

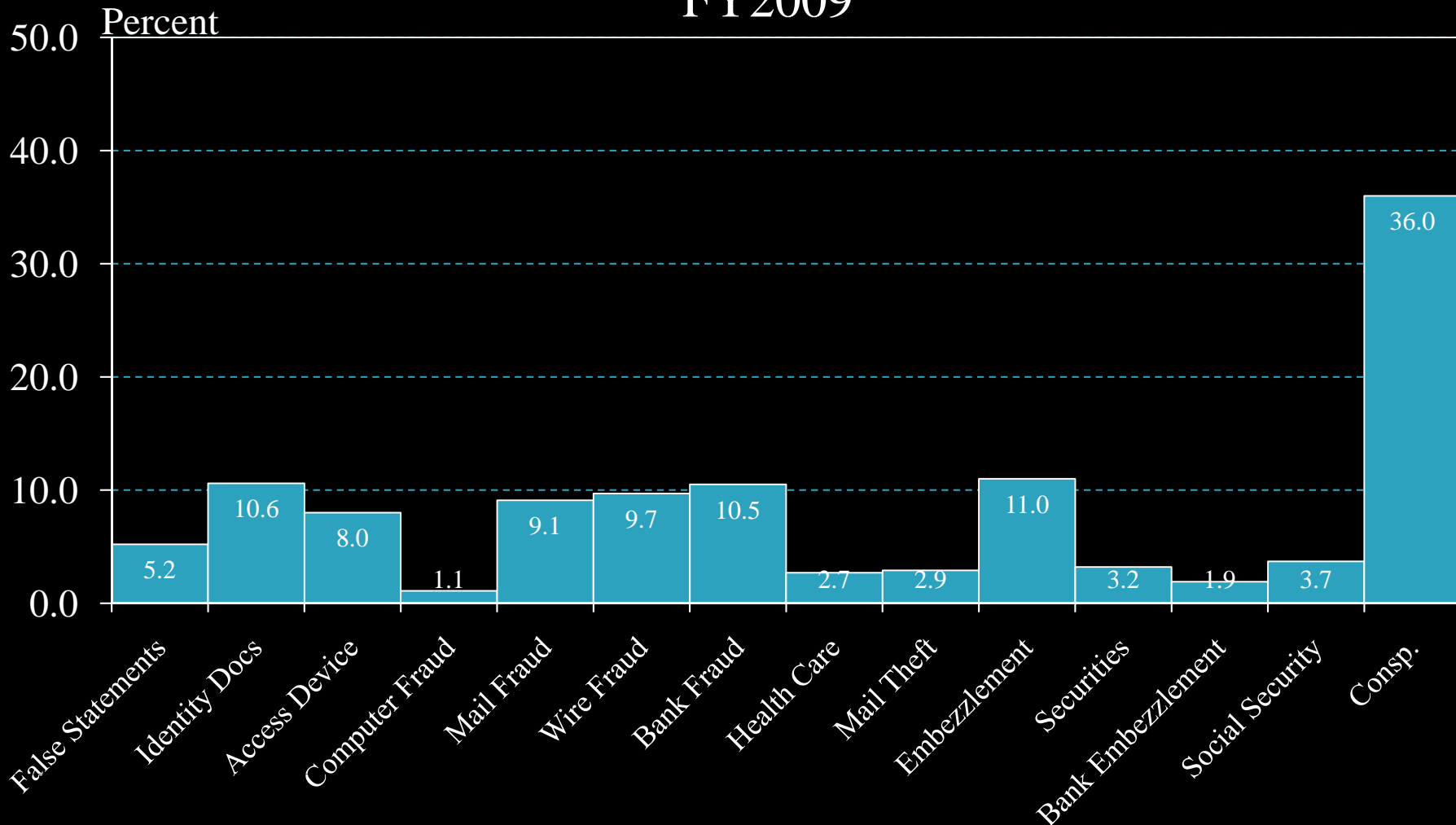
Fraud Guideline (§2B1.1)

Sentences Post-Booker



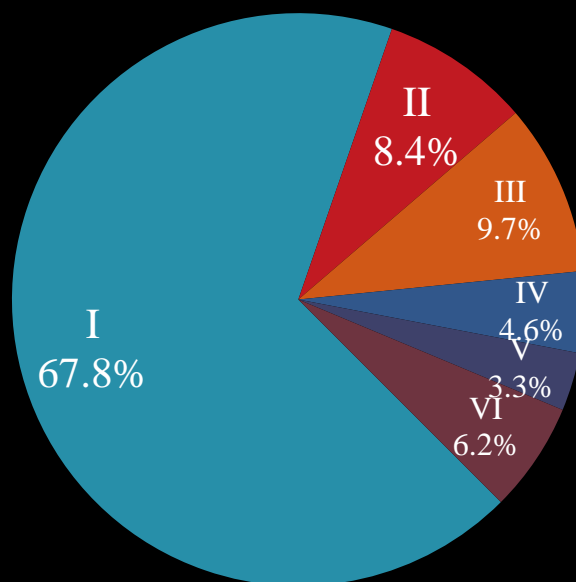
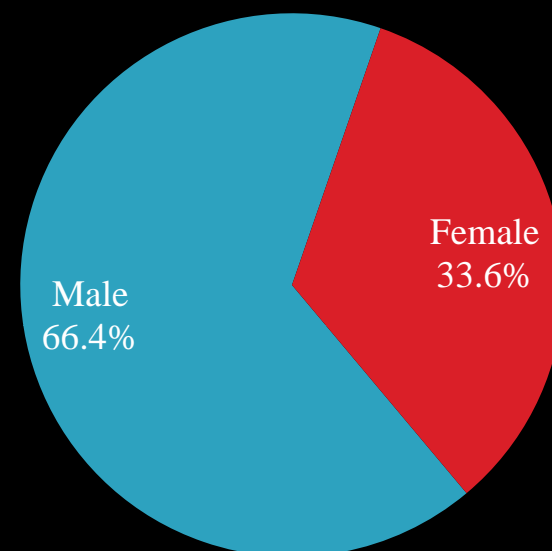
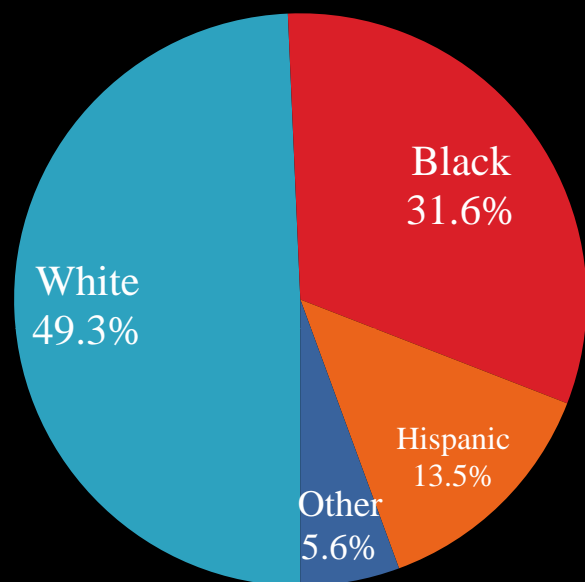
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- *Greg D. Andres, Esq.*
Acting Deputy Assistant Attorney General
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Statutes of Conviction for Offenders Sentenced Under the Fraud Guideline FY2009



SOURCE: U.S. Sentencing Commission FY2009 Datafile, USSCFY09. Of the 81,372 cases sentenced in FY2009, 10,318 were excluded due to incomplete sentencing guideline application information. An additional 63,265 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, seven were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001. Conspiracy includes 18 U.S. C. §§ 2, 371, and 1349.

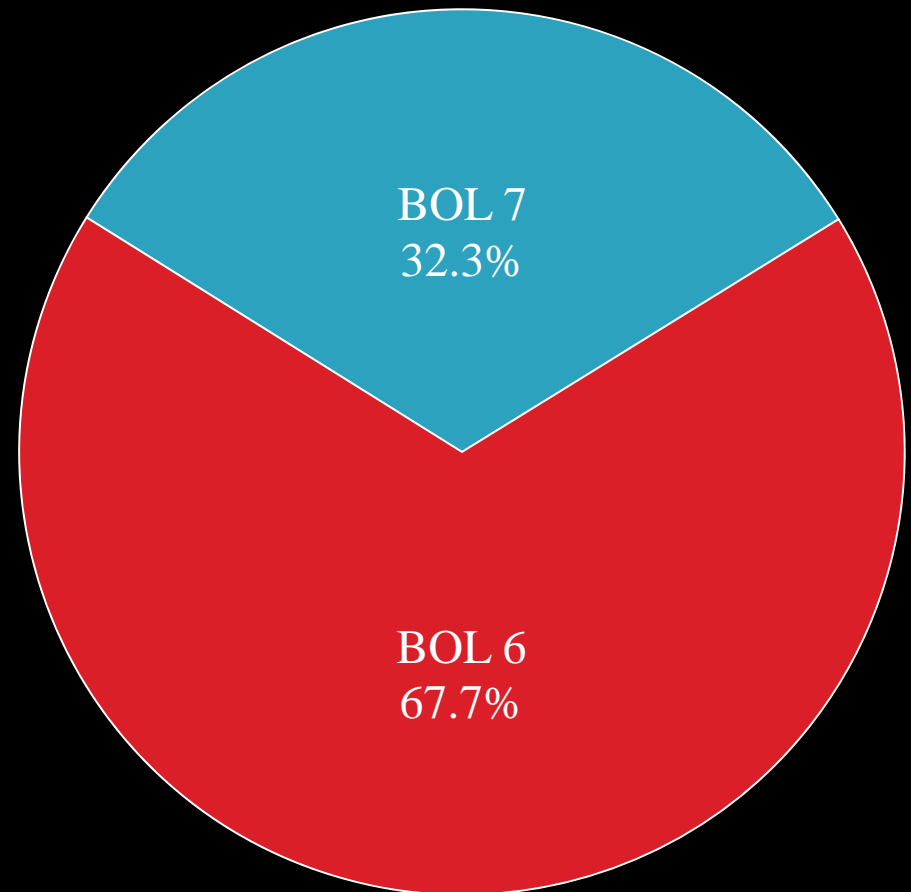
Characteristics of Offenders Sentenced Under the Fraud Guideline FY2009



SOURCE: U.S. Sentencing Commission FY2009 Datafile, USSCFY09. Of the 81,372 cases sentenced in FY2009, 10,318 were excluded due to incomplete sentencing guideline application information. An additional 63,265 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, seven were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001. Two cases missing information on gender were excluded from that analysis; 38 cases missing information on race were excluded from that analysis.

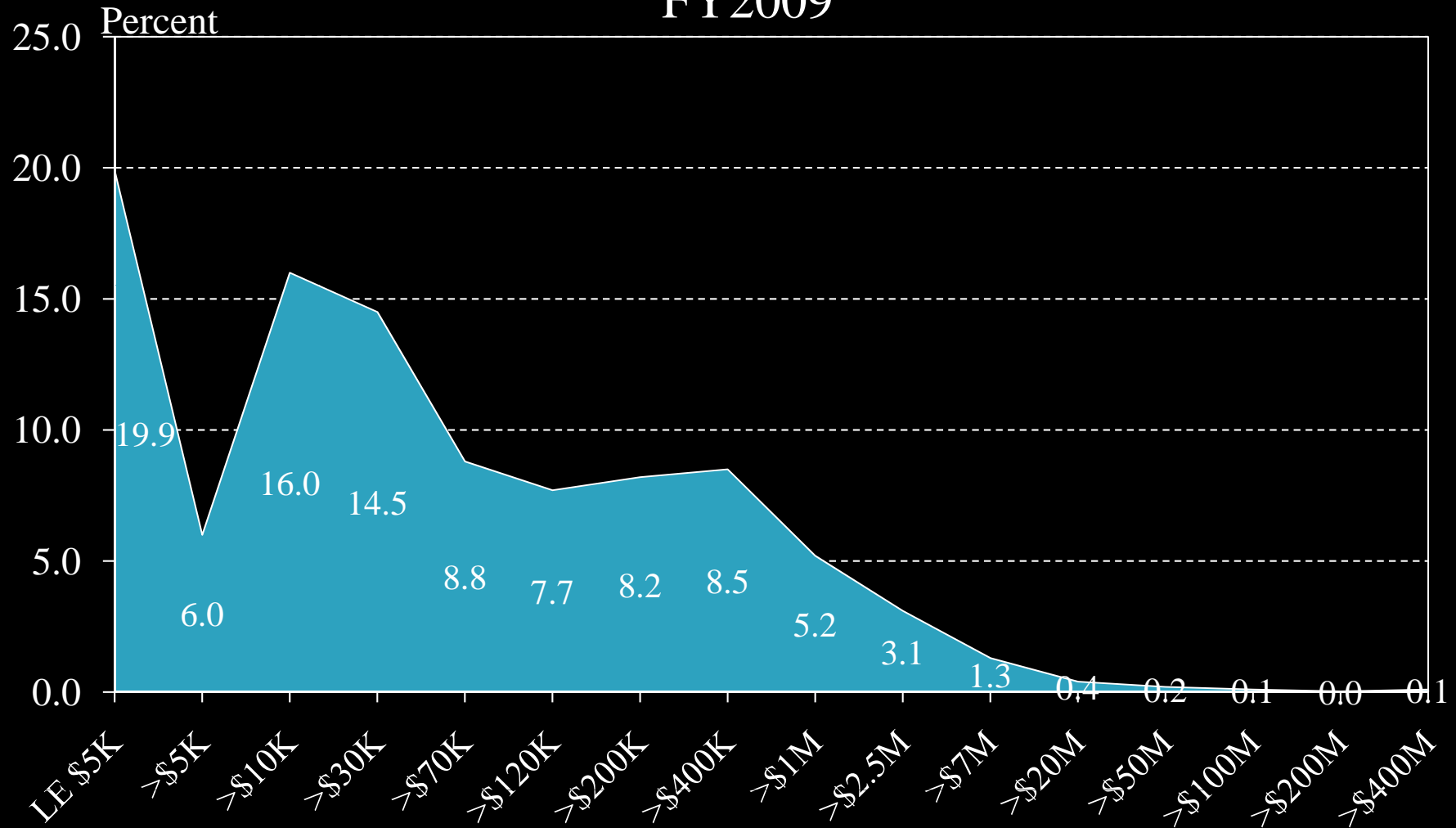
Base Offense Level for Offenders Sentenced Under the Fraud Guideline FY2009

- (1) **7**, if (A) the defendant was convicted of an offense referenced to this guideline; and (B) that offense of conviction has a statutory maximum term of imprisonment of 20 years or more; or
- (2) **6**, otherwise.



SOURCE: U.S. Sentencing Commission FY2009 Datafile, USSCFY09. Of the 81,372 cases sentenced in FY2009, 10,318 were excluded due to incomplete sentencing guideline application information. An additional 63,265 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, seven were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001.

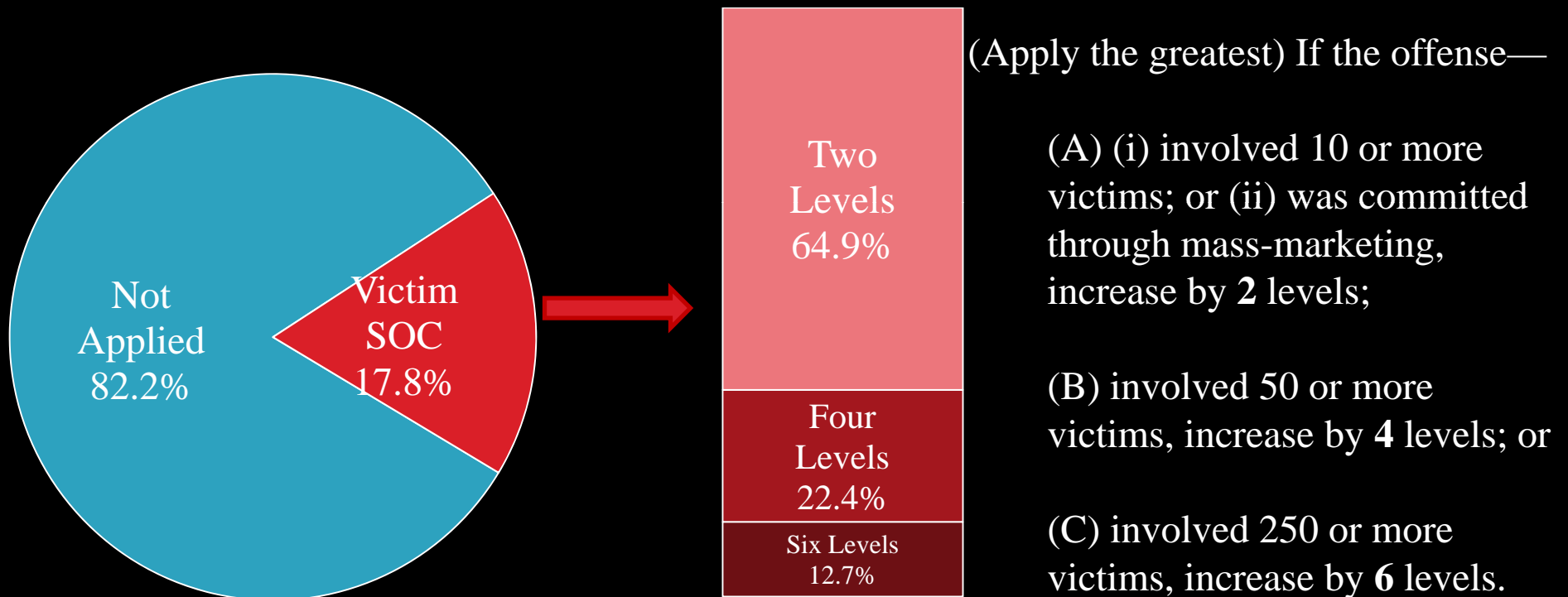
Loss Table Increases: Offenders Sentenced Under the Fraud Guideline (§2B1.1(b)(1)) FY2009



SOURCE: U.S. Sentencing Commission FY2009 Datafile, USSCFY09. Of the 81,372 cases sentenced in FY2009, 10,318 were excluded due to incomplete sentencing guideline application information. An additional 63,265 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, seven were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001.

Victim SOC: Offenders Sentenced Under the Fraud Guideline (§2B1.1(b)(2))

FY2009



SOURCE: U.S. Sentencing Commission FY2009 Datafile, USSCFY09. Of the 81,372 cases sentenced in FY2009, 10,318 were excluded due to incomplete sentencing guideline application information. An additional 63,265 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, seven were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001.

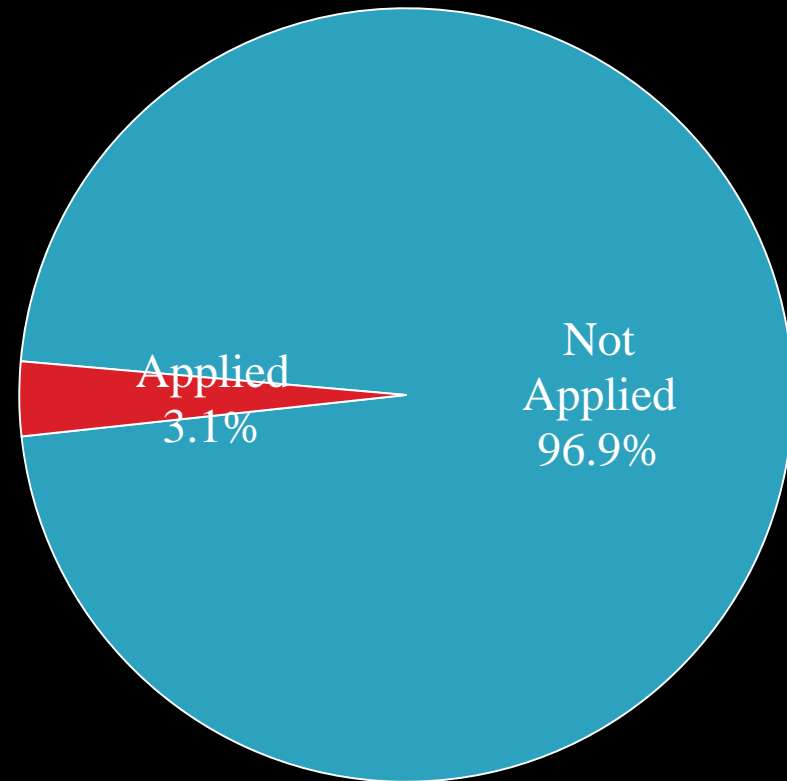
Misrepresentation/Violation of Order SOC: Offenders Sentenced Under the Fraud Guideline (§2B1.1(b)(8))

FY2009

If the offense involved

- (A) A misrepresentation that the defendant was acting on behalf of a charitable, educational, religious, or political organization, or a govt agency;
- (B) A misrepresentation or other fraudulent action during the course of a bankruptcy proceeding;
- (C) A violation of any prior, specific judicial or administrative order, (etc.)
- (D) A misrepresentation to a consumer in connection with obtaining, providing, or furnishing financial assistance for an institution of higher education,

Increase by **2** levels. If the resulting offense level is less than level **10**, increase to level **10**.



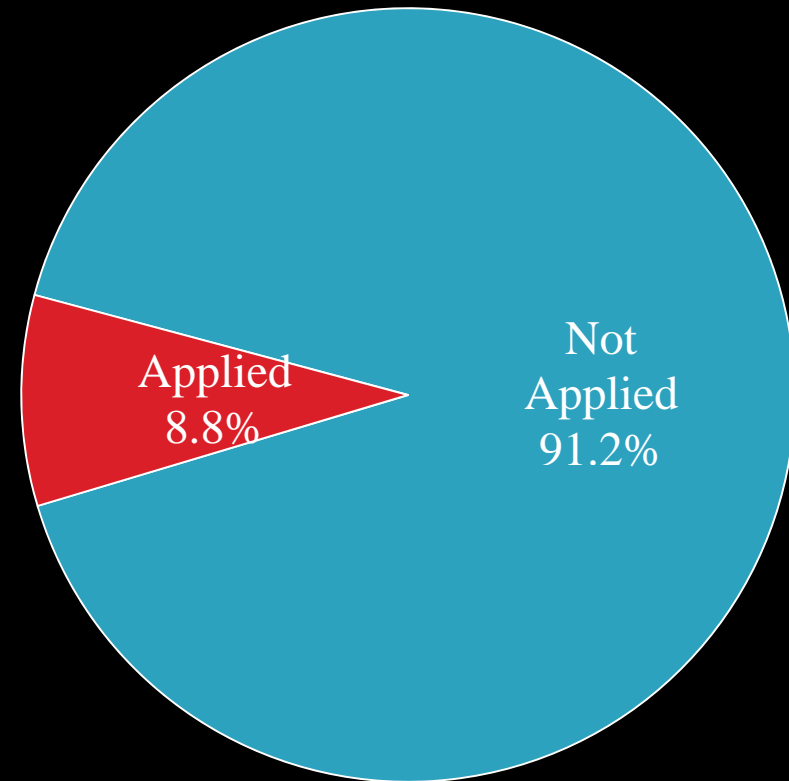
SOURCE: U.S. Sentencing Commission FY2009 Datafile, USSCFY09. Of the 81,372 cases sentenced in FY2009, 10,318 were excluded due to incomplete sentencing guideline application information. An additional 63,265 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, seven were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001.

Relocation/Sophisticated Means SOC: Offenders Sentenced Under the Fraud Guideline (§2B1.1(b)(9))

FY2009

If

- (A) The defendant relocated, or participated in relocating, a fraudulent scheme to another jurisdiction to evade law enforcement or regulatory officials;
 - (B) A substantial part of a fraudulent scheme was committed from outside the United States; or
 - (C) The offense otherwise involved sophisticated means,
- Increase by **2** levels. If the resulting offense level is less than level **12**, increase to level **12**.



SOURCE: U.S. Sentencing Commission FY2009 Datafile, USSCFY09. Of the 81,372 cases sentenced in FY2009, 10,318 were excluded due to incomplete sentencing guideline application information. An additional 63,265 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, seven were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001.

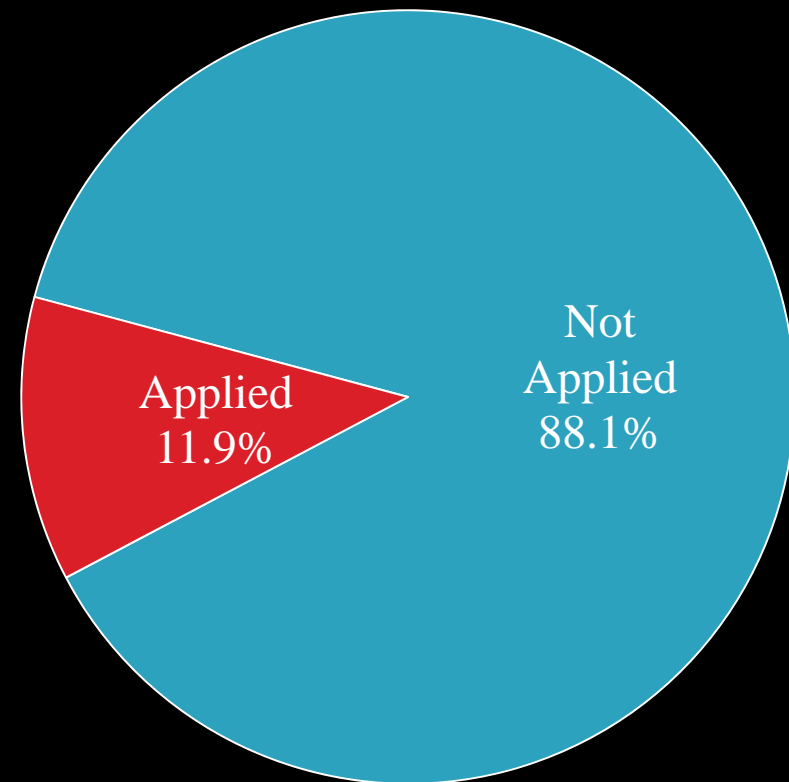
Identity Theft SOC: Offenders Sentenced Under the Fraud Guideline (§2B1.1(b)(10))

FY2009

If the offense involved

- (A) The possession or use of any (i) device-making equipment, or (ii) authentication feature;
- (B) The production or trafficking of any (i) unauthorized access device or counterfeit access device, or (ii) authentication feature; or
- (C) (i) The unauthorized transfer or use of any means of identification unlawfully to produce or obtain any other means of identification, or (ii) the possession of 5 or more means of identification that unlawfully were produce from, or obtained by the use of, another means of identification, ,

Increase by **2** levels. If the resulting offense level is less than level **12**, increase to level **12**.



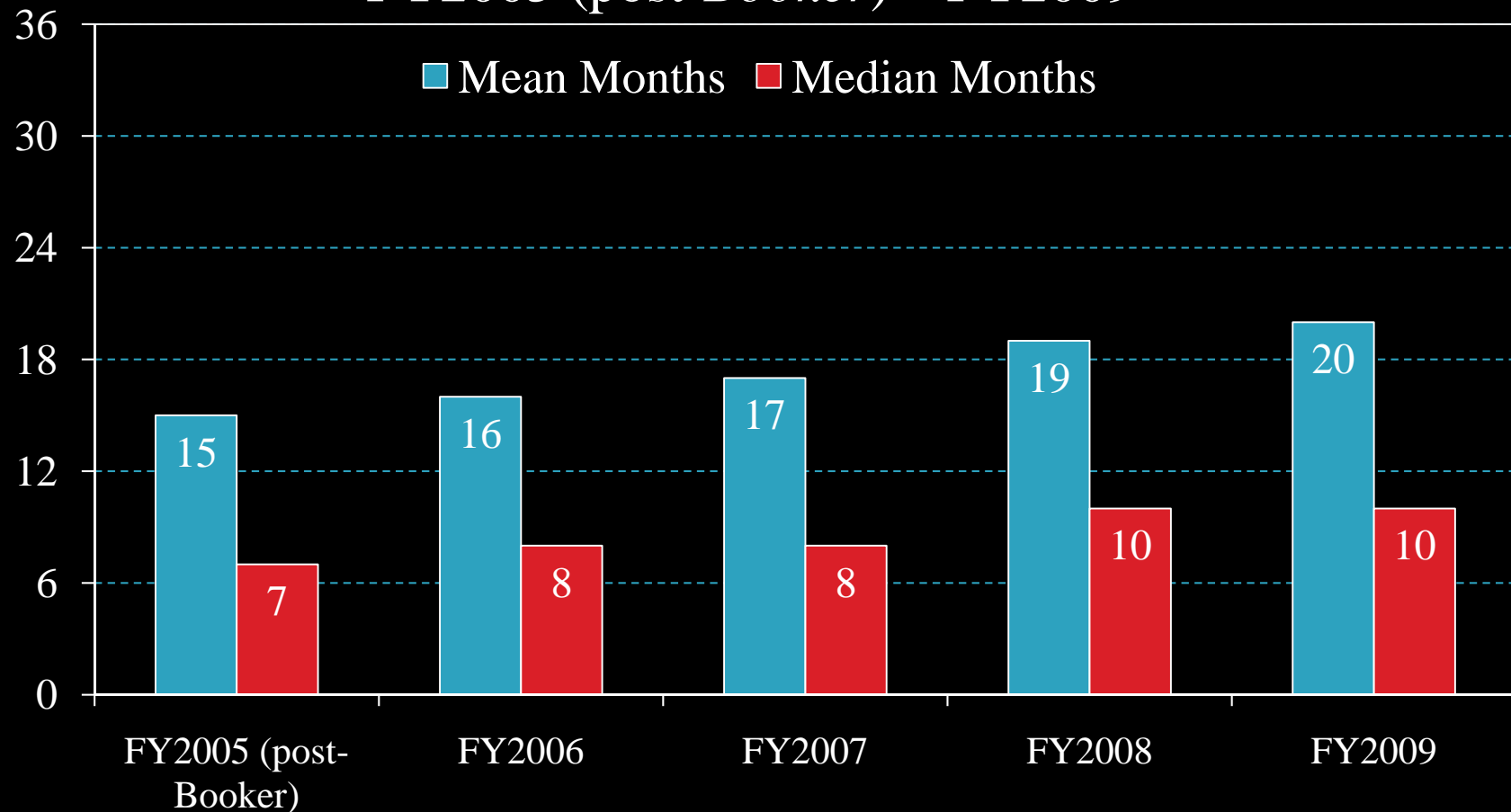
SOURCE: U.S. Sentencing Commission FY2009 Datafile, USSCFY09. Of the 81,372 cases sentenced in FY2009, 10,318 were excluded due to incomplete sentencing guideline application information. An additional 63,265 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, seven were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001.

Offenders Sentenced Under the Fraud Guideline FY08 and FY09

	Fiscal Year 2008	Fiscal Year 2009
Number of Cases	7,929	7,782
Mean Sentence Length	19 months	20 months
Median Sentence Length	10 months	10 months
Percent Sentenced within Guideline Range	64.5%	60.4%
Percent Sentenced at Guideline Minimum	60.6%	61.6%

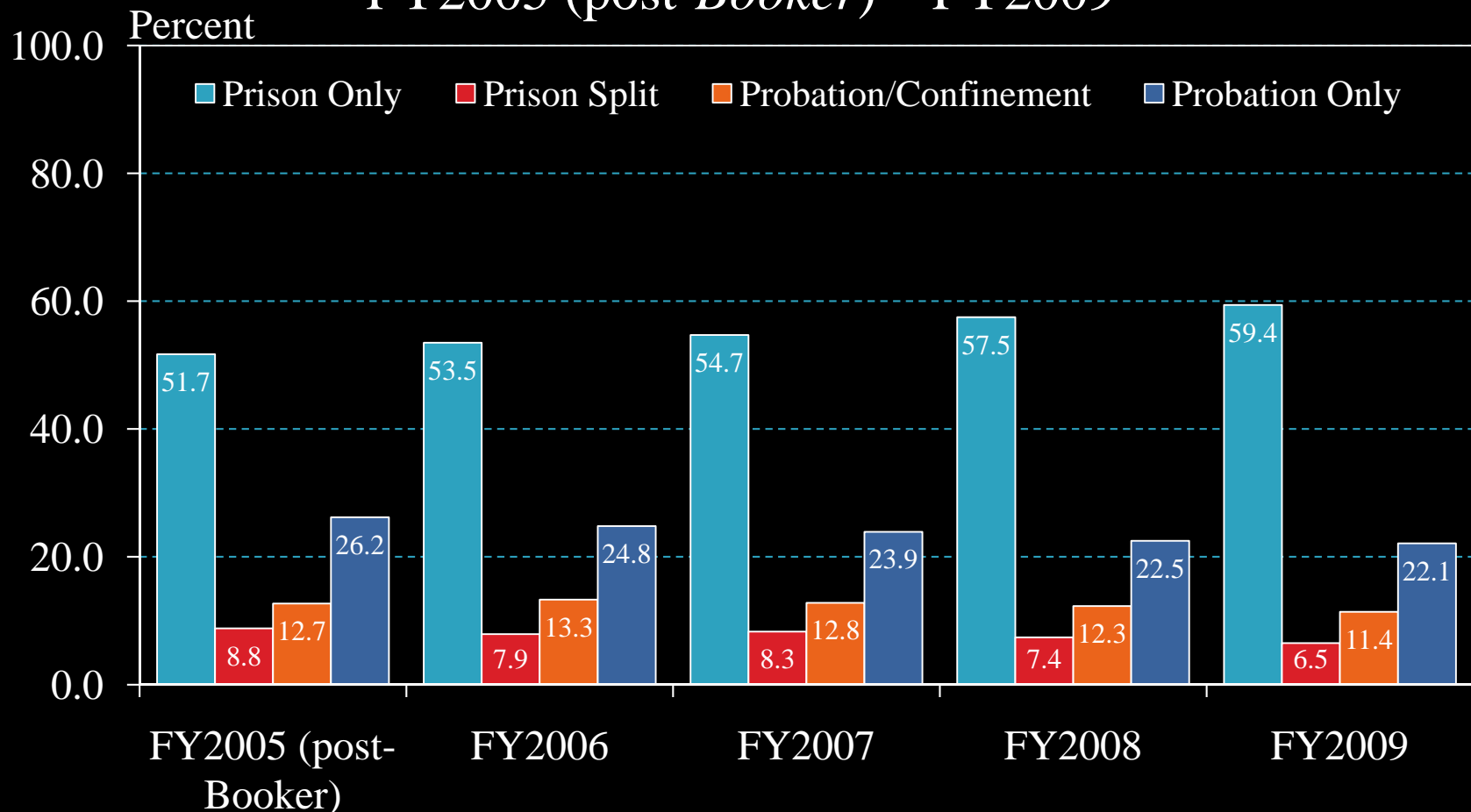
SOURCE: U.S. Sentencing Commission FY2008 and FY2009 Datafiles, USSCFY08 and USSCFY09. Of the 157,850 cases sentenced in Fiscal Years 2008 and 2009, 18,902 were excluded due to incomplete sentencing guideline application information. An additional 123,218 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, 19 were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001. Sentences of probation and life are included in the calculation of sentence length as zero months and 470 months, respectively. Additional cases missing information on relevant variables were excluded as necessary.

Sentence Lengths for Offenders Sentenced Under the Fraud Guideline FY2005 (post-Booker) – FY2009



SOURCE: U.S. Sentencing Commission FY2005 (post-Booker) through FY2009 Datafiles, USSCFY05 - USSCFY09. Of the 375,762 cases sentenced since *Booker*, 47,389 were excluded due to incomplete sentencing guideline application information. An additional 291,085 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, 365 were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001. An additional 1,620 cases sentenced in Fiscal Year 2005 prior to *Booker* were excluded. Additional cases missing information on sentence length were excluded. Sentences of probation and life are included in the calculation of sentence length as zero months and 470 months, respectively.

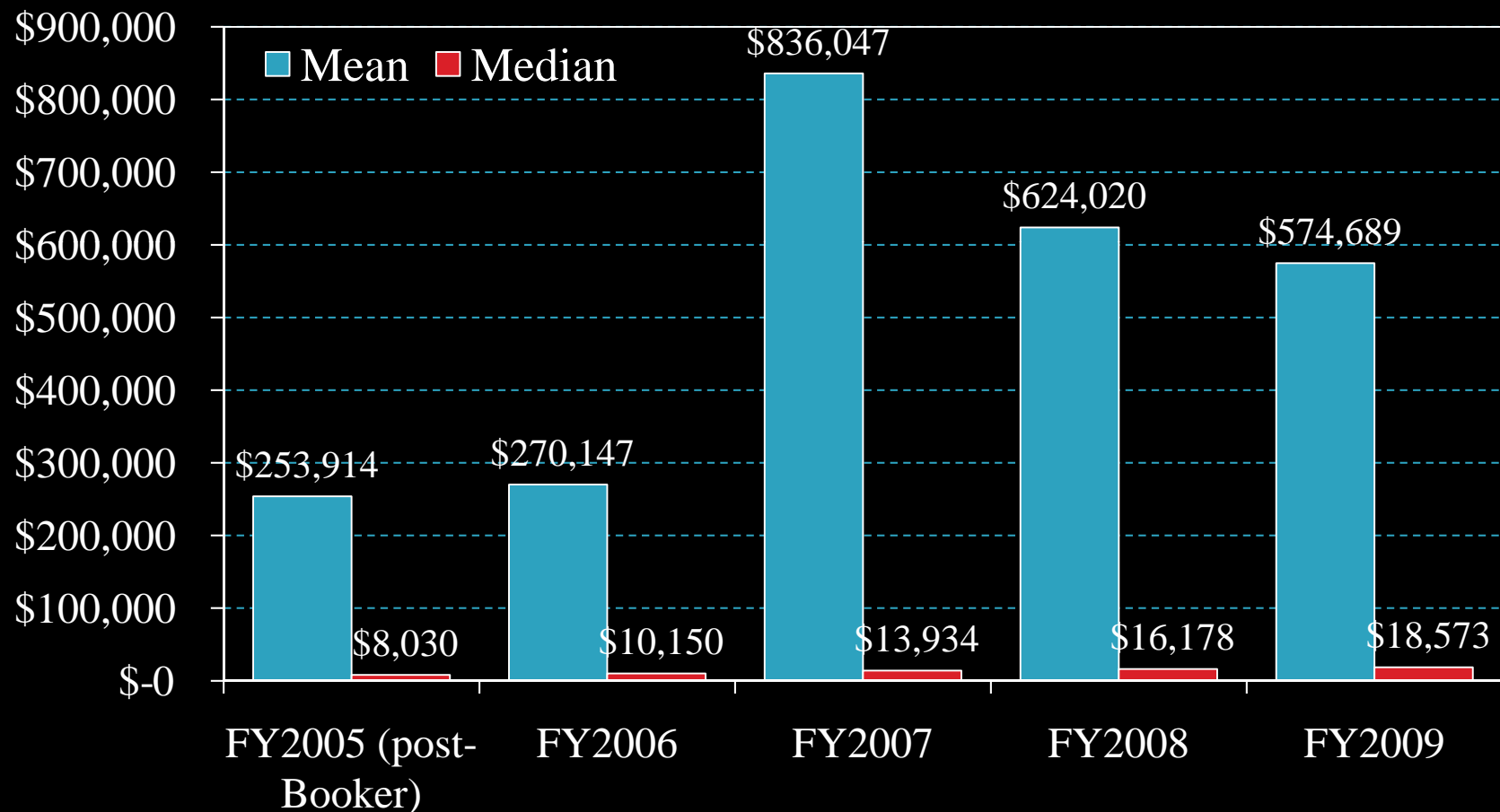
Imprisonment Rates for Offenders Sentenced Under the Fraud Guideline FY2005 (post-Booker) – FY2009



SOURCE: U.S. Sentencing Commission FY2005 (post-Booker) through FY2009 Datafiles, USSCFY05 - USSCFY09. Of the 375,762 cases sentenced since *Booker*, 47,389 were excluded due to incomplete sentencing guideline application information. An additional 291,085 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, 365 were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001. An additional 1,620 cases sentenced in Fiscal Year 2005 prior to *Booker* were excluded. An additional 32 cases missing information on type of sentence imposed were excluded. A total of 181 cases sentenced to a fine only were excluded from the

Individual Fines and Restitution Imposed for Offenders Sentenced Under the Fraud Guideline

FY2005 (post-Booker) – FY2009



SOURCE: U.S. Sentencing Commission FY2005 (post-Booker) through FY2009 Datafiles, USSCFY05 - USSCFY09. Of the 375,762 cases sentenced since *Booker*, 47,389 were excluded due to incomplete sentencing guideline application information. An additional 291,085 cases were excluded that were not sentenced under the fraud guideline (§2B1.1). Of the remaining cases sentenced under the fraud guideline, 365 were excluded that were sentenced using a Guidelines Manual in effect prior to November 1, 2001. An additional 1,620 cases sentenced in Fiscal Year 2005 prior to *Booker* were excluded. Additional cases missing information on amount of fine and/or restitution imposed were excluded.

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