
SAMPLE EXHIBIT — FEDERAL SENTENCING INTELLIGENCE

The JSIN Rebuttal

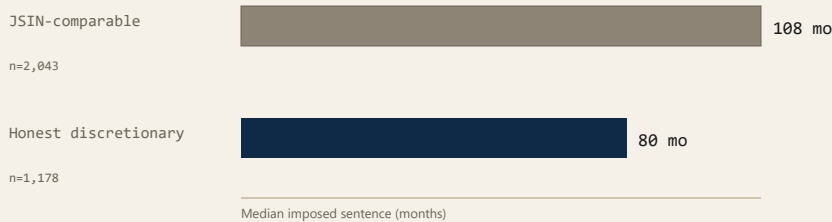
JSIN — the judiciary's own Judicial Sentencing Information tool — reports an average that mechanically excludes the lightest real outcomes (probation-only sentences and §5K1.1 cooperators) while retaining the non-discretionary mandatory-minimum sentences. The displayed number runs above what judges actually impose when discretion is in play. This sample re-runs JSIN's own filter honestly against the USSC public data and shows the gap.

Cohorts shown are national, offense-level × criminal-history cells. FY2013–FY2024 datafile window; codebook FY99-FY25-codebook-MAND1-MAND2. Aggregate USSC public-records data only — no client-identifying information.

LEAD COHORT — OL 32 / CHC I (NATIONAL)

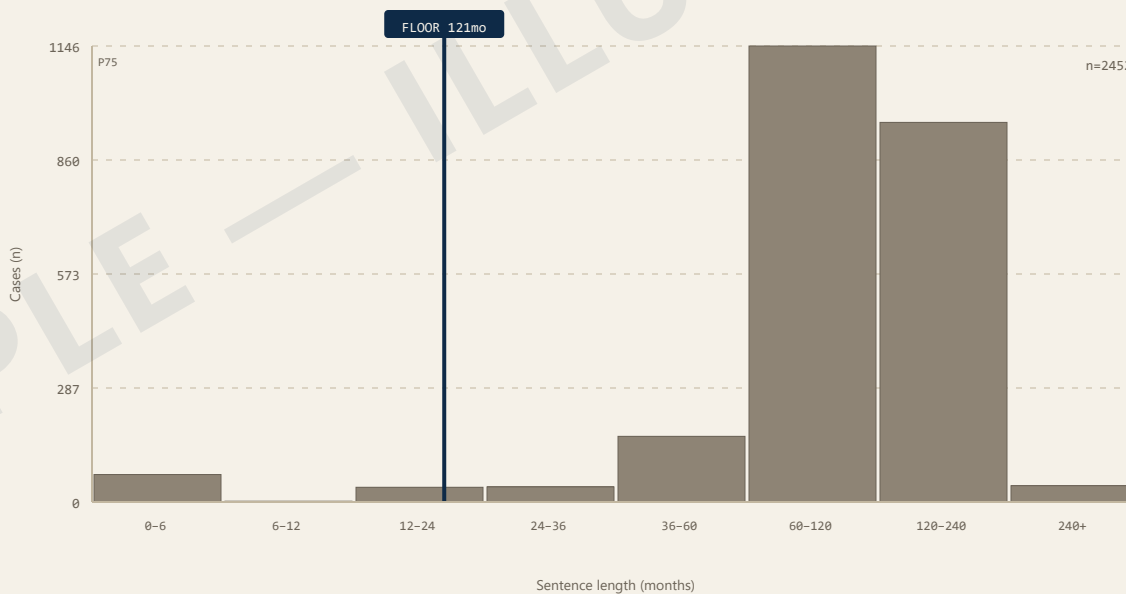
Drug-trafficking band with a heavy mandatory-minimum floor (the classic §841(b)(1)(A) 10-year exposure). JSIN keeps the mandatory-minimum sentences and deletes the probation and cooperator outcomes — the documented upward bias.

JSIN-VS-HONEST REBUTTAL — OL 32 / CHC I (NATIONAL)



DELTA — the JSIN-comparable median runs **28 months** above the honest discretionary median (108 mo vs 80 mo). JSIN reaches the higher figure by keeping the mandatory-minimum sentences in the pool while deleting the probation-only and §5K1.1 cooperator outcomes — the lightest real results. The honest column re-includes those and drops the non-discretionary mandatory-minimum cases.

Cohort n=2,452. Means: JSIN 104.5 mo / honest 81.4 mo. Source: USSC public datafiles (FY99-FY25-codebook-MAND1-MAND2), <https://www.ussc.gov/research/datafiles/commission-datafiles>.



Distribution of imposed sentence lengths for matching cases (n=2,452). Oxford-blue line = guideline floor (121 months). Source: USSC public datafiles, [ussc.gov/research/datafiles](https://www.ussc.gov/research/datafiles).

GUIDELINE-FLOOR PLACEMENT — OL 32 / CHC I (NATIONAL)

83%

of imposed sentences fell at or below the guideline floor (121 mo)

68.1%

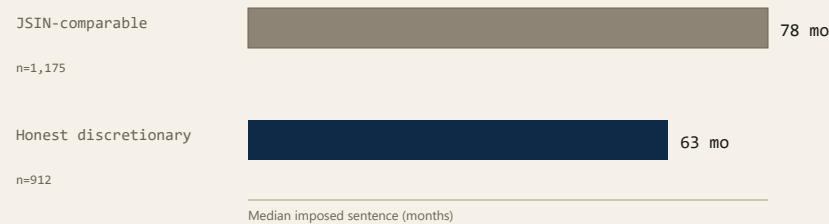
sentenced below the guideline range (downward variance or departure)

READ — the guideline floor sits at the 83rd percentile of what judges actually imposed: roughly 83% of this cohort received a sentence at or below the floor the guidelines set. The advisory range is the ceiling of the real distribution far more often than its center.

Cohort n=2,452. Source: USSC public datafiles (FY99-FY25-codebook-MAND1-MAND2), <https://www.ussc.gov/research/datafiles/commission-datafiles>.

COHORT — OL 26 / CHC III (NATIONAL)

Higher criminal history with real mandatory-minimum exposure. The rebuttal holds with priors present — the JSIN-vs-honest gap is not an artifact of the cleanest CHC I cell.

JSIN-VS-HONEST REBUTTAL — OL 26 / CHC III (NATIONAL)

DELTA — the JSIN-comparable median runs **15 months** above the honest discretionary median (78 mo vs 63 mo). JSIN reaches the higher figure by keeping the mandatory-minimum sentences in the pool while deleting the probation-only and §5K1.1 cooperator outcomes — the lightest real results. The honest column re-includes those and drops the non-discretionary mandatory-minimum cases.

Cohort n=1,308. Means: JSIN 89.5 mo / honest 67 mo. Source: USSC public datafiles (FY99-FY25-codebook-MAND1-MAND2), <https://www.ussc.gov/research/datafiles/commission-datafiles>.

GUIDELINE-FLOOR PLACEMENT — OL 26 / CHC III (NATIONAL)**58%**

of imposed sentences fell at or below the guideline floor (78 mo)

53.4%

sentenced below the guideline range (downward variance or departure)

READ — the guideline floor sits at the 58th percentile of what judges actually imposed: roughly 58% of this cohort received a sentence at or below the floor the guidelines set. The advisory range is the ceiling of the real distribution far more often than its center.

Cohort n=1,308. Source: USSC public datafiles (FY99-FY25-codebook-MAND1-MAND2), <https://www.ussc.gov/research/datafiles/commission-datafiles>.

COHORT — OL 8 / CHC I (NATIONAL)

Low-offense band where the honest median is PROBATION (0 months). JSIN's exclusion of non-imprisonment sentences is most distortive here — it reports a positive prison median for a population the courts overwhelmingly did not imprison.

JSIN-VS-HONEST REBUTTAL — OL 8 / CHC I (NATIONAL)

DELTA — the JSIN-comparable median runs **6 months** above the honest discretionary median (6 mo vs 0 mo). JSIN reaches the higher figure by keeping the mandatory-minimum sentences in the pool while deleting the probation-only and §5K1.1 cooperator outcomes — the lightest real results. The honest column re-includes those and drops the non-discretionary mandatory-minimum cases.

Cohort n=10,681. Means: JSIN 9.1 mo / honest 0.8 mo. Source: USSC public datafiles (FY99-FY25-codebook-MAND1-MAND2), <https://www.ussc.gov/research/datafiles/commission-datafiles>.

GUIDELINE-FLOOR PLACEMENT — OL 8 / CHC I (NATIONAL)**88%**

of imposed sentences fell at or below the guideline floor (0 mo)

0.4%

sentenced below the guideline range (downward variance or departure)

READ — the guideline floor sits at the 88th percentile of what judges actually imposed: roughly 88% of this cohort received a sentence at or below the floor the guidelines set. The advisory range is the ceiling of the real distribution far more often than its center.

Cohort n=10,681. Source: USSC public datafiles (FY99-FY25-codebook-MAND1-MAND2), <https://www.ussc.gov/research/datafiles/commission-datafiles>.

METHODOLOGY & DATA SOURCES

This sample exhibit re-runs the judiciary's own JSIN filter against the United States Sentencing Commission public datafiles and contrasts it with an honest filter over the same cohorts. Each cohort is a national, offense-level × criminal-history cell. The sections below document the data source, the matching logic, the two filter definitions, and the limits that govern these figures.

1. Data Source

Every figure in this exhibit is drawn from the **United States Sentencing Commission (USSC) public datafiles**, published at ussc.gov/research/datafiles. The USSC publishes anonymized, case-level sentencing records for federal cases sentenced under the Sentencing Reform Act of 1984.

This exhibit uses the consolidated datafile window **FY2013–FY2024**, read against the USSC public-release codebook for that vintage (FY99-FY25-codebook-MAND1-MAND2). The USSC anonymizes its case-level microdata by design — there is no per-docket URL on ussc.gov; verification is at the datafile level. The datafile index used is <https://www.ussc.gov/research/datafiles/commission-datafiles>.

The USSC data is released under [28 U.S.C. § 994\(w\)](https://www.ussc.gov/research/datafiles/commission-datafiles) and is public record. No proprietary data sources are used.

2. Cohort Matching

This is a national-cohort exhibit. Each cohort is matched on **two fields only**, drawn directly from the USSC datafile:

- Final offense level** — the final adjusted offense level after all enhancements, reductions, and Chapter 4 adjustments, as recorded in USSC variable XFOLSOR.
- Criminal history category** — the category determined by the sentencing court, as recorded in USSC variable XCRHISSR.

No charge, statute, or offense-type matching is performed. Unlike BenchRecon's case-specific paid brief — which additionally matches on the charge cluster / primary statute of conviction — this sample matches only on offense level and criminal history category, so the cohorts span all offense types that landed in the same guidelines cell.

The cohorts shown in this exhibit are:

- OL 32 / CHC I** — offense level 32, Category I (0–1 criminal history points). National cohort, n=2,452.
- OL 26 / CHC III** — offense level 26, Category III (4–6 criminal history points). National cohort, n=1,308.
- OL 8 / CHC I** — offense level 8, Category I (0–1 criminal history points). National cohort, n=10,681.

Each cohort *N* above is reported on its own. These are separate national cells; they are not pooled into a single combined figure.

3. JSIN Filter vs. Honest Filter

The exhibit applies two filters to each cohort and reports both. Imposed prison length is read from USSC variable TOTPRISN (total prison months, where a non-imprisonment sentence is 0 months).

- JSIN filter** (the judiciary's convention) — *excludes* probation-only sentences and §5K1.1 substantial-assistance cooperators, while *retaining* mandatory-minimum cases. Dropping the lightest real outcomes while keeping the non-

discretionary floor cases is the documented upward bias this exhibit measures.

- **Honest filter** — *includes* probation-only sentences (the real 0-month outcomes) and §5K1.1 cooperators, and *excludes* cases where a mandatory minimum was actually imposed (USSC MAND1 or MAND2 = 5), which are non-discretionary and would mask the discretionary distribution.

The percentile placement reports the share of imposed sentences at or below the guideline floor ($TOTPRISN \leq GLMIN$). The below-range rate reports the share sentenced below the guideline range — a downward variance or departure.

4. Limitations

- **Suppression floor.** Any cohort — or either filtered subset of a cohort — with fewer than 10 cases is suppressed and reported as “insufficient data,” never as a number.
- **Post-Gall doctrinal floor.** The Supreme Court's decision in *Gall v. United States*, 552 U.S. 38 (2007), substantially changed how courts apply the advisory Guidelines. The analysis is bounded to the post-Gall regime (FY2008 forward) to avoid doctrinal confounding.
- **Two-field scope.** These cohorts are matched on offense level and criminal history category only. They do not account for the specific statute of conviction, judge-specific tendencies, district-specific patterns, or case-specific factors outside the guidelines calculation.
- **Anonymization.** USSC records are anonymized by design. Verification is at the datafile level, not per docket. Docket-level lookup requires independent PACER access.
- **Not legal advice.** This is a public-records research exhibit prepared for use by licensed counsel. The data is what the Sentencing Commission collected; the determination of what it means for any specific case is a legal judgment that belongs to counsel, who verifies the datafile citation before relying on it.

Source-citation summary: Every figure in this exhibit cites the USSC public datafile vintage from which it was drawn. The USSC anonymizes case-level microdata, so verification is at the datafile level — not per docket.

United States Sentencing Commission · Public Datafiles · ussc.gov/research/datafiles

4

4 source citations in this brief — each tied to the USSC public datafile vintage from which the data was drawn.

Federal Sentencing Intelligence — Sample · Data: United States Sentencing Commission public datafiles · ussc.gov/research/datafiles

BENCHRECON

USSC PUBLIC RECORDS

SAMPLE — ILLUSTRATIVE DATA
