85.2%	63.2%	56.1%

¹ The Commission excluded cases from the analyses that were missing information.
 SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
Firearms Offenders
Sentence Imposed & Age at Release¹

		Rearrest %	Reconviction %	Reincarceration %
Length of Imprisonment				
Up to 24 Months	559	64.2%	43.5%	36.0%
24 to 59 Months	1,505	73.9%	49.6%	43.1%
60 to 119 Months	706	72.1%	50.3%	43.3%
120 Months or More	475	55.8%	34.7%	30.3%
Age at Release				
Younger than 26 Years	450	83.8%	64.9%	56.9%
26 to 30 Years	731	80.7%	57.5%	47.3%
31 to 35 Years	690	69.0%	46.8%	40.4%
36 to 40 Years	493	64.9%	42.8%	36.7%
41 to 50 Years	750	60.1%	34.8%	29.3%
Older than 50 Years	326	39.3%	18.1%	16.3%

¹ The Commission excluded cases from the analyses that were missing information.
 SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Number of Non-Firearms Offenders Sentenced by Fiscal Year

Fiscal Year Sentenced	N	%
1990	22	0.1%
1991	75	0.4%
1992	131	0.6%
1993	148	0.7%
1994	153	0.7%
1995	213	1.0%
1996	325	1.5%
1997	486	2.3%
1998	602	2.8%
1999	736	3.4%
2000	1,118	5.2%
2001	1,652	7.7%
2002	2,370	11.0%
2003	4,098	19.0%
2004	4,045	18.8%
2005	5,379	25.0%
2006	1	0.0%
TOTAL	21,554	100.0%

SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID.
Totals may not sum to 100.0% due to rounding.

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
Non-Firearms Offenders
Criminal History¹

		Rearrest %	Reconviction %	Reincarceration %
Criminal History Points				
0	9,923	29.8%	15.5%	12.0%
1	2,652	46.0%	26.5%	20.0%
2	1,049	55.9%	32.3%	23.5%
3	1,489	51.8%	28.9%	22.4%
4	1,079	58.1%	37.1%	28.8%
5	814	60.8%	37.0%	31.1%
6	973	64.2%	39.5%	33.0%
7	496	69.6%	40.9%	35.3%
8	515	70.9%	47.2%	40.6%
9	499	73.6%	49.1%	43.3%
10	320	75.6%	50.3%	44.4%
More than 10	1,675	80.2%	58.3%	52.3%
Criminal History Category				
CHC I	12,588	33.2%	17.8%	13.7%
CHC II	2,537	53.6%	30.2%	22.8%
CHC III	2,821	61.2%	38.1%	31.1%
CHC IV	1,374	72.4%	47.3%	41.1%
CHC V	747	75.9%	53.6%	47.5%
CHC VI	1,410	78.5%	55.6%	49.7%

¹ The Commission excluded cases from the analyses that were missing information.
 SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
Non-Firearms Offenders
Sentence Imposed & Age at Release¹

		Rearrest %	Reconviction %	Reincarceration %
Length of Imprisonment				
Up to 24 Months	4,738	46.2%	27.9%	23.6%
24 to 59 Months	6,467	49.3%	30.5%	25.2%
60 to 119 Months	3,844	52.4%	31.3%	25.4%
120 Months or More	2,003	50.4%	29.6%	25.5%
Age at Release				
Younger than 26 Years	2,814	64.1%	43.3%	35.2%
26 to 30 Years	3,500	58.8%	36.3%	29.4%
31 to 35 Years	3,840	52.8%	31.3%	24.7%
36 to 40 Years	3,237	46.3%	27.1%	21.5%
41 to 50 Years	4,728	39.6%	22.1%	18.3%
Older than 50 Years	3,396	20.6%	9.5%	8.5%

¹ The Commission excluded cases from the analyses that were missing information.
SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Number of Prohibited Class Offenders Sentenced by Fiscal Year

Fiscal Year Sentenced	N	%
1990	0	0.0%
1991	0	0.0%
1992	4	0.2%
1993	6	0.3%
1994	4	0.2%
1995	9	0.4%
1996	11	0.5%
1997	18	0.8%
1998	34	1.5%
1999	49	2.2%
2000	140	6.3%
2001	208	9.3%
2002	355	15.9%
2003	622	27.9%
2004	502	22.5%
2005	269	12.1%
2006	0	0.0%
TOTAL	2,231	100.0%

SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID.
Totals may not sum to 100.0% due to rounding.

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
Prohibited Class Offenders
Criminal History¹

		Rearrest %	Reconviction %	Reincarceration %
Criminal History Points				
0	158	44.9%	27.2%	20.9%
1	124	61.3%	37.1%	25.0%
2	108	57.4%	38.0%	33.3%
3	204	59.8%	34.8%	25.0%
4	172	63.4%	38.4%	33.7%
5	172	75.6%	54.1%	48.8%
6	207	76.3%	47.3%	40.6%
7	140	81.4%	57.1%	48.6%
8	170	82.4%	58.2%	51.2%
9	151	83.4%	60.3%	54.3%
10	108	81.5%	51.9%	50.9%
More than 10	505	88.7%	65.7%	58.8%
Criminal History Category				
CHC I	283	51.9%	31.5%	22.6%
CHC II	311	59.2%	36.0%	28.0%
CHC III	553	72.2%	46.8%	41.2%
CHC IV	465	82.2%	58.5%	51.4%
CHC V	294	84.4%	58.5%	55.1%
CHC VI	320	90.6%	68.1%	60.0%

¹ The Commission excluded cases from the analyses that were missing information.
SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
Prohibited Class Offenders
Sentence Imposed & Age at Release¹

		Rearrest %	Reconviction %	Reincarceration %
Length of Imprisonment				
Up to 24 Months	486	66.9%	45.1%	38.1%
24 to 59 Months	1,239	77.1%	52.3%	46.2%
60 to 119 Months	322	84.2%	59.9%	53.1%
120 Months or More	31	87.1%	58.1%	51.6%
Age at Release				
Younger than 26 Years	339	87.6%	70.2%	62.2%
26 to 30 Years	496	85.9%	62.3%	51.6%
31 to 35 Years	436	75.0%	50.9%	45.4%
36 to 40 Years	292	69.9%	44.9%	37.7%
41 to 50 Years	476	66.0%	38.5%	33.8%
Older than 50 Years	187	44.9%	20.9%	19.3%

¹ The Commission excluded cases from the analyses that were missing information.

SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Number of Prohibited Weapon Offenders Sentenced by Fiscal Year

Fiscal Year Sentenced	N	%
1990	0	0.0%
1991	0	0.0%
1992	0	0.0%
1993	1	0.3%
1994	1	0.3%
1995	2	0.6%
1996	4	1.1%
1997	7	2.0%
1998	9	2.5%
1999	6	1.7%
2000	16	4.5%
2001	40	11.2%
2002	62	17.3%
2003	80	22.4%
2004	82	22.9%
2005	48	13.4%
2006	0	0.0%
TOTAL	358	100.0%

SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID.
Totals may not sum to 100.0% due to rounding.

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
Prohibited Weapon Offenders
Criminal History¹

		Rearrest %	Reconviction %	Reincarceration %
Criminal History Points				
0	108	33.3%	14.8%	13.0%
1	55	61.8%	36.4%	23.6%
2	21	76.2%	42.9%	23.8%
3	38	65.8%	52.6%	39.5%
4	29	75.9%	55.2%	31.0%
5	8	50.0%	25.0%	25.0%
6	19	84.2%	36.8%	36.8%
7	13	84.6%	46.2%	53.9%
8	15	73.3%	40.0%	26.7%
9	15	80.0%	53.3%	46.7%
10	4	75.0%	75.0%	75.0%
More than 10	32	87.5%	78.1%	75.0%
Criminal History Category				
CHC I	163	42.9%	22.1%	16.6%
CHC II	60	70.0%	50.0%	35.0%
CHC III	55	74.6%	43.6%	30.9%
CHC IV	43	79.1%	46.5%	41.9%
CHC V	19	84.2%	68.4%	68.4%
CHC VI	17	88.2%	82.4%	76.5%

¹ The Commission excluded cases from the analyses that were missing information.
 SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
Prohibited Weapon Offenders
Sentence Imposed & Age at Release

		Rearrest %	Reconviction %	Reincarceration %
Length of Imprisonment¹				
Up to 24 Months	61	49.2%	32.8%	23.0%
24 to 59 Months	190	59.5%	35.3%	26.3%
60 to 119 Months	57	80.7%	56.1%	54.4%
120 Months or More	13	100%	76.9%	76.9%
Age at Release				
Younger than 26 Years	65	76.9%	49.2%	38.5%
26 to 30 Years	61	68.9%	47.5%	39.3%
31 to 35 Years	59	69.5%	47.5%	39.0%
36 to 40 Years	55	63.6%	40.0%	34.6%
41 to 50 Years	76	48.7%	30.3%	21.1%
Older than 50 Years	41	34.2%	9.8%	7.3%

¹ The Commission excluded cases from the analyses that were missing information.
 SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Number of 18 U.S.C § 924(c) Offenders Sentenced by Fiscal Year

Fiscal Year Sentenced	N	%
1990	1	0.2%
1991	13	2.0%
1992	47	7.4%
1993	40	6.3%
1994	33	5.2%
1995	42	6.6%
1996	61	9.6%
1997	74	11.6%
1998	71	11.1%
1999	68	10.7%
2000	73	11.4%
2001	38	6.0%
2002	34	5.3%
2003	22	3.5%
2004	13	2.0%
2005	8	1.3%
2006	0	0.0%
TOTAL	638	100.0%

SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID.
Totals may not sum to 100.0% due to rounding.

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
18 U.S.C § 924(c) Offenders
Criminal History¹

		Rearrest %	Reconviction %	Reincarceration %
Criminal History Points				
0	184	39.1%	24.5%	17.4%
1	67	34.3%	14.9%	9.0%
2	49	38.8%	16.3%	14.3%
3	63	46.0%	31.8%	30.2%
4	49	57.1%	34.7%	26.5%
5	31	64.5%	41.9%	32.3%
6	48	72.9%	45.8%	37.5%
7	25	40.0%	24.0%	24.0%
8	21	85.7%	71.4%	57.1%
9	26	80.8%	65.4%	61.5%
10	18	83.3%	55.6%	44.4%
More than 10	56	76.8%	53.6%	46.4%
Criminal History Category				
CHC I	245	37.6%	22.0%	15.1%
CHC II	109	44.0%	26.6%	24.8%
CHC III	123	65.0%	41.5%	33.3%
CHC IV	67	67.2%	50.8%	46.3%
CHC V	33	72.7%	48.5%	39.4%
CHC VI	36	80.6%	55.6%	50.0%

¹ The Commission excluded cases from the analyses that were missing information.
 SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
18 U.S.C § 924(c) Offenders
Sentence Imposed & Age at Release¹

		Rearrest %	Reconviction %	Reincarceration %
Length of Imprisonment				
Up to 24 Months	6	33.3%	33.3%	16.7%
24 to 59 Months	43	55.8%	32.6%	25.6%
60 to 119 Months	264	58.0%	39.8%	31.8%
120 Months or More	317	47.3%	28.1%	23.7%
Age at Release				
Younger than 26 Years	39	61.5%	43.6%	38.5%
26 to 30 Years	155	69.7%	45.2%	35.5%
31 to 35 Years	158	51.9%	34.8%	27.2%
36 to 40 Years	108	50.0%	34.3%	29.6%
41 to 50 Years	121	39.7%	21.5%	17.4%
Older than 50 Years	57	29.8%	14.0%	12.3%

¹ The Commission excluded cases from the analyses that were missing information.
 SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Number of All Other Firearms Offenders Sentenced by Fiscal Year

Fiscal Year Sentenced	N	%
1990	0	0.0%
1991	1	0.0%
1992	25	0.9%
1993	27	1.0%
1994	22	0.8%
1995	23	0.8%
1996	25	0.9%
1997	41	1.5%
1998	52	1.9%
1999	75	2.7%
2000	177	6.3%
2001	276	9.8%
2002	434	15.5%
2003	718	25.6%
2004	591	21.1%
2005	320	11.4%
2006	1	0.0%
TOTAL	2,808	100.0%

SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID.
Totals may not sum to 100.0% due to rounding.

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
All Other Firearms Offenders
Criminal History¹

		Rearrest %	Reconviction %	Reincarceration %
Criminal History Points				
0	283	40.3%	22.6%	17.7%
1	187	62.0%	37.4%	25.1%
2	132	60.6%	38.6%	31.8%
3	262	58.8%	37.0%	27.5%
4	212	66.5%	40.6%	33.0%
5	187	73.8%	51.9%	47.1%
6	242	75.6%	45.5%	40.1%
7	164	79.9%	56.1%	48.2%
8	198	80.3%	55.6%	48.5%
9	178	83.2%	59.0%	52.8%
10	121	80.2%	52.1%	51.2%
More than 10	628	85.8%	64.0%	57.2%
Criminal History Category				
CHC I	471	48.8%	28.5%	20.6%
CHC II	393	59.8%	37.9%	29.0%
CHC III	630	72.2%	46.4%	40.3%
CHC IV	533	81.4%	56.7%	49.7%
CHC V	332	82.2%	57.8%	54.2%
CHC VI	442	85.5%	63.8%	56.6%

¹ The Commission excluded cases from the analyses that were missing information.

SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

Rearrest, Reconviction, and Reincarceration Rates Across Selected Variables
All Other Firearms Offenders
Sentence Imposed & Age at Release¹

		Rearrest %	Reconviction %	Reincarceration %
Length of Imprisonment				
Up to 24 Months	553	64.6%	43.6%	36.2%
24 to 59 Months	1,462	74.4%	50.1%	43.6%
60 to 119 Months	442	80.5%	56.6%	50.2%
120 Months or More	158	72.8%	48.1%	43.7%
Age at Release				
Younger than 26 Years	411	85.9%	66.9%	58.6%
26 to 30 Years	576	83.7%	60.8%	50.2%
31 to 35 Years	532	74.1%	50.4%	44.4%
36 to 40 Years	385	69.1%	45.2%	38.7%
41 to 50 Years	629	64.1%	37.4%	31.6%
Older than 50 Years	269	41.3%	19.0%	17.1%

¹ The Commission excluded cases from the analyses that were missing information.
SOURCE: U.S. Sentencing Commission 2005 Recidivism Cohort Datafile, FIREARMS_RECID

