

# Agenda

## Sentencing Classification Workgroup – October 25<sup>th</sup>, 11am – 1pm

### 1. Introduction – Representative Smith

### 2. Policies impacting drug offenders in South Carolina cont. – Emily Levett (Pew)

- a. Overview of the data on South Carolina's drug offender population [review]
  - i. Follow-up question – What are common sentences for drug offenders?
- b. What the research says about effective responses to drug crime [review]
  - i. Follow-up questions – Why do many people sent to prison for drug-related behavior return to drug use upon release?; How can policymakers best address repeat drug offenders?; How can we best differentiate between those involved in commercial drug activity to raise money for an addiction versus those involved in commercial drug activity as a profit-making venture?
- c. South Carolina's possession, possession with intent to distribute, and trafficking offenses in context with neighboring jurisdictions [review]
- d. Follow-up to last month's potential drug policies discussion
  - i. Drug weight thresholds and sentencing
  - ii. Early SUD screening and treatment programs
  - iii. Trafficking safety valve

### 3. Policies impacting property offenders in South Carolina (new topic) – Emily Levett (Pew)

- a. Overview of the data on South Carolina's property offender population
  - i. Overview of 2010 reforms to South Carolina's property offenses
  - ii. Since reform in 2010, South Carolina has sent fewer people to prison for property crimes, and reduced property crime
- b. Potential property policies
  - i. Felony property crime threshold
  - ii. Sentences for common property offenses
  - iii. Burglary offenses
  - iv. Recidivist property crime enhancements

### 4. Potential policy discussions for upcoming weeks

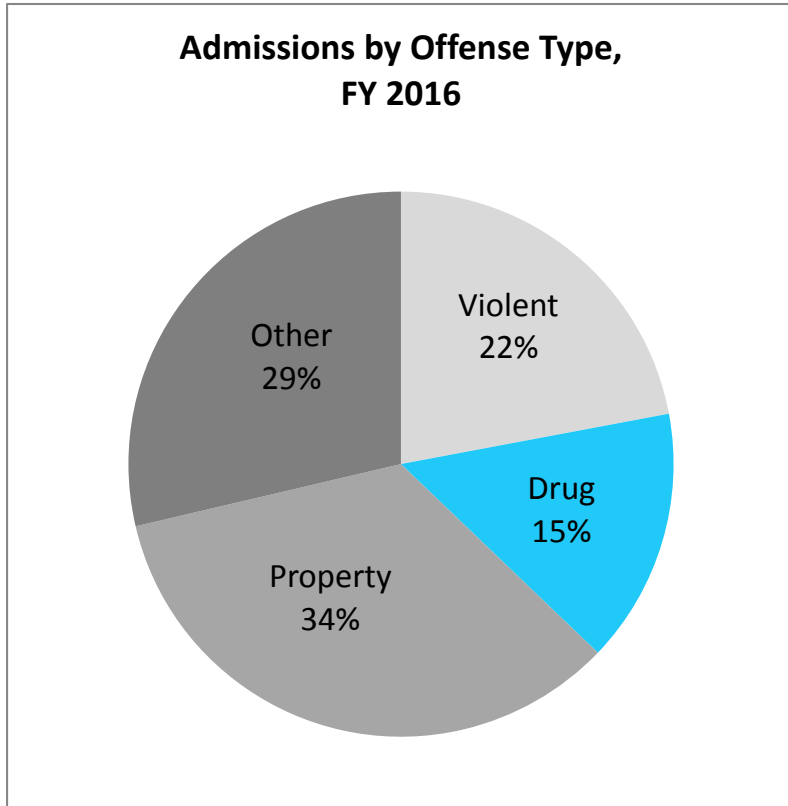
- a. Felony F/Misd. A offenses
- b. Best practices in alternatives to incarceration

### 5. Proposed Meeting Times

- a. 3rd Sentencing Classification Workgroup Meeting: November 7th at 10am
  - i. Sentencing Reform Oversight Commission: November 8<sup>th</sup> at 2pm
- b. 4th Sentencing Classification Workgroup Meeting: December 5th at 10am
  - i. Sentencing Reform Oversight Commission: December 13<sup>th</sup> at 10am

## Overview of the data on South Carolina's drug offender population.—

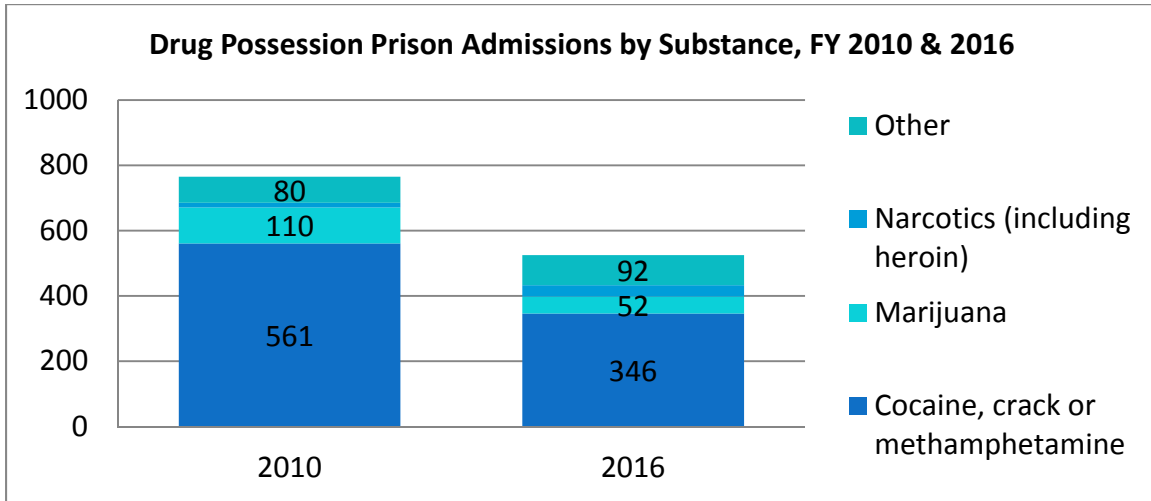
People convicted of drug offenses accounted for 15% of all admissions to prison in 2016.—



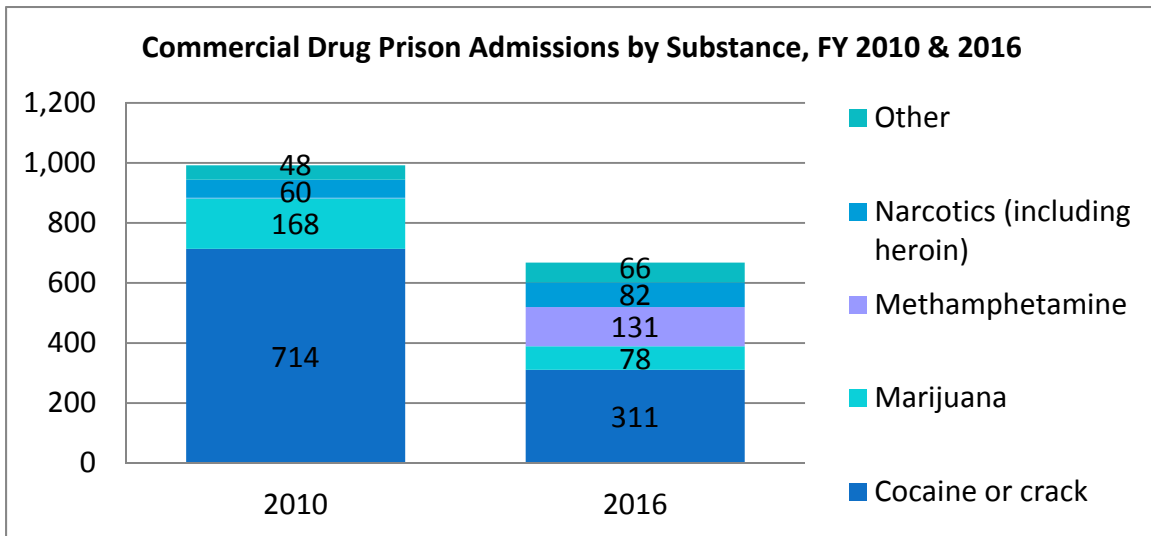
Four of the top 10 most common offenses at admission in 2016 were drug-related.—

<b>Top 10 Offenses at Admission in FY 2016</b>	
Offense	Number of Admissions
Burglary (2nd degree nonviolent and 3rd degree)	952
Commercial drug offense	668
Possession drug offense	525
Assault and battery – nonviolent	504
Shoplifting	497
Forgery/fraud	475
Burglary (2nd degree violent)	312
Common law robbery	288
Manufacture methamphetamine	280
Drug trafficking	271

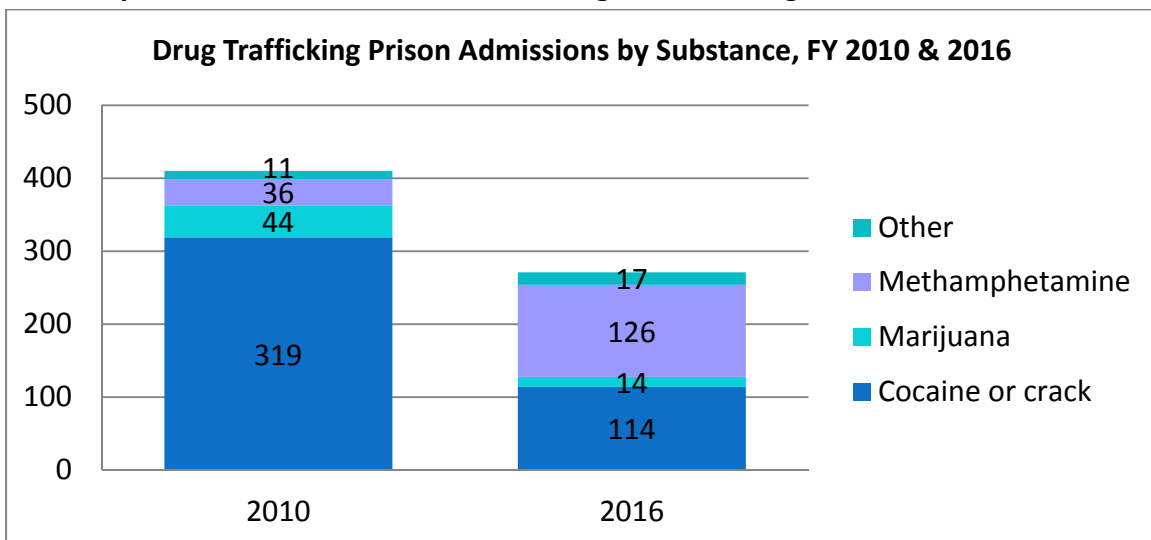
**Cocaine, crack, and methamphetamine are the most common drugs for possession admissions.—**



**Cocaine and crack are the most common drugs for commercial admissions.—**



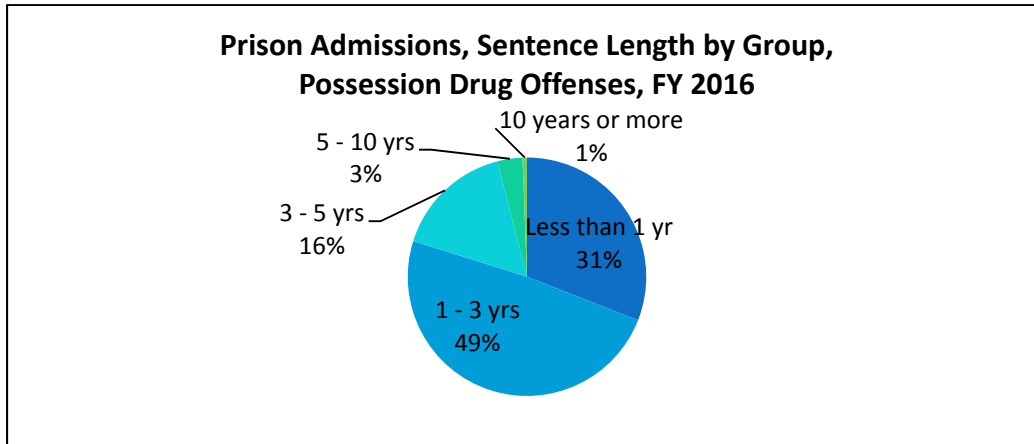
**Methamphetamine is the most common drug for trafficking admissions.—**



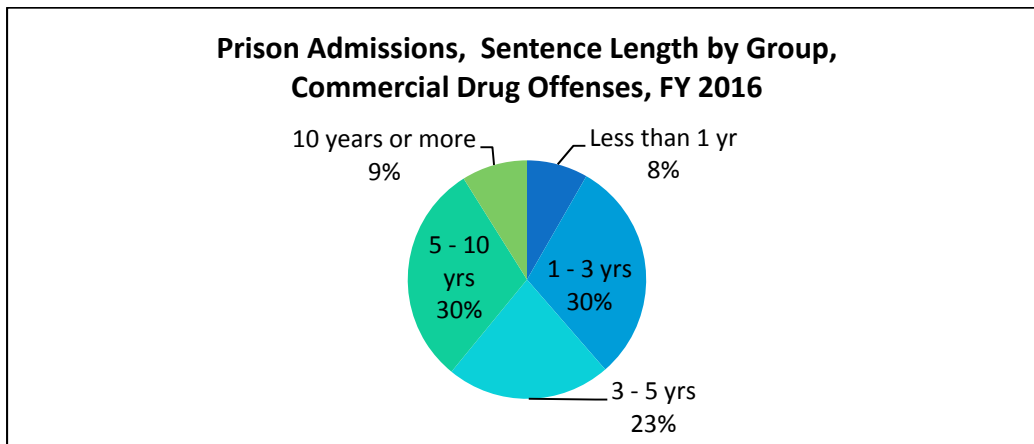
## Follow-up data question.—

What are common sentence lengths for drug offenders?<sup>1</sup> —

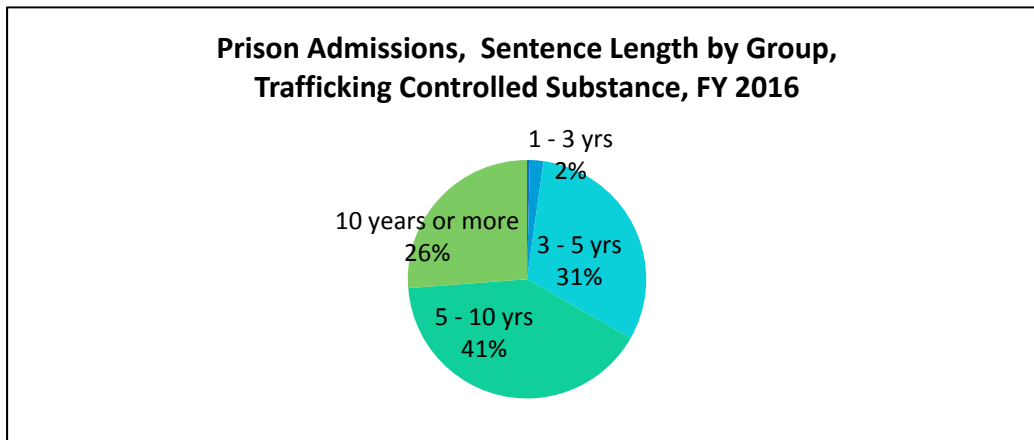
Common sentences for people convicted of drug possession offenses are less than 1 year (31%) and 1 to less than 3 years (49%).



Common sentences for people convicted of commercial drug offenses are 1 to less than 3 years (30%), 3 to less than 5 years (23%) and 5 to less than 10 years (30%).



Common sentences for people convicted of drug trafficking are 3 to less than 5 years (31%), 5 to less than 10 (41%) and 10 years or more (26%).



## What the research says about effective responses to drug crime.—

### The multiple objectives of incarceration. —

- There are many different reasons to use incarceration:
  - *Incapacitation* – removing the ability of offenders to commit crimes against the public by holding them in prison;
  - *Deterrence* – reducing the likelihood of future criminal involvement by increasing the punishment for the current offense;
  - *Rehabilitation* – reducing the likelihood of future criminal involvement by addressing the criminogenic needs of the offender; and
  - *Retribution* – punishment, in the form of imprisonment, for violating community norms.
- Researchers can study the effectiveness of the top three reasons – incapacitation, deterrence, and rehabilitation. However, there is no accepted way to study the value of retribution.

**What does not work to reduce drug crime?** — People who are leading and organizing drug trafficking deserve just punishment for selling substances that damage communities. However, research consistently shows that long prison sentences *for most drug offenders* are ineffective and costly:

- The chances of a typical cocaine street-level drug transaction being detected are about 1 in 15,000. With such a low risk of detection, drug dealers on the street are unlikely to be deterred by the remote possibility a prison term associated with each transaction.<sup>2</sup>
- Incarceration has a limited deterrent effect even when the potential sentence that an offender faces is very long. The National Research Council concluded in a 2014 report that mandatory minimum sentences for drug and other offenders “have few if any deterrent effects.”<sup>3</sup>
- Even if street-level drug dealers are apprehended and incarcerated, their absence rarely disrupts the drug market. The “replacement effect” in drug markets – whereby new offenders quickly replace those imprisoned for street-level sale and trafficking roles – means that long sentences for individual offenders do not have an effect on the availability of drugs.<sup>4</sup>

**What works to reduce drug crime?** — Overall, there is little evidence for either general or specific deterrent effects based on the harshness of a drug sentencing system. Instead, the most effective responses to drug addiction and drug-related crimes include a combination of:

- Targeted law enforcement to curtail trafficking and limit the emergence of new drug markets;<sup>5</sup>
- Alternative sentencing to divert nonviolent drug offenders from incarceration to evidence-based supervision;<sup>6</sup>
- And prevention efforts that help identify individuals at a high-risk for addiction.<sup>7</sup>

## Follow-up research questions.—

### Why do many people sent to prison for drug-related behavior return to drug use upon release?

- Addiction is a brain disorder and a chronic relapsing disease.<sup>8</sup> The chronic nature of addiction means that relapsing to drug use is not only possible, but likely.
- Additionally, addicted people released from incarceration are particularly vulnerable to relapse:
  - Multiple stressors await those reentering society, including finding housing and legitimate employment, re-uniting with family members, and complying with supervision requirements.<sup>9</sup>
  - Returning to neighborhoods associated with drug use can trigger the reward neurocircuitry – creating an intense desire to consume drugs.<sup>10</sup>
- These challenges could explain why many drug-addicted individuals rapidly return to drug use following long periods of abstinence during incarceration. In one study, 85% of drug-abusing offenders returned to drug use within 1 year of release from prison, and 95% returned to drug use within 3 years of release from prison.<sup>11</sup>

### How can policymakers best address repeat drug offenders?—

- While research has not demonstrated that incarceration alone addresses drug abuse, research consistently shows that substance use treatment can reduce drug abuse and drug-use related criminal activity.<sup>12</sup>
  - For example, a summary of 11 studies on addiction interventions – including methadone maintenance, residential treatment, out-patient treatment, and substance abuse treatment – found that substance use treatment reduced criminal activity significantly, generating an average of \$42,151 in annual per client benefits.<sup>13</sup>
  - According to another study, a 10% increase in the substance use disorder treatment rate would reduce the robbery rate by 3 percent, the aggravated assault rate by 4 to 9 percent, and the theft rate by 2 to 3 percent.<sup>14</sup>

### How can we best differentiate between those involved in commercial drug activity to raise money for an addiction versus those involved in commercial drug activity as a profit-making venture? —

- While there is no evidence-based “silver bullet” to differentiate between these groups, researchers recommend screening eligible individuals for substance use disorders shortly after arrest and, if the individual is found to have a substance use disorder, treating them with an intervention and treatment or diverting them to community treatment under pretrial supervision conditions.<sup>15</sup>

## South Carolina's Possession, PWID, and Trafficking Offenses in Context with Neighboring Jurisdictions

Possession and Possession with Intent to Distribute Statutes*			
Scenario	Prison Time (Unsuspending terms in years)		
	South Carolina	Alabama	North Carolina
Possession of 0.5g of cocaine with 1 prior conviction for felony drug possession	Poss: 0 – 5	Poss: 0 – 2	Poss: 0.33 - 0.8 PWID: 0.5 – 1.5
Possession of 0.8g of methamphetamine with two prior nonviolent felony burglary charges	Poss: 0 – 3	Poss: 0 – 2	Poss: 0.33 - 0.8 PWID: 0.5 – 1.5 years
Possession of 0.2g of heroin with one prior conviction for drug distribution	PWID: 5 – 30	Poss: 0 – 2	Poss: 0.33 - 0.8 PWID: 0.5 – 1.5
Possession of 4g of methamphetamine no prior convictions	PWID: 0 – 15	Poss: 0 – 2	Poss: 0.25 - 0.66 PWID: 0.33 - 0.66
Possession of 2.1g of heroin with 1 prior conviction for felony drug possession	PWID: 5 – 30	PWID: 2 – 20	Poss: 0.33 - 0.8 PWID: 0.5 – 1.5

- In general, South Carolina has higher maximum sentences for possession and PWID offenses than Alabama and North Carolina. This is due in part to the fact that South Carolina's presumptive threshold differentiating possession offenses from PWID offenses is comparatively low (e.g. 1 gram of cocaine or methamphetamine in South Carolina, compared to 8 grams in Alabama), and in part due to South Carolina's overall higher maximum sentences across possession and lower-weight PWID offenses.*

Trafficking Statutes*			
Scenario	Prison Time (Terms in years)		
	South Carolina	Federal Government	North Carolina
Trafficking 10g of cocaine, with no prior criminal convictions	<u>3</u> – 10	0.8 – 1.3	Considered a possession or PWID case.
Trafficking 6g of heroin, with three prior non-drug felony convictions	<u>7</u> – 25	2.5 – 3	6 – 7.5
Trafficking 125g of methamphetamine, with one prior felony drug conviction	<u>25</u>	<u>10</u>	6 – 7.75
Trafficking 200g of methamphetamine, with no prior felony convictions	<u>25</u>	5.25 – 6.5 years ( <u>5</u> year minimum)	7.5 – 10
Trafficking 100 grams of heroin, with a prior possession conviction	<u>25</u> – 40	<u>10</u> – 10.5	<u>19</u> – 23.5

- In general, South Carolina has higher minimum and maximum sentences for trafficking offenses than North Carolina and the federal government. This is due in part to the fact that South Carolina's threshold differentiating commercial from trafficking offenses is comparatively low (e.g. 10g of cocaine in South Carolina, compared to 28g in Alabama), in part due to the ratcheting up of trafficking sentences in South Carolina based on the offender's previous convictions, and in part due to South Carolina's overall higher minimum and maximum sentences for trafficking offenses.*

\*See full side-by-side jurisdictional comparisons starting on page 19. An underlined number denotes a mandatory minimum.

## Follow-up to last month's potential drug policies discussion.—

1. At the last meeting, interest in policies to bring South Carolina's drug sentencing into line with neighboring jurisdictions.—
  - a. Interest in raising the presumptive threshold differentiating possession and commercial drug offenses, and the threshold differentiating commercial and trafficking offenses (option 1 page 9).
  - b. Interest in adjusting minimum and maximum sentences (option 2 - page 9).
2. At the last meeting, interest in policies to better differentiate between those involved in commercial drug activity to raise money for an addiction versus those involved in commercial drug activity as a profit-making venture.—
  - a. Interest in differentiating sentences for possession with intent to distribute compared to distribution/manufacturing (option 3 - page 9).
  - b. Interest in bringing forth other policies to better differentiate between addiction-driven and profit-driven criminal activity (early SUD screening and treatment programs – page 10).
3. At the last meeting, interest in policies to focus South Carolina's drug trafficking laws on those serious offenders who are controlling the marketplace, as opposed to those who are working at the behest of others and have little influence.—
  - a. Interest in creating a safety valve to allow judges to sentence below mandatory minimum trafficking sentences when the offender meets certain requirements (page 11).



## Policy Options: Drug thresholds and sentencing

State	Current Law		Option 1 – Thresholds Only (1a)		Option 2 – Thresholds + Sentences (1b)		Option 3 – Thresholds + Sentences + PWID/Sale (2a)	
<b>Cocaine</b>								
Amount	Amount	Sentence	Amount	Sentence	Amount	Sentence	Amount	Sentence
0 to 1 g	0 – 1g	<i>Possession</i> 1: 0 – 3 2: 0 – 5 3+: 0 – 10	0 – 5g	<i>Possession</i> 1: 0 – 3 2: 0 – 5 3+: 0 – 10	0 – 5g	<i>Possession</i> 1: 0 – 1 2: 0 – 3 3+: 0 – 5	0 – 5g	<i>Possession</i> 1: 0 – 30 days 2: 0 – 1 3: 0 – 3
1g to 2g	1 – 10g	<i>PWID</i> 1: 0 – 15 2: 5 – 30 3+, all priors possession: 10 – 30 3+: <u>10</u> – 30	5 – 28g	<i>PWID</i> 1: 0 – 15 2: 5 – 30 3+, all priors possession: 10 – 30 3+: <u>10</u> – 30	5 – 28g	<i>PWID</i> 1: 0 – 10 2: 0 – 15 3+, all priors possession: 5 – 30 3+: 10 – 30	5 – 28g	<i>PWID</i> 1: 0 – 5 2: 0 – 10 3+, all priors possession: 0 – 15 3+: 5 – 30
2g to 3g								
3g to 4g								
4g to 5g								
5g to 6g								
6g to 7g								
7g to 8g								
8g to 9g								
9g to 10g	10 – 28g	<i>Trafficking</i> 1: 3 – 10 2: 5 – 10 3: <u>25</u> – 30	5 – 28g	<i>PWID</i> 1: 0 – 15 2: 5 – 30 3+, all priors possession: 10 – 30 3+: <u>10</u> – 30	5 – 28g	<i>PWID</i> 1: 0 – 10 2: 0 – 15 3+, all priors possession: 5 – 30 3+: 10 – 30	5 – 28g	<i>Dist. + Manf</i> 1: 0 – 10 2: 0 – 15 3+, all priors possession: 5 – 30 3+: 10 – 30
10g to 11g								
11g to 12g								
12g to 13g								
13g to 14g								
14g to 15g								
15g to 16g								
16g to 17g								
17g to 18g								
18g to 19g								
19g to 20g								
20g to 30g								
30g to 40g	28g to 100g	1: <u>7</u> – 25 2: <u>7</u> – 30 3+: <u>25</u> – 30	<b>28g to 100g</b>	<i>Trafficking</i> 1: 3 – 10 2: 5 – 10 3: <u>10</u> – 30	<b>28g to 100g</b>	<i>Trafficking</i> 1: 3 – 10 2: 5 – 10 3: <u>10</u> – 30	<b>28g to 100g</b>	<i>Trafficking</i> 1: 3 – 10 2: 5 – 10 3: <u>10</u> – 30
40g to 50g								
50g to 60g								
60g to 70g								
70g to 80g								
80g to 90g								
90g to 100g								
100g to 200g	100g – 200g	<u>25</u>	100g – 200g	1: <u>7</u> – 25 2: <u>7</u> – 30 3+: <u>25</u> – 30	100g – 200g	1: <u>7</u> – 25 2: <u>7</u> – 30 3+: <u>25</u> – 30	100g – 200g	1: <u>7</u> – 25 2: <u>7</u> – 30 3+: <u>25</u> – 30
200g to 300g	200g – 400g	<u>25</u>	200g – 400g	<u>25</u>	200g – 400g	<u>25</u>	200g – 400g	<u>25</u>
300g to 400g								
400g+	400g+	<u>25</u> – 30	400g+	<u>25</u> – 30	400g+	<u>25</u> – 30	400g+	<u>25</u> – 30

## Policy Option: Early SUD Screening and Treatment Programs

To better differentiate those drug offenders whose criminal behavior is driven by a treatable substance use disorder, rather than a profit motivation, researchers recommend early screening and treatment if applicable (see additional details on page 6).

Currently, some drug offenders in South Carolina are diverted to community supervision (with potentially a treatment component) through a variety of measures: solicitor-run pretrial intervention programs, drug court, mental health court (for those with co-occurring disorders), or probation with treatment as a condition of supervision.

To increase the number of people who are diverted to treatment programs, states have either expanded eligibility or funding for existing alternatives to incarceration (including Mississippi in 2014<sup>16</sup> and Louisiana in 2017<sup>17</sup>) or implemented new strategies to expand the number of people who are screened for SUDs soon after arrested and diverted to treatment.

### *Example: California's early SUD screening and diversion program:*

California's voter-initiated Substance Abuse and Crime Prevention Act, also known as Proposition 36 (Prop 36) allocated funding to provide community-based substance abuse treatment to nonviolent drug offenders as an alternative to incarceration. Shortly after arrest, people with eligible drug offenses are screened for an SUD and, if applicable, are diverted into probation with a treatment condition. People who successfully complete treatment can petition the court to dismiss the conviction.

Research has shown that Prop 36:

- Routed many drug abusers to treatment within a short period of time;<sup>18</sup>
- Resulted in favorable outcomes, especially among treatment completers;<sup>19</sup> and
- Yielded cost-savings to state and local governments.<sup>20</sup>
- However, Proposition 36 has also been criticized for not being equipped to address the needs of higher-risk offenders.<sup>21</sup>

A number of states have policies that are similar to Prop 36, including Arizona (Proposition 200, 1996), Maryland (SB 194, HB 295, 2004), Hawaii (SB 1188, 2002), Washington State (SB 2338, 2002), and Kansas (HB 2309, 2003).

Potential broad policy areas to expand the use of early SUD screening and diversion to treatment for drug offenders in South Carolina.—

- Option 1: Expand eligibility and funding for existing alternatives to incarceration.
- Option 2: Create a new alternative focused on early screening and diversion to treatment.

## Policy Option: Trafficking safety valve

Drug trafficking is the 10<sup>th</sup> most common offense at admission in South Carolina in FY 2016; of those admitted to prison for drug trafficking, 67% percent entered with sentences of 5 years or longer.

Unlike many other jurisdictions, South Carolina does not have a “safety valve” for trafficking offenses which carry mandatory minimum sentences. “Safety valves” allow courts to give an offender less prison time than the mandatory minimum requires if the person meets certain special requirements.

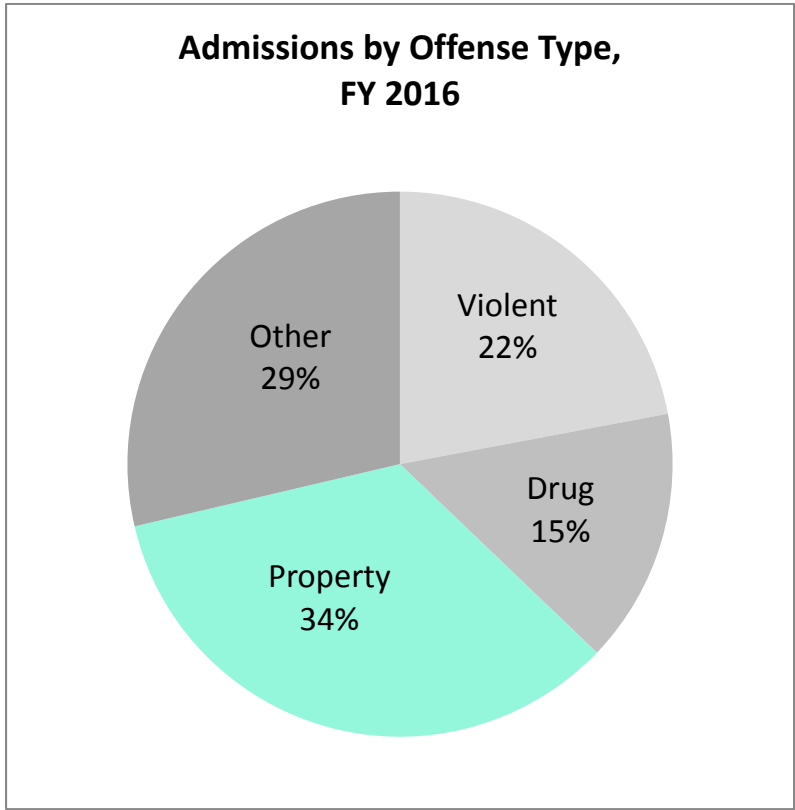
### *Example safety valves:*

In these jurisdictions, judges can sentence trafficking offenders to terms below the mandatory minimum if they meet the following requirements:

Jurisdiction	No one harmed during the crime	Limited criminal history	No violence or weapon used	Not a leader or organizer	Defendant tells prosecutor all he knows	Defendant must show “good cause”
Federal government <sup>22</sup>	✓	✓	✓	✓	✓	
Virginia <sup>23</sup>	✓	✓	✓	✓	✓	
Connecticut <sup>24</sup>			✓			✓

# Overview of the data on South Carolina’s property offender population.—

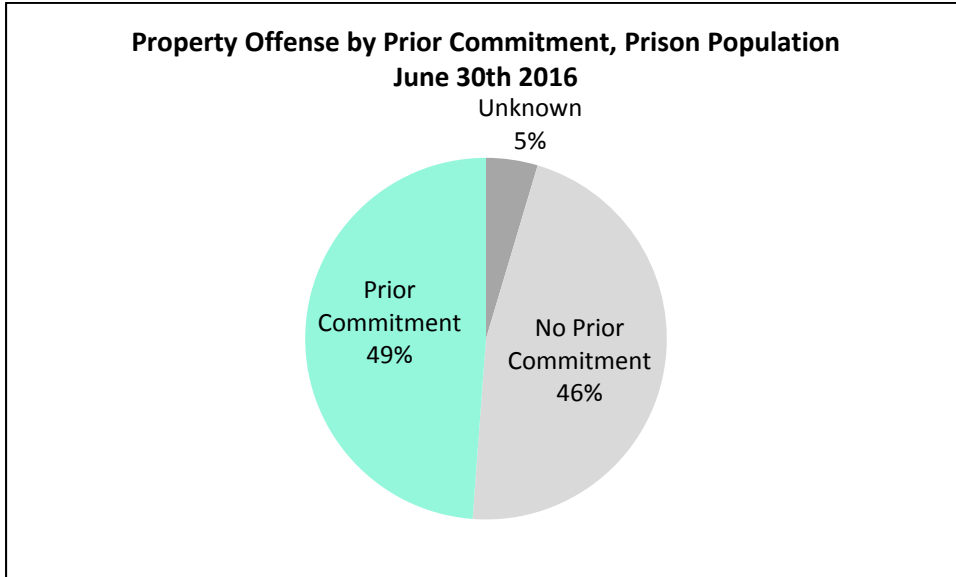
People convicted of property offenses accounted for 34% of all admissions to prison in 2016.—



Three of the top 10 most common offenses at admission in 2016 were property offenses.—

<b>Top 10 Offenses at Admission in FY 2016</b>	
Offense	Number of Admissions
Burglary (2nd degree nonviolent and 3rd degree)	952
Commercial drug offense	668
Possession drug offense	525
Assault and battery – nonviolent	504
Shoplifting	497
Forgery/fraud	475
Burglary (2nd degree violent)	312
Common law robbery	288
Manufacture methamphetamine	280
Drug trafficking	271

Nearly 50% of property offenders in prison have previously served time in SCDC.—



Overview of the primary 2010 reforms to property offenses.<sup>25</sup>—

- Tiered out conduct within 2<sup>nd</sup> degree burglary to sentence un-aggravated dwelling burglaries with a lesser maximum sentence.

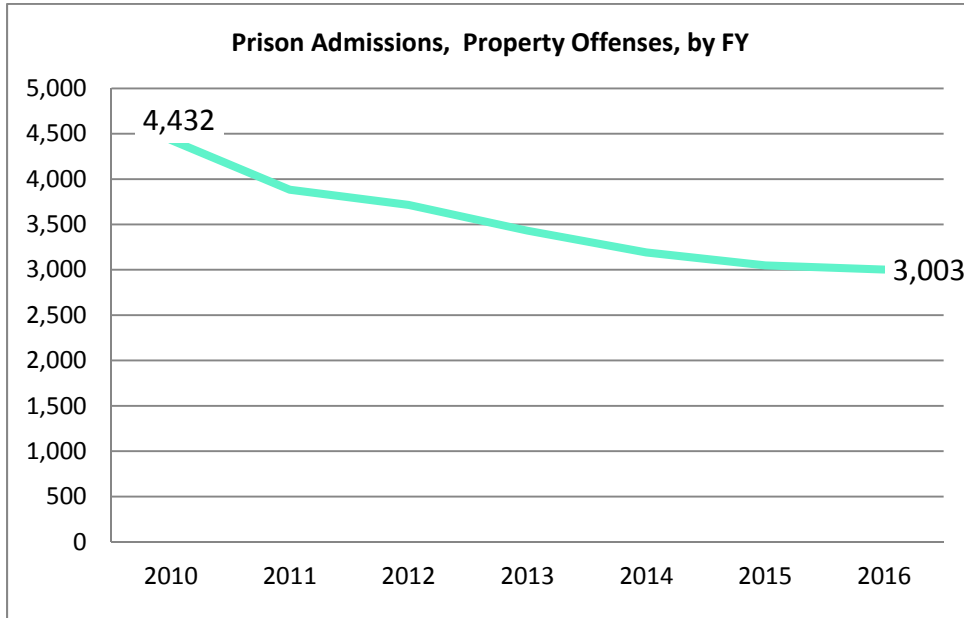
Conduct in 2 <sup>nd</sup> degree burglary	Pre-2010	Post-2010
Burglary of a dwelling	0 – 15 years (violent; no parole until serving 1/3)	0 – 10 years (nonviolent)
Burglary of a building with aggravating factors		0 – 15 years (violent; no parole until serving 1/3).

- For most value-based property crimes, raised the felony threshold – the dollar amount of goods or money above which prosecutors may charge an offense as a felony, rather than a misdemeanor – to **\$2,000** and correspondingly adjusted other property tiers.<sup>26</sup>

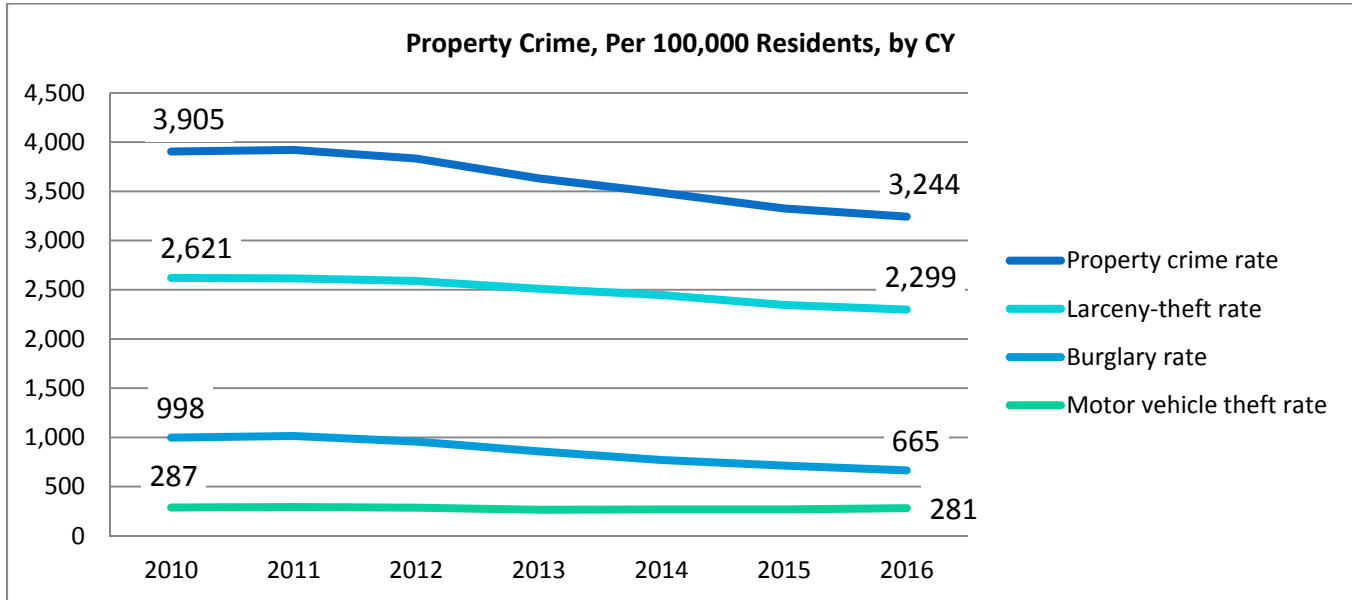
Amount	Pre-2010	Post-2010
\$1,000	(\$0 - \$1,000) M: 0 – 30 days	(\$0 - \$2,000) M: 0 – 30 days
\$2,000	(\$1,000 - \$5,000) F: 0 – 5 years	
\$3,000	(\$5,000+) F: 0 – 10 years	(\$2,000 - \$10,000) F: 0 – 5 years
\$4,000		
\$5,000		
\$6,000		
\$7,000		
\$8,000	(\$10,000+) F: 0 – 10 years	
\$9,000		
\$10,000		
\$10,000+		

Since reform in 2010, South Carolina has sent fewer people to prison for property crimes, and reduced property crime.—

Since 2010, South Carolina has sent 32% fewer people to prison for property offenses.—



Since 2010, property crime in South Carolina dropped by 17% percent.—

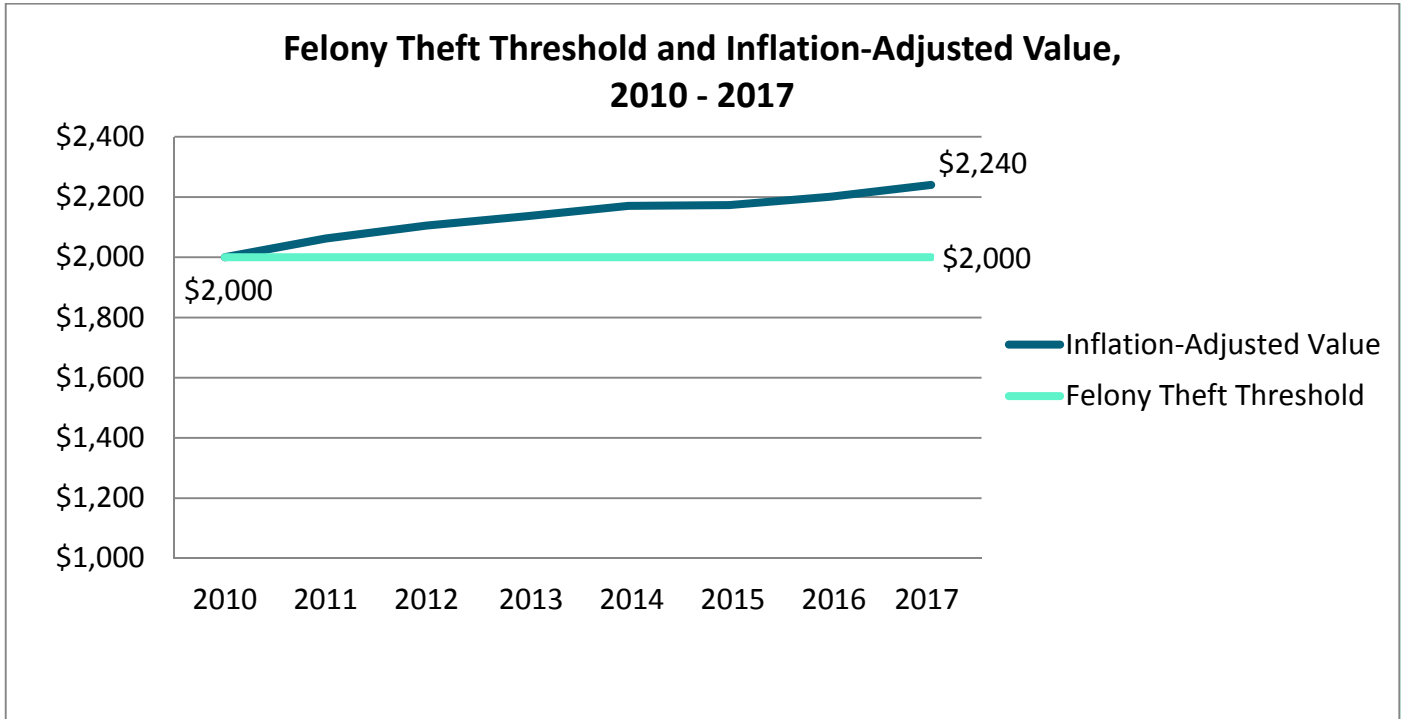


Source: FBI, Uniform Crime Reports, prepared by the National Archive of Criminal Justice Data

**This trend is not unique to South Carolina.—**Since 2001, at least 37 states have increased their felony theft threshold. An analysis of 30 of the states that raised their threshold between 2000 and 2012 found that raising the felony theft threshold has no impact on overall property crime or larceny rates.<sup>27</sup>

## Policy Options: Felony Theft Threshold

In 2010, South Carolina raised the felony threshold for most property crimes to \$2,000.<sup>28</sup> Today, that \$2,000 threshold, in inflation-adjusted terms, is worth 11% less than it was 7 years ago.—



Source: United States Department of Labor, Bureau of Justice Statistics

Potential policies to bring South Carolina's property crime threshold in line with inflation and provide better uniformity among property offenses.—

- Raise the threshold to \$2,250 to account for inflation since 2010.
- Provide for periodic recalculations of the felony threshold according to changes in inflation.
  - Ex. In Alaska, the Alaska Judicial Council calculates an increase or decrease in value of the threshold due to inflation every 5 years, based on a formula provided by the Department of Labor and Workforce Development.<sup>29</sup>
- Raise the felony threshold for the following crimes that *did not* see their thresholds increased under S. 1154: financial transaction card fraud (currently set at \$500), criminal receiving of goods fraudulently obtained (currently set at \$1,000), uttering fraudulent checks (currently set at \$1,000), and stopping payment on check with intent to defraud (currently set at \$1,000).

## Policy Options: Sentences for Common Property Offenses

In South Carolina, maximum sentences for common property crimes escalate significantly between the misdemeanor and the felony level (from a maximum of 30 days to a maximum of 5 years). A number of other states provide more graduation in their lowest felony levels.

*Examples of states with more graduation in sentences for larceny crimes.—*

Theft Amount	South Carolina <sup>30</sup>	Texas <sup>31</sup>	Wisconsin <sup>32</sup>
0 - \$500	<b>&lt;\$2,000</b> 0 – 30 days (misd)	<b>&lt;\$2,500</b> 0 – 1 year (misd)	<b>≤\$2,500</b> 0 – 1 year (misd)
\$500 - \$1000			
\$1000 - \$1500			
\$1500 - \$2000			
\$2000 - \$2500	<b>\$2,000 – \$10,000</b> 0 - 5 years	<b>\$2,500 - \$30,000</b> 180 days – 2 years	<b>\$2,500 - \$5,000</b> 0 – 3.5 years
\$2500 - \$3000			
\$3000 - \$3500			
\$3500 - \$4000			
\$4000 - \$4500			
\$4500 - \$5000			
\$5000 - \$5500			
\$5500 - \$6000			
\$6000 - \$6500			
\$6500 - \$7000			
\$7000 - \$7500			
\$7500 - \$8000			
\$8000 - \$8500			
\$8500 - \$9000			
\$9000 - \$9500			
\$9500 - \$10000	<b>&gt;\$10,000</b> 0 – 10 years	(Higher penalties for theft amounts higher than \$30,000.)	<b>\$5,000 - \$10,000</b> 0 – 6 years
\$10000+			

Potential policies to provide greater penalty gradation for South Carolina’s common felony property sentences.—

Amount	South Carolina	Option A	Option B
\$1,000	(\$0 - \$2,000) M: 0 – 30 days	(\$0 - \$2,000) M: 0 – 30 days	(\$0 - \$2,000) M: 0 – 30 days
\$2,000			
\$3,000	(\$2,000 – \$10,000) F: 0 – 5 years	(\$2,000 - \$5,000) M: 0 – 3 years	(\$2,000 - \$5,000) M: 0 – 1 year
\$4,000			
\$5,000			
\$6,000			
\$7,000		(5,000 - \$10,000) F: 0 – 5 years	(5,000 - \$10,000) F: 0 – 5 years
\$8,000			
\$9,000			
\$10,000			
\$10,000+	(\$10,000+) F: 0 – 10 years	(\$10,000+) F: 0 – 10 years	(\$10,000+) F: 0 – 10 years



## Policy Options: Burglary

South Carolina’s most common crime at admission is nonviolent 2<sup>nd</sup> and 3<sup>rd</sup> degree burglary (un-aggravated burglaries of dwellings and buildings). Unlike many other states, South Carolina does not differentiate penalties for burglaries of occupied versus unoccupied dwellings.

Conduct	South Carolina	North Carolina <sup>33</sup>	Iowa
Burglary of an occupied dwelling, aggravating factors	15 – life <sup>34</sup>	None.	0 – 25 years <sup>35</sup>
Burglary of an unoccupied dwelling, aggravating factors			0 – 10 years <sup>36</sup>
Burglary of an occupied dwelling	0 – 10 years <sup>37</sup>	4.25 – 10.5 years <sup>38</sup> (presumptive, based on crim. hist)	0 – 5 years <sup>40</sup>
Burglary of an unoccupied dwelling		10 months – 2 years <sup>39</sup> (presumptive, based on crim. hist)	
Burglary of a building (including those with aggravating factors)	0 – 15 (agg.) <sup>41</sup> 0 – 5 years <sup>42</sup>	4 – 10 months (presumptive, based on crim. hist)	0 – 5 years <sup>43</sup>

Potential policies to bring South Carolina’s 2nd and 3rd degree burglary statutes in line with other jurisdictions.—

- Option A: Differentiate penalties for common dwelling burglaries according to whether the home was occupied.
- Option B: Differentiate penalties for common and aggravated dwelling burglaries according to whether the home was occupied.

Conduct	South Carolina	Option A	Option B
Burglary of an occupied dwelling, aggravating factors	15 – life	15 – life	20 – life
Burglary of an unoccupied dwelling, aggravating factors			15 – life
Burglary of an occupied dwelling	0 – 10 years	0 – 10 years	0 – 10 years
Burglary of an unoccupied dwelling		0 – 5 years	0 – 5 years

## Policy Options: Recidivist Property Crime Enhancements

According to data Pew analyzed from the National Incident Based Reporting System (NIBRS), the median dollar amount of reported stolen property in South Carolina was \$203 (as of 2011) – far below the felony threshold level of \$2,000.<sup>44</sup>

However, many people are still sent to prison in South Carolina for felony theft crimes. Felony shoplifting, for example, ranks as the 4<sup>th</sup> most common crime at admission. This discrepancy could be explained in part by South Carolina’s recidivist enhancement, whereby a person convicted of a third or subsequent property offense where the term is contingent on value (i.e. shoplifting) shall be punished as a felony – no matter the value.<sup>45</sup>

To limit the use of expensive prison resources for relatively small-dollar crimes, several states have moved to create base values under which misdemeanor crimes cannot be enhanced to felonies.

*Examples of states that have restricted recidivist enhancements for certain property crimes.—*

Mississippi restricted the use of recidivist enhancements for property crimes with associated values of less than \$500.<sup>46</sup>

Alaska restricted the use of recidivist enhancements for property crimes with associated values of less than \$250.<sup>47</sup>

Potential policies to restrict the use of recidivist enhancements for certain lower-level property crimes.—

- Option A: Restrict the use of recidivist enhancements for property crimes where the value of the stolen or damaged property is less than \$500.
- Option B: Restrict the use of recidivist enhancements for property crimes where the value of the stolen or damaged property is less than \$250.

## South Carolina’s possession and possession with intent statutes in context with neighboring states (cocaine).—

State	South Carolina		Alabama		North Carolina	
<b>Cocaine</b>						
Amount	Amount	Sentence	Amount	Sentence	Crim. History	Sentence
0 to .1g	0 – 1g	<i>Possession</i> : <sup>48</sup> 1: 0 – 3 years 2: 0 – 5 years 3+: 0 – 10 years	0 – 8g	<i>Possession</i> : <sup>49</sup> Any: 0 – 2 years (and up to 3 years suspended over a term of probation)	<i>Possession</i> <sup>50</sup>	
.1g to .2g					Minimal criminal history	0.25 -0.66 years
.2g to .3g					Moderate criminal history	0.33 - 0.8 years
.3g to .4g						
.4g to .5g						
.5g to .6g					Serious criminal history	0.5 – 1 years
.6g to .7g						
.7g to .8g						
.8g to .9g						
.9g to 1g					1 – 10g	<i>PWID</i> : <sup>51</sup> 1: 0 – 15 years 2: 5 – 30 years 3+, all priors possession: 10 – 30 years 3+: <u>10</u> – 30 years
1g to 2g	<i>PWID</i> <sup>52</sup>					
2g to 3g	Minimal criminal history	0.33 - 0.66 years				
3g to 4g						
4g to 5g	Moderate criminal history	0.5 – 1.5 years				
5g to 6g						
6g to 7g						
7g to 8g	Serious criminal history	1 - ~2 years				
8g to 9g						
9g to 10g						
10g to 20g	10 – 28g	<i>Trafficking</i> : <sup>54</sup> 1: <u>3</u> – 10 years 2: <u>5</u> – 30 years 3: <u>25</u> – 30 years	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>
20g to 28g						
28g+	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>

## South Carolina's possession and possession with intent statutes in context with neighboring states (meth).—

State	South Carolina		Alabama		North Carolina	
<b>Methamphetamine</b>						
Weights	Amount	Sentence	Amount	Sentence	Amount	Sentence
0 to .1g	0 – 1g	<i>Possession:</i> <sup>55</sup> 1: 0 – 3 years 2: 0 – 5 years 3+: 0 – 10 years	0 – 8g	<i>Possession:</i> <sup>56</sup> 0 – 2 years (and up to 3 years suspended over a term of probation)	<i>Possession</i> <sup>57</sup>	
.1g to .2g					Minimal criminal history	.25 - .66 years
.2g to .3g					Moderate criminal history	.33 - .8 years
.4g to .5g					Serious criminal history	.5 – 1 years
.5g to .6g						
.6g to .7g						
.7g to .8g						
.8g to .9g						
.9g to 1g						
1g to 2g					1g – 10g	<i>PWID:</i> <sup>58</sup> 1: 0 – 15 years 2: 5 – 30 years 3+, all priors possession: 10 – 30 years 3+: <u>10</u> – 30 years
2g to 3g	Minimal criminal history	33 - .66 years				
3g to 4g	Moderate criminal history	.5 – 1.5 years				
4g to 5g	Serious criminal history	1 - ~2 years				
5g to 6g						
6g to 7g						
7g to 8g						
8g to 9g						
9g to 10g						
10g to 20g	10g – 28g	<i>Trafficking:</i> <sup>61</sup> 1: <u>3</u> – 10 years 2: <u>5</u> – 10 years 3: <u>25</u> – 30 years	28g+	<i>Trafficking offenses</i>		
20g to 28g						
28g+	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>

## South Carolina's possession and possession with intent to distribute statutes in context with neighboring states (heroin).—

State	South Carolina		Alabama		North Carolina	
<b>Heroin</b>						
Weights	Amount	Sentence	Amount	Sentence	Amount	Sentence
0 to .1g	0 - 0.13g (2 grains)	<i>Possession</i> <sup>62</sup> : 1: 0 – 2 years 2: 0 – 5 years 3+: 0 – 5 years	0 – 2g	<i>Possession</i> <sup>63</sup> Any: 0 – 2 years (and up to 3 years suspended over a term of probation) <sup>64</sup>	<i>Possession</i> <sup>65</sup>	
.1g to .2g					Minimal criminal history	0.25 -0.66 years
.2g to .3g	0.13g – 4g	<i>PWID</i> <sup>66</sup> 1: 0 – 15 years 2: 5 – 30 years 3+, all priors possession: 10 – 30 years 3+: <u>10</u> – 30 years			Moderate criminal history	0.33 - 0.8 years
.4g to .5g					Serious criminal history	0.5 – 1 years
.5g to .6g						
.6g to .7g					<i>PWID</i> <sup>67</sup>	
.7g to .8g					Minimal criminal history	0.33 - 0.66 years
.8g to .9g					Moderate criminal history	0.5 – 1.5 years
.9g to 1g						
1g to 2g					2g – 4g	<i>PWID</i> <sup>68</sup> : Any: 2 – 20 years
2g to 3g						
3g to 4g						
4g+	4g+	<i>Trafficking offenses</i>	4g+	<i>Trafficking offenses</i>	4g+	<i>Trafficking offenses</i>

## South Carolina’s trafficking statutes in context with neighboring states (cocaine). —

State	South Carolina <sup>69</sup>		Federal Government <sup>70</sup>		North Carolina <sup>71</sup>	
Cocaine						
Amount	Amount	Sentence	Amount	Sentence, in months min (max w/history)	Amount	Sentence
10g to 20g	10 – 28g	1: <u>3</u> – 10 years 2: <u>5</u> – 30 years 3: <u>25</u> – 30 years	<50 g	~0.8 - ~1.3 years (2.5 ~3 years)	<i>See page 5 for North Carolina’s penalties for weights of cocaine less than 28g.</i>	
20g to 30g						
30g to 40g	28g to 100g	1: <u>7</u> – 25 years 2: <u>7</u> – 30 years 3+: <u>25</u> – 30 years	50 – 100g	1.25 – 1.75 years (3 – ~4 years)	28g – 200g	Trafficking ~3 – 4.25 years
40g to 50g						
50g to 60g						
60g to 70g						
70g to 80g						
80g to 90g						
90g to 100g						
100g to 200g	100g – 200g	Any: <u>25</u> years	100 – 200g	1.75 – 2.25 years (~4 – 4.75 years)	200g – 400g	~6 – 7.75 years
200g to 300g	200g – 400g	Any: <u>25</u> years	200 – 300g	2.25 - 2.75 years (4.75 – ~6 years)		
300g to 400g			300 – 400g	2.75 ~3.5 years (~6 – 7.25))		
400g to 500g	400g+	Any: <u>25</u> – 30 years	400 – 500g	~3.5 – 4.25 years (7– 8.75 years)	400g+	175 – 222 months
500g+			500g+	<u>5 years</u> – life (tiered by additional weights) (With previous drug conviction, <u>10 year minimum</u> )		

## South Carolina’s trafficking statutes in context with neighboring states (meth). —

State	South Carolina <sup>72</sup>		Federal Government <sup>73</sup>		North Carolina <sup>74</sup>	
<b>Methamphetamine</b>						
Weights	Amount	Sentence	Amount	Sentence, in months min (max w/crim history)	Amount	Sentence
10g to 20g	10g – 28g	1: <u>3</u> – 10 years 2: <u>5</u> – 10 years 3: <u>25</u> – 30 years	10g – 20g	1.75 – 2.25 years (~4 – 4.75 years)	<i>See page 6 for North Carolina’s penalties for weights of methamphetamine less than 28g.</i>	
20g to 30g			20g – 30g	2.25 – 2.75 years (4.75 – ~6 years)		
30g to 40g	28g – 100g	1: 7 – 25 years 2: 7 – 30 years 3+: <u>25</u> – 30 years	30g – 40g	2.75 – ~3.5 years (~6 – 7.25)	28g – 200g	Any: ~6 – 7.75 years
40g to 50g			40g – 50 g	~3.5 – 4.25 years (7– 8.75 years)		
50g to 60g			50g – 200g	5 years – 5.25 (~8– ~10.5 years)		
60g to 70g						
70g to 80g						
80g to 90g						
90g to 100g						
100g to 200g			100g – 200g	Any: <u>25</u> years		
200g to 300g	200g – 400g	Any: <u>25</u> years	200g – 350g	5.25 – 6.5 years ( <u>10</u> – 12.5) (With previous drug conviction, <u>10 year minimum</u> )	200g – 4000g	Any: 7.5 – 10 years
300g to 400g						
400g to 500g	400g+	Any: <u>25</u> – 30 years	350g – 500g	6.5 – ~8 years (~12 – ~14.5 years) (With previous drug conviction, <u>10 year minimum</u> )	400g+	Any: <u>18.75</u> – 23.5 years
500g+			500+	~8 years – life (tiered by additional weights) (With previous drug conviction, <u>10 year minimum</u> )		

South Carolina’s trafficking statutes in context with neighboring states (heroin). —

State	South Carolina <sup>75</sup>		Federal Government <sup>76</sup>		North Carolina <sup>77</sup>	
<b>Heroin</b>						
Weights	Amount	Sentence	Amount	Sentence, in months min (max w/crim history)	Amount	Sentence
4g to 5g	4g – 14g	1: <u>7</u> – 25 years 2+: <u>25</u> years	<10 g	~.8 - ~1.3 years (2.5 ~3 years)	4g – 14g	Any: <u>~6</u> - ~7.5 years
5g to 6g						
6g to 7g						
7g to 8g						
8g to 9g						
9g to 10g						
10g to 20g	14g – 28g	Any: <u>25</u> years	10g – 20g	1.25 – 1.75 years (3 – ~4 years)	14g – 28g	Any: <u>7.5</u> – 10 years
20g to 30g			20g – 40g	1.75 – 2.25 years (~4 – 4.75 years)		
30g to 40g	28g+	Any: <u>25</u> – 40 years	40g – 60g	2.25 - 2.75 years (4.75 – ~6 years)	28g+	Any: <u>~19</u> – 23.5 years
40g to 50g			60g – 80g	2.75 – ~3.5 years (~6 – 7.25)		
50g to 60g			80g – 100g	~3.5 – 4.25 years (7– 8.75 years)		
60g to 70g			100g – 400g	<u>5</u> – 5.25 years (~8– ~10.5 years) (With previous drug conviction, <u>10 year minimum</u> )		
70g to 80g			400g – 700g	5.25 – 6.5 years (10 – 12.5 years) (With previous drug conviction, <u>10 year minimum</u> )		
80g to 90g						
90g to 100g						
100g to 200g						
200g to 300g			400g – 700g	5.25 – 6.5 years (10 – 12.5 years) (With previous drug conviction, <u>10 year minimum</u> )		
300g to 400g						
400g+	400g – 700g	5.25 – 6.5 years (10 – 12.5 years) (With previous drug conviction, <u>10 year minimum</u> )				



## Endnotes

<sup>1</sup> Sentence length information listed on this page does not include those convicted under the Youthful Offender Act.

<sup>2</sup> Pew Charitable Trusts, "Public Safety Aspects of the Heroin Abuse Epidemic" (2016), <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/07/public-safety-aspects-of-the-heroin-abuse-epidemic>.

<sup>3</sup> National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (2014), 83, <http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

<sup>4</sup> Ilyana Kuziemko and Steven D. Levitt, "An Empirical Analysis of Imprisoning Drug Offenders," *Journal of Public Economics* 88 (2004):2043–2066, [https://www0.gsb.columbia.edu/faculty/ikuziemko/papers/kl\\_ipube.pdf](https://www0.gsb.columbia.edu/faculty/ikuziemko/papers/kl_ipube.pdf).

<sup>5</sup> Jonathan P. Caulkins and Peter Reuter, "Towards a Harm-Reduction Approach to Enforcement," *Safer Communities* 8 (2009): Nicholas Corsaro et al., "The Impact of Drug Market Pulling Levers Policing on Neighborhood Violence," *Criminology & Public Policy* 11, no. 2 (2012), <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9133.2012.00798.x/pdf>.

<sup>6</sup> Ojmarrh Mitchell et al., "Drug Courts' Effects on Criminal Offending for Juveniles and Adults" (2012) <https://www.campbellcollaboration.org/library/drug-courts-effects-on-criminal-offending.html>; Angela Hawken and Mark Kleiman, *Managing Drug Involved Probations With Swift and Certain Sanctions: Evaluating Hawaii's HOPE* (2009), National Institute of Justice, <https://www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf>.

<sup>7</sup> The Surgeon General (2016), "Facing Addiction in America," <https://www.ncbi.nlm.nih.gov/books/NBK424850/>.

<sup>8</sup> Redonna K. Chandler, Bennett W. Fletcher, Nora D. Volkow. *Treating Drug Abuse and Addiction in the Criminal Justice System: Improving Public Health and Safety*, *JAMA*, 2009; 301(2):183-190, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2681083/pdf/nihms101882.pdf>.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> Douglas B. Marlowe, *Integrating Substance Abuse Treatment and Criminal Justice Supervision, Science and Practice Perspectives* (2003), [http://www.ndci.org/sites/default/files/nadcp/NIDAPerspectives-Marlowe\[1\].pdf](http://www.ndci.org/sites/default/files/nadcp/NIDAPerspectives-Marlowe[1].pdf).

<sup>12</sup> *Ibid.*

<sup>13</sup> Kathryn E. McCollister & Michael T. French, *The relative contribution of outcome domains in the total economic benefit of addiction interventions: a review of first findings*, *Addiction* (2003), 98, 1647-1659. <https://www.ncbi.nlm.nih.gov/pubmed/14651494>.

<sup>14</sup> Hefei Wen, et al, *The Effect of Substance Use Disorder Treatment Use on Crime: Evidence from Public Insurance Expansions and Health Insurance Parity Mandates*, National Bureau of Economic Research (2014), <http://www.nber.org/papers/w20537>.

<sup>15</sup> SAMHSA, 2015, *Screening and Assessment of Co-Occurring Disorders in the Justice System*, <https://store.samhsa.gov/shin/content/SMA15-4930/SMA15-4930.pdf>

<sup>16</sup> 2014 Bill Text MS H.B. 585.

<sup>17</sup> 2017 Bill Text LA S.B. 139.

<sup>18</sup> Darren Urada et. Al, "Evaluation of Proposition 36: The Substance Abuse and Crime Prevention Act of 2000" (2008), <http://www.uclaisap.org/prop36/documents/2008%20final%20report.pdf>.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> Evans, Elizabeth et al. "Comparative Effectiveness of California's Proposition 36 and Drug Court Programs Before and After Propensity Score Matching." *Crime and delinquency* 60.6 (2014): 909–938, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4203433/#R50>.

<sup>22</sup> 18 U.S.C. § 3553(f).

<sup>23</sup> Va. Code. Ann. § 18.2-248.

<sup>24</sup> CGS § 21a-283a.

<sup>25</sup> S. 1154 enacted a number of other property sentencing reforms that are not listed here. S. 1154 raised the felony theft threshold for the following crimes: willfully stealing anything of value from a graveyard or cemetery; bike larceny; fraudulent impersonation of an officer; and criminally receiving goods and services fraudulently obtained; raised the penalty ranges for embezzlement of public funds; and increased various thresholds and penalties for stealing aquaculture operations.

<sup>26</sup> Malicious injury to animals or property (16-11-510); malicious injury to tree, house, fence or fixture (16-11-520); obtaining nonferrous metals unlawfully, disruption of communication or electrical service (16-11-523); forgery (16-13-10); larceny (petit and grand) (16-11-30); stealing of bonds and the like (16-11-40); stealing of livestock and the like (16-11-50); stealing vessels and equipment (16-11-70); shoplifting (16-3-110); receiving stolen goods (16-13-180); breach of trust with fraudulent intent (16-13-230); obtaining signature or property by false pretenses (16-13-240); obtaining property under false tokens or letters (16-13-260); failure to return rented objects (16-13-420); fraudulent acquisition of food stamps (16-13-430); receiving, possessing, concealing, or disposing of a stolen vehicle (16-21-80); unlawful sale or disposal of personal property subject to a security interest (39-9-410); presenting false claims for payment (38-55-170); damage to a lodging establishment (45-2-4(B)); stealing from a field (46-1-20); stealing a tobacco plant (46-1-40); stealing produce (46-1-60); commission merchants failing to account for product (46-1-70); and unlawful purchase or sale of drifted lumber or timber (49-1-50).

<sup>27</sup> *Ibid.*

<sup>28</sup> Property crimes that did not see their felony threshold increased to \$2,000 under S. 1154 include, but are not limited to: financial transaction card fraud, criminal receiving of goods fraudulently obtained, stealing anything of value from a graveyard or cemetery, uttering fraudulent checks, and stopping payments on checks with intent to defraud.

<sup>29</sup> Alaska Stat. § 11.46.980

<sup>30</sup> S.C. Code Ann. §16-13-30.

<sup>31</sup> Texas Code Ann. §31.03.

<sup>32</sup> Wis. Stat. Ann. § 943.20.

<sup>33</sup> N.C. Gen. Stat. § 14-51.

<sup>34</sup> S.C. Code Ann. § 16-11-311

<sup>35</sup> Iowa § XVI.713; Aggravating factors in Iowa: perpetuating burglary in an occupied structure if the person has possession of a dangerous weapon; person has possession of an explosive or incendiary device; person intentionally or recklessly inflicts bodily injury on another person; person performs or participates in a sex act which would constitute sexual abuse.

<sup>36</sup> Iowa Code § 713.5; This sentence maximum also pertains to burglaries of occupied structures in which no people are present and the person has possession of an incendiary or explosive device, or a dangerous weapon, or bodily injury results to any person.

<sup>37</sup> S.C. Code Ann. § 16-11-312(A).

<sup>38</sup> N.C. Gen. Stat. § 14-51.

<sup>39</sup> N.C. Gen. Stat. § 14-51.

<sup>40</sup> Iowa Code § 713.6A.

<sup>41</sup> S.C. Code Ann. § 16-11-312(B).

<sup>42</sup> S.C. Code Ann. § 16-11-313.

<sup>43</sup> Iowa Code § 713.6A.

<sup>44</sup> Pew analyzed data from the National Incident Based Reporting System (NIBRS) from May 2009 through June 2011 to allow for analysis of one year of data prior to passage and one year of data after the June 2010 reform. NIBRS provides comprehensive data on crimes reported to police, not arrests. South Carolina is a 100 percent reporting state, which means that all of the law enforcement agencies within the state participate in NIBRS data collection. All incidents involving a larceny-theft and including valid property value information were included in the analysis. The following offense types were reviewed: pocket-picking, purse-snatching, shoplifting, theft from building, theft from coin-operated machine or device, theft from motor vehicle, theft of motor vehicle parts/accessories, and other. The total value of stolen goods reflects the total reported stolen in each incident.

<sup>45</sup> S.C. Code Ann. § 16-1-57.

<sup>46</sup> Miss. Code Ann. § 97-17-43.

<sup>47</sup> Alaska Stat. § 11.46.150(a).

<sup>48</sup> S.C. Code Ann. § 44-53-370(d)(3).

<sup>49</sup> Code of Ala. § 13A-12-212.

<sup>50</sup> N.C. Gen. Stat. § 90-95(d)(2).

<sup>51</sup> S.C. Code Ann. § 44-53-370(b)(1); In South Carolina, weight of the controlled substances gives rise to an assumption of intent to distribute, though intent would still need to be proven at trial.

<sup>52</sup> N.C. Gen. Stat. § 90-95(b)(1).

<sup>53</sup> Code of Ala. § 13A-12-211(c)(1).

<sup>54</sup> S.C. Code Ann. § 44-53-370(e)(2).

<sup>55</sup> S.C. Code Ann. § 44-53-375(A).

<sup>56</sup> Code of Ala. § 13A-12-212.

<sup>57</sup> N.C. Gen. Stat. § 90-95(d)(2).

<sup>58</sup> S.C. Code Ann. § 44-53-375(B); In South Carolina, weight of the controlled substances gives rise to an assumption of intent to distribute, though intent would still need to be proven at trial.

<sup>59</sup> N.C. Gen. Stat. § 90-95(b)(1).

<sup>60</sup> Code of Ala. § 13A-12-211(c)(6).

<sup>61</sup> S.C. Code Ann. § 44-53-375(C).

<sup>62</sup> S.C. Code Ann. § 44-53-370(d)(1).

<sup>63</sup> Code of Ala. § 13A-12-212.

<sup>64</sup> Can also be sentenced as unlawful distribution of a controlled substance, if the defendant sells, furnishes, or delivers a controlled substance; Code of Ala. § 13A-12-211(a).

<sup>65</sup> N.C. Gen. Stat. § 90-95(d)(1).

<sup>66</sup> S.C. Code Ann. § 44-53-370(d)(1); In South Carolina, weight of the controlled substances gives rise to an assumption of intent to distribute, though intent would still need to be proven at trial.

<sup>67</sup> N.C. Gen. Stat. § 90-95(b)(1).

<sup>68</sup> Code of Ala. § 13A-12-211(c)(2).

<sup>69</sup> S.C. Code Ann. § 44-53-370(e)(2).

<sup>70</sup> United States Sentencing Commission, (2016) "2016 Guidelines Manual," Chapter 2 –D, <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-2-d#NaN>.

<sup>71</sup> N.C. Gen. Stat. § 90-95(h)(3).

<sup>72</sup> S.C. Code Ann. § 44-53-375(C).

<sup>73</sup> United States Sentencing Commission, (2016) "2016 Guidelines Manual," Chapter 2 –D, <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-2-d#NaN>.

<sup>74</sup> N.C. Gen. Stat. § 90-95(h)(3)(b).

<sup>75</sup> S.C. Code Ann. § 44-53-370(e)(3).

<sup>76</sup> United States Sentencing Commission, (2016) "2016 Guidelines Manual," Chapter 2 –D, <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-2-d#NaN>.

<sup>77</sup> N.C. Gen. Stat. § 90-95(h)(4).