

## Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

**SUPREME COURT OF THE UNITED STATES**

## Syllabus

**CHAMBERS v. UNITED STATES****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE SEVENTH CIRCUIT**

No. 06–11206. Argued November 10, 2008—Decided January 13, 2009

The Armed Career Criminal Act (ACCA) imposes a 15-year mandatory prison term on a felon unlawfully in possession of a firearm who has three prior convictions for committing certain drug crimes or “a violent felony,” 18 U. S. C. §924(e)(1), defined as a crime punishable by more than one year’s imprisonment that, *inter alia*, “involves conduct that presents a serious potential risk of physical injury to another,” §924(e)(2)(B)(ii). At petitioner Chambers’ sentencing for being a felon in possession of a firearm, the Government sought ACCA’s 15-year mandatory prison term. Chambers disputed one of his prior convictions—failing to report for weekend confinement—as falling outside the ACCA definition of “violent felony.” The District Court treated the failure to report as a form of what the relevant state statute calls “escape from [a] penal institution,” and held that it qualified as a “violent felony” under ACCA. The Seventh Circuit agreed.

*Held:* Illinois’ crime of failure to report for penal confinement falls outside the scope of ACCA’s “violent felony” definition. Pp. 3–8.

(a) For purposes of ACCA’s definitions, it is the generic crime that counts, not how the crime was committed on a particular occasion. *Taylor v. United States*, 495 U. S. 575, 602. This categorical approach requires courts to choose the right category, and sometimes the choice is not obvious. The nature of the behavior that likely underlies a statutory phrase matters in this respect. The state statute at issue places together in a single section several different kinds of behavior, which, as relevant here, may be categorized either as failure to report for detention or as escape from custody. Failure to report is a separate crime from escape. Its underlying behavior differs from the more aggressive behavior underlying escape, and it is listed separately in the statute’s title and body and is of a different felony

## Syllabus

class than escape. At the same time, the statutory phrases setting forth the various kinds of failure to report describe roughly similar forms of behavior, thus constituting a single category. Consequently, for ACCA purposes, the statute contains at least two separate crimes, escape and failure to report. Pp. 3–5.

(b) The “failure to report” crime does not satisfy ACCA’s “violent felony” definition. Although it is punishable by imprisonment exceeding one year, it satisfies none of the other parts of the definition. Most critically, it does not “involv[e] conduct that presents a serious potential risk of physical injury to another.” Conceptually speaking, the crime amounts to a form of inaction, and there is no reason to believe that an offender who fails to report is otherwise doing something that poses a serious potential risk of physical injury. The Government’s argument that a failure to report reveals the offender’s special, strong aversion to penal custody—pointing to 3 state and federal cases over 30 years in which individuals shot at officers attempting to recapture them—is unconvincing. Even assuming the relevance of violence that may occur long after an offender fails to report, the offender’s aversion to penal custody is beside the point. The question is whether such an offender is significantly more likely than others to attack or resist an apprehender, thereby producing a serious risk of physical injury. Here a United States Sentencing Commission report, showing no violence in 160 federal failure-to-report cases over 2 recent years, helps provide a negative answer. The three reported cases to which the Government points do not show the contrary. Simple multiplication (2 years versus 30 years; federal alone versus federal-plus-state) suggests that they show only a statistically insignificant risk of physical violence. And the Government provides no other empirical information. Pp. 5–8.

473 F. 3d 724, reversed and remanded.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, SCALIA, KENNEDY, SOUTER, and GINSBURG, JJ., joined. ALITO, J., filed an opinion concurring in the judgment, in which THOMAS, JJ., joined.