

**U.S. Sentencing Commission
Preliminary Quarterly Data Report**



**3rd Quarter Release
Preliminary Fiscal Year 2009 Data
Through June 30, 2009**

Introduction

As part of its ongoing mission, the United States Sentencing Commission provides Congress, the judiciary, the executive branch, and the general public with data extracted and analyzed from sentencing documents submitted by courts to the Commission.¹ Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.² After the Supreme Court's decision in *United States v. Booker* on January 12, 2005, which rendered the sentencing guidelines advisory instead of mandatory, many people expressed an interest in knowing what changes, if any, in federal sentencing practices would result. The Commission responded by reconfiguring its data collection, analysis, and reporting efforts to provide real-time data reporting from the submitted documents.

The Commission first reported data on February 10, 2005 to Congress³ and began reporting data approximately monthly shortly thereafter. The types of data reported increased over time to accommodate various requests for the additional information. In March 2006, the Commission released a comprehensive report, *Final Report on the Impact of United States v. Booker on Federal Sentencing*,⁴ based on cases sentenced one year since the *Booker* decision. Because the report included additional analyses that had not been included in the monthly reports, not all the data presented in the report was comparable with the monthly releases, which made comparing data over time difficult.

In an effort to standardize the Commission's post-*Booker* analyses and to facilitate the identification of emerging trends going forward, the Commission began generating a new set of tables and charts on a quarterly basis for public release on the Commission's website beginning with the third quarter of fiscal year 2006. These quarterly data reports are similar in format and methodology to tables and figures produced in the *Sourcebook* or in the Commission's *Booker* report. Some of the figures include data from fiscal years before the *Booker* decision to facilitate analysis of sentencing trends over time. Other figures and all of the tables contain cumulative data (*i.e.*, data from the start of the fiscal year through the most current quarter). Appendix B cross-references the quarterly table numbers and figure letters as well as the corresponding number or letter in the *Sourcebook* (if it exists in the *Sourcebook*) so that the quarterly data can

¹In each felony or Class A misdemeanor case sentenced in federal court, sentencing courts are required to submit the following documents to the Commission: the Judgment and Commitment Order, the Statement of Reasons, the plea agreement (if applicable), the indictment or other charging document, and the presentence report. See 28 U.S.C. § 994(w).

²See the Commission's website, www.ussc.gov, for electronic copies of the 1995-2008 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

³See www.ussc.gov/bf.htm for an electronic copy of the prepared testimony of Ricardo H. Hinojosa, chair of the United States Sentencing Commission, before the Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, United States House of Representatives, February 10, 2005.

⁴See www.ussc.gov/bf.htm for an electronic copy of the Commission's *Final Report on the Impact of United States v. Booker on Federal Sentencing*.

be compared easily with data from prior fiscal years.⁵ In Appendix A are descriptions of datafile and variable definitions.

Users of the quarterly releases are cautioned that the quarterly data are preliminary only and subject to change as the Commission collects, analyzes, and reports on additional cases throughout the fiscal year. When data for each new quarter is made available, the Commission will update the previous preliminary quarterly totals in the most recent release until the release of the final fiscal year data in the Commission's *Sourcebook*. For example, the data reported in the initial release for the second quarter of the fiscal year may change as the Commission receives and analyzes documents during the remaining quarters for additional cases sentenced during the second quarter.⁶ Any subsequent changes in the quarterly data for the second quarter would be reflected initially in the subsequent quarterly releases and finally in the Commission's *Annual Report and Sourcebook of Federal Sentencing Statistics*. As a result, **quarterly data should not be considered final until publication of the Commission's *Annual Report and Sourcebook*.**

⁵The Commission has tried to maintain the same table numbers and figure letters over the past several years but due to slight differences in reporting categories between pre- and post-*Booker* time periods, the numbers and letters may not correspond exactly over time. Please refer to the table of contents for each of the prior *Sourcebook* years to determine the corresponding table number or figure letter.

⁶The reasons for data changes in previous quarters is due to one or more of the following reasons: the courts have up to 30 days to submit court documents to the Commission; the Commission both extracts information from the documents and screens cases through the quality control procedures and does not include any case in a data release unless it has been fully entered and reviewed; some documents are sent in later than other documents and the datafiles are then updated with the new information; the Commission receives amended court documents and updates the datafile based on the new information; the Commission matches its datafile to datafiles from the Administrative Office of the United States Courts and requests any case documents not received - a process that can only be completed after the documents have been received and the information entered into the Commission's database. For all of the above reasons, data may be excluded/included or reported differently from one quarter to another.

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**NATIONAL COMPARISON OF SENTENCE IMPOSED AND
POSITION RELATIVE TO THE GUIDELINE RANGE¹**
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

	N	%
TOTAL CASES	57,846	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	33,231	57.4
CASES SENTENCED ABOVE GUIDELINE RANGE	1,034	1.8
DEPARTURE ABOVE GUIDELINE RANGE	388	0.7
Upward Departure From Guideline Range ²	271	0.5
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	117	0.2
OTHERWISE ABOVE GUIDELINE RANGE	646	1.1
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	570	1.0
All Remaining Cases Above Guideline Range ⁵	76	0.1
GOVERNMENT SPONSORED BELOW RANGE⁶	14,471	25.0
§5K1.1 Substantial Assistance Departure	7,293	12.6
§5K3.1 Early Disposition Program Departure	5,067	8.8
Other Government Sponsored Below Range	2,111	3.6
NON-GOVERNMENT SPONSORED BELOW RANGE	9,110	15.7
DEPARTURE BELOW GUIDELINE RANGE	1,758	3.0
Downward Departure From Guideline Range ²	1,159	2.0
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	599	1.0
OTHERWISE BELOW GUIDELINE RANGE	7,352	12.7
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	6,658	11.5
All Remaining Cases Below Guideline Range ⁵	694	1.2

¹This table reflects the 59,076 cases sentenced on or after October 1, 2008, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by August 7, 2009. Of these, 1,230 cases were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

²All cases with departures in which the court did not indicate as a reason either *United States v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

³All cases sentenced outside of the guideline range in which the court indicated both a departure (see footnote 2) and a reference to either *United States v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

⁴All cases sentenced outside of the guideline range in which no departure was indicated and in which the court cited *United States v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing outside of the guideline system.

⁵All cases sentenced outside of the guideline range that could not be classified into any of the three previous outside of the range categories. This category includes cases in which no reason was provided for a sentence outside of the guideline range.

⁶Cases in which a reason for the sentence indicated that the prosecution initiated, proposed, or stipulated to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through June 30, 2009).

SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/ BOOKER		ABOVE RANGE W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
TOTAL	57,846	33,231	57.4	271	0.5	117	0.2	570	1.0	76	0.1
D.C. CIRCUIT	278	110	39.6	2	0.7	0	0.0	1	0.4	1	0.4
District of Columbia	278	110	39.6	2	0.7	0	0.0	1	0.4	1	0.4
FIRST CIRCUIT	1,326	718	54.1	5	0.4	0	0.0	10	0.8	2	0.2
Maine	176	97	55.1	1	0.6	0	0.0	1	0.6	0	0.0
Massachusetts	378	137	36.2	3	0.8	0	0.0	5	1.3	1	0.3
New Hampshire	148	65	43.9	0	0.0	0	0.0	2	1.4	0	0.0
Puerto Rico	524	372	71.0	1	0.2	0	0.0	1	0.2	1	0.2
Rhode Island	100	47	47.0	0	0.0	0	0.0	1	1.0	0	0.0
SECOND CIRCUIT	3,287	1,459	44.4	4	0.1	3	0.1	10	0.3	1	0.0
Connecticut	284	117	41.2	3	1.1	0	0.0	1	0.4	0	0.0
New York											
Eastern	820	278	33.9	0	0.0	1	0.1	3	0.4	0	0.0
Northern	387	244	63.0	0	0.0	0	0.0	0	0.0	0	0.0
Southern	1,146	512	44.7	0	0.0	1	0.1	2	0.2	1	0.1
Western	514	265	51.6	1	0.2	1	0.2	3	0.6	0	0.0
Vermont	136	43	31.6	0	0.0	0	0.0	1	0.7	0	0.0
THIRD CIRCUIT	2,249	1,045	46.5	5	0.2	4	0.2	13	0.6	1	0.0
Delaware	120	46	38.3	0	0.0	0	0.0	1	0.8	0	0.0
New Jersey	677	309	45.6	1	0.1	0	0.0	1	0.1	0	0.0
Pennsylvania											
Eastern	619	241	38.9	2	0.3	1	0.2	5	0.8	0	0.0
Middle	455	212	46.6	2	0.4	3	0.7	1	0.2	1	0.2
Western	337	210	62.3	0	0.0	0	0.0	1	0.3	0	0.0
Virgin Islands	41	27	65.9	0	0.0	0	0.0	4	9.8	0	0.0
FOURTH CIRCUIT	4,726	2,996	63.4	38	0.8	19	0.4	46	1.0	9	0.2
Maryland	537	248	46.2	1	0.2	4	0.7	5	0.9	1	0.2
North Carolina											
Eastern	461	272	59.0	9	2.0	3	0.7	4	0.9	1	0.2
Middle	314	228	72.6	1	0.3	0	0.0	2	0.6	0	0.0
Western	411	225	54.7	3	0.7	1	0.2	3	0.7	1	0.2
South Carolina	853	555	65.1	10	1.2	2	0.2	2	0.2	0	0.0
Virginia											
Eastern	1,286	954	74.2	10	0.8	8	0.6	15	1.2	5	0.4
Western	368	202	54.9	3	0.8	1	0.3	7	1.9	0	0.0
West Virginia											
Northern	283	176	62.2	0	0.0	0	0.0	2	0.7	0	0.0
Southern	213	136	63.8	1	0.5	0	0.0	6	2.8	1	0.5

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	7,293	12.6	5,067	8.8	2,111	3.6	1,159	2.0	599	1.0	6,658	11.5	694	1.2
D.C. CIRCUIT	71	25.5	0	0.0	46	16.5	2	0.7	5	1.8	30	10.8	10	3.6
District of Columbia	71	25.5	0	0.0	46	16.5	2	0.7	5	1.8	30	10.8	10	3.6
FIRST CIRCUIT	161	12.1	24	1.8	77	5.8	26	2.0	25	1.9	254	19.2	24	1.8
Maine	44	25.0	0	0.0	0	0.0	2	1.1	1	0.6	29	16.5	1	0.6
Massachusetts	29	7.7	0	0.0	41	10.8	16	4.2	12	3.2	130	34.4	4	1.1
New Hampshire	41	27.7	0	0.0	14	9.5	1	0.7	0	0.0	24	16.2	1	0.7
Puerto Rico	35	6.7	24	4.6	20	3.8	6	1.1	12	2.3	34	6.5	18	3.4
Rhode Island	12	12.0	0	0.0	2	2.0	1	1.0	0	0.0	37	37.0	0	0.0
SECOND CIRCUIT	696	21.2	1	0.0	121	3.7	100	3.0	83	2.5	761	23.2	48	1.5
Connecticut	58	20.4	0	0.0	10	3.5	18	6.3	15	5.3	61	21.5	1	0.4
New York														
Eastern	219	26.7	1	0.1	45	5.5	25	3.0	24	2.9	203	24.8	21	2.6
Northern	69	17.8	0	0.0	9	2.3	15	3.9	4	1.0	44	11.4	2	0.5
Southern	161	14.0	0	0.0	28	2.4	27	2.4	27	2.4	369	32.2	18	1.6
Western	154	30.0	0	0.0	23	4.5	2	0.4	1	0.2	59	11.5	5	1.0
Vermont	35	25.7	0	0.0	6	4.4	13	9.6	12	8.8	25	18.4	1	0.7
THIRD CIRCUIT	560	24.9	0	0.0	69	3.1	31	1.4	33	1.5	430	19.1	58	2.6
Delaware	12	10.0	0	0.0	2	1.7	0	0.0	0	0.0	27	22.5	32	26.7
New Jersey	202	29.8	0	0.0	11	1.6	7	1.0	4	0.6	130	19.2	12	1.8
Pennsylvania														
Eastern	194	31.3	0	0.0	14	2.3	7	1.1	10	1.6	141	22.8	4	0.6
Middle	111	24.4	0	0.0	37	8.1	7	1.5	3	0.7	72	15.8	6	1.3
Western	38	11.3	0	0.0	5	1.5	10	3.0	14	4.2	57	16.9	2	0.6
Virgin Islands	3	7.3	0	0.0	0	0.0	0	0.0	2	4.9	3	7.3	2	4.9
FOURTH CIRCUIT	787	16.7	0	0.0	134	2.8	71	1.5	28	0.6	552	11.7	46	1.0
Maryland	130	24.2	0	0.0	39	7.3	10	1.9	12	2.2	74	13.8	13	2.4
North Carolina														
Eastern	145	31.5	0	0.0	1	0.2	3	0.7	0	0.0	20	4.3	3	0.7
Middle	55	17.5	0	0.0	1	0.3	0	0.0	2	0.6	25	8.0	0	0.0
Western	131	31.9	0	0.0	3	0.7	8	1.9	3	0.7	29	7.1	4	1.0
South Carolina	153	17.9	0	0.0	28	3.3	8	0.9	2	0.2	87	10.2	6	0.7
Virginia														
Eastern	52	4.0	0	0.0	16	1.2	27	2.1	7	0.5	174	13.5	18	1.4
Western	91	24.7	0	0.0	8	2.2	10	2.7	0	0.0	45	12.2	1	0.3
West Virginia														
Northern	19	6.7	0	0.0	37	13.1	2	0.7	0	0.0	46	16.3	1	0.4
Southern	11	5.2	0	0.0	1	0.5	3	1.4	2	0.9	52	24.4	0	0.0

Table 2 (cont.)

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/ BOOKER		ABOVE RANGE W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
FIFTH CIRCUIT	14,213	10,202	71.8	83	0.6	31	0.2	192	1.4	18	0.1
Louisiana											
Eastern	326	211	64.7	3	0.9	3	0.9	7	2.1	1	0.3
Middle	123	77	62.6	3	2.4	1	0.8	2	1.6	0	0.0
Western	280	221	78.9	4	1.4	3	1.1	10	3.6	1	0.4
Mississippi											
Northern	102	56	54.9	0	0.0	0	0.0	2	2.0	0	0.0
Southern	210	171	81.4	3	1.4	0	0.0	4	1.9	1	0.5
Texas											
Eastern	742	568	76.5	8	1.1	0	0.0	4	0.5	0	0.0
Northern	729	476	65.3	16	2.2	10	1.4	21	2.9	0	0.0
Southern	5,478	3,526	64.4	35	0.6	9	0.2	42	0.8	4	0.1
Western	6,223	4,896	78.7	11	0.2	5	0.1	100	1.6	11	0.2
SIXTH CIRCUIT	3,779	1,959	51.8	19	0.5	11	0.3	36	1.0	4	0.1
Kentucky											
Eastern	484	238	49.2	1	0.2	0	0.0	6	1.2	0	0.0
Western	289	193	66.8	1	0.3	0	0.0	3	1.0	0	0.0
Michigan											
Eastern	554	296	53.4	4	0.7	0	0.0	2	0.4	0	0.0
Western	365	218	59.7	3	0.8	3	0.8	10	2.7	1	0.3
Ohio											
Northern	500	254	50.8	0	0.0	0	0.0	2	0.4	0	0.0
Southern	451	161	35.7	4	0.9	4	0.9	4	0.9	1	0.2
Tennessee											
Eastern	443	265	59.8	3	0.7	0	0.0	2	0.5	2	0.5
Middle	239	113	47.3	1	0.4	2	0.8	2	0.8	0	0.0
Western	454	221	48.7	2	0.4	2	0.4	5	1.1	0	0.0
SEVENTH CIRCUIT	2,164	1,156	53.4	3	0.1	7	0.3	44	2.0	3	0.1
Illinois											
Central	269	137	50.9	0	0.0	0	0.0	1	0.4	0	0.0
Northern	646	297	46.0	0	0.0	3	0.5	11	1.7	2	0.3
Southern	237	178	75.1	1	0.4	4	1.7	3	1.3	0	0.0
Indiana											
Northern	328	216	65.9	0	0.0	0	0.0	6	1.8	0	0.0
Southern	164	97	59.1	1	0.6	0	0.0	4	2.4	0	0.0
Wisconsin											
Eastern	373	141	37.8	1	0.3	0	0.0	16	4.3	1	0.3
Western	147	90	61.2	0	0.0	0	0.0	3	2.0	0	0.0
EIGHTH CIRCUIT	3,996	2,284	57.2	18	0.5	10	0.3	40	1.0	6	0.2
Arkansas											
Eastern	316	203	64.2	0	0.0	2	0.6	7	2.2	0	0.0
Western	195	143	73.3	0	0.0	0	0.0	2	1.0	0	0.0
Iowa											
Northern	259	127	49.0	7	2.7	1	0.4	1	0.4	3	1.2
Southern	345	173	50.1	0	0.0	0	0.0	7	2.0	0	0.0
Minnesota	496	159	32.1	0	0.0	0	0.0	1	0.2	1	0.2
Missouri											
Eastern	735	426	58.0	0	0.0	0	0.0	5	0.7	0	0.0
Western	605	366	60.5	1	0.2	1	0.2	8	1.3	0	0.0
Nebraska	484	299	61.8	5	1.0	1	0.2	2	0.4	2	0.4
North Dakota	189	116	61.4	0	0.0	1	0.5	2	1.1	0	0.0
South Dakota	372	272	73.1	5	1.3	4	1.1	5	1.3	0	0.0

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
FIFTH CIRCUIT	1,032	7.3	861	6.1	378	2.7	388	2.7	35	0.2	873	6.1	120	0.8
Louisiana														
Eastern	48	14.7	0	0.0	15	4.6	15	4.6	1	0.3	17	5.2	5	1.5
Middle	30	24.4	0	0.0	0	0.0	0	0.0	2	1.6	8	6.5	0	0.0
Western	8	2.9	0	0.0	3	1.1	2	0.7	3	1.1	22	7.9	3	1.1
Mississippi														
Northern	27	26.5	0	0.0	6	5.9	0	0.0	0	0.0	8	7.8	3	2.9
Southern	12	5.7	0	0.0	1	0.5	2	1.0	0	0.0	13	6.2	3	1.4
Texas														
Eastern	59	8.0	0	0.0	45	6.1	13	1.8	6	0.8	34	4.6	5	0.7
Northern	104	14.3	0	0.0	11	1.5	2	0.3	3	0.4	80	11.0	6	0.8
Southern	323	5.9	739	13.5	206	3.8	224	4.1	8	0.1	341	6.2	21	0.4
Western	421	6.8	122	2.0	91	1.5	130	2.1	12	0.2	350	5.6	74	1.2
SIXTH CIRCUIT	910	24.1	0	0.0	100	2.6	57	1.5	68	1.8	570	15.1	45	1.2
Kentucky														
Eastern	184	38.0	0	0.0	4	0.8	2	0.4	1	0.2	46	9.5	2	0.4
Western	43	14.9	0	0.0	17	5.9	4	1.4	0	0.0	24	8.3	4	1.4
Michigan														
Eastern	103	18.6	0	0.0	11	2.0	12	2.2	9	1.6	112	20.2	5	0.9
Western	47	12.9	0	0.0	8	2.2	5	1.4	6	1.6	62	17.0	2	0.5
Ohio														
Northern	123	24.6	0	0.0	9	1.8	6	1.2	11	2.2	85	17.0	10	2.0
Southern	141	31.3	0	0.0	24	5.3	13	2.9	27	6.0	64	14.2	8	1.8
Tennessee														
Eastern	115	26.0	0	0.0	3	0.7	6	1.4	2	0.5	41	9.3	4	0.9
Middle	52	21.8	0	0.0	6	2.5	3	1.3	9	3.8	49	20.5	2	0.8
Western	102	22.5	0	0.0	18	4.0	6	1.3	3	0.7	87	19.2	8	1.8
SEVENTH CIRCUIT	352	16.3	0	0.0	66	3.0	32	1.5	70	3.2	384	17.7	47	2.2
Illinois														
Central	68	25.3	0	0.0	8	3.0	3	1.1	4	1.5	46	17.1	2	0.7
Northern	97	15.0	0	0.0	12	1.9	20	3.1	51	7.9	132	20.4	21	3.3
Southern	24	10.1	0	0.0	3	1.3	2	0.8	9	3.8	10	4.2	3	1.3
Indiana														
Northern	53	16.2	0	0.0	8	2.4	5	1.5	3	0.9	27	8.2	10	3.0
Southern	23	14.0	0	0.0	8	4.9	1	0.6	0	0.0	30	18.3	0	0.0
Wisconsin														
Eastern	72	19.3	0	0.0	26	7.0	0	0.0	2	0.5	103	27.6	11	2.9
Western	15	10.2	0	0.0	1	0.7	1	0.7	1	0.7	36	24.5	0	0.0
EIGHTH CIRCUIT	637	15.9	19	0.5	127	3.2	65	1.6	48	1.2	695	17.4	47	1.2
Arkansas														
Eastern	39	12.3	0	0.0	13	4.1	3	0.9	5	1.6	41	13.0	3	0.9
Western	28	14.4	0	0.0	1	0.5	4	2.1	0	0.0	15	7.7	2	1.0
Iowa														
Northern	57	22.0	0	0.0	6	2.3	1	0.4	0	0.0	56	21.6	0	0.0
Southern	63	18.3	0	0.0	9	2.6	3	0.9	3	0.9	83	24.1	4	1.2
Minnesota	155	31.3	0	0.0	6	1.2	16	3.2	12	2.4	136	27.4	10	2.0
Missouri														
Eastern	110	15.0	0	0.0	28	3.8	16	2.2	11	1.5	128	17.4	11	1.5
Western	121	20.0	0	0.0	20	3.3	1	0.2	3	0.5	72	11.9	12	2.0
Nebraska	11	2.3	19	3.9	30	6.2	6	1.2	5	1.0	100	20.7	4	0.8
North Dakota	40	21.2	0	0.0	4	2.1	4	2.1	1	0.5	21	11.1	0	0.0
South Dakota	13	3.5	0	0.0	10	2.7	11	3.0	8	2.2	43	11.6	1	0.3

Table 2 (cont.)

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/ BOOKER		ABOVE RANGE W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
NINTH CIRCUIT	11,752	4,844	41.2	68	0.6	21	0.2	81	0.7	18	0.2
Alaska	146	74	50.7	1	0.7	2	1.4	0	0.0	0	0.0
Arizona	2,690	768	28.6	36	1.3	2	0.1	7	0.3	0	0.0
California											
Central	1,454	476	32.7	6	0.4	7	0.5	14	1.0	5	0.3
Eastern	790	347	43.9	3	0.4	0	0.0	7	0.9	1	0.1
Northern	574	294	51.2	0	0.0	3	0.5	10	1.7	2	0.3
Southern	3,511	1,577	44.9	12	0.3	1	0.0	11	0.3	8	0.2
Guam	46	32	69.6	0	0.0	1	2.2	1	2.2	0	0.0
Hawaii	242	114	47.1	0	0.0	0	0.0	3	1.2	0	0.0
Idaho	246	110	44.7	2	0.8	1	0.4	2	0.8	0	0.0
Montana	296	209	70.6	0	0.0	3	1.0	5	1.7	2	0.7
Nevada	268	176	65.7	1	0.4	0	0.0	2	0.7	0	0.0
Northern Mariana Islands	17	16	94.1	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	481	228	47.4	1	0.2	0	0.0	3	0.6	0	0.0
Washington											
Eastern	300	128	42.7	3	1.0	1	0.3	10	3.3	0	0.0
Western	691	295	42.7	3	0.4	0	0.0	6	0.9	0	0.0
TENTH CIRCUIT	4,773	2,983	62.5	16	0.3	1	0.0	31	0.6	2	0.0
Colorado	387	213	55.0	1	0.3	1	0.3	5	1.3	0	0.0
Kansas	539	310	57.5	3	0.6	0	0.0	16	3.0	0	0.0
New Mexico	2,384	1,526	64.0	6	0.3	0	0.0	1	0.0	1	0.0
Oklahoma											
Eastern	71	43	60.6	1	1.4	0	0.0	0	0.0	0	0.0
Northern	178	130	73.0	0	0.0	0	0.0	0	0.0	0	0.0
Western	334	274	82.0	0	0.0	0	0.0	4	1.2	1	0.3
Utah	604	321	53.1	4	0.7	0	0.0	2	0.3	0	0.0
Wyoming	276	166	60.1	1	0.4	0	0.0	3	1.1	0	0.0
ELEVENTH CIRCUIT	5,303	3,475	65.5	10	0.2	10	0.2	66	1.2	11	0.2
Alabama											
Middle	167	95	56.9	1	0.6	1	0.6	4	2.4	0	0.0
Northern	361	213	59.0	0	0.0	0	0.0	4	1.1	0	0.0
Southern	315	195	61.9	0	0.0	0	0.0	0	0.0	0	0.0
Florida											
Middle	1,274	744	58.4	4	0.3	1	0.1	12	0.9	3	0.2
Northern	290	196	67.6	0	0.0	1	0.3	5	1.7	0	0.0
Southern	1,677	1,189	70.9	2	0.1	6	0.4	16	1.0	6	0.4
Georgia											
Middle	239	183	76.6	1	0.4	0	0.0	5	2.1	1	0.4
Northern	532	318	59.8	0	0.0	1	0.2	5	0.9	1	0.2
Southern	448	342	76.3	2	0.4	0	0.0	15	3.3	0	0.0

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
NINTH CIRCUIT	946	8.0	3,646	31.0	578	4.9	244	2.1	123	1.0	1,004	8.5	179	1.5
Alaska	21	14.4	0	0.0	16	11.0	1	0.7	13	8.9	10	6.8	8	5.5
Arizona	140	5.2	1,449	53.9	68	2.5	41	1.5	23	0.9	128	4.8	28	1.0
California														
Central	146	10.0	386	26.5	94	6.5	47	3.2	35	2.4	182	12.5	56	3.9
Eastern	97	12.3	222	28.1	26	3.3	11	1.4	6	0.8	66	8.4	4	0.5
Northern	35	6.1	78	13.6	69	12.0	4	0.7	4	0.7	64	11.1	11	1.9
Southern	138	3.9	1,368	39.0	66	1.9	105	3.0	20	0.6	149	4.2	56	1.6
Guam	8	17.4	0	0.0	0	0.0	0	0.0	1	2.2	3	6.5	0	0.0
Hawaii	84	34.7	0	0.0	0	0.0	1	0.4	0	0.0	38	15.7	2	0.8
Idaho	49	19.9	30	12.2	9	3.7	3	1.2	2	0.8	35	14.2	3	1.2
Montana	25	8.4	0	0.0	3	1.0	6	2.0	3	1.0	37	12.5	3	1.0
Nevada	21	7.8	0	0.0	14	5.2	1	0.4	0	0.0	49	18.3	4	1.5
Northern Mariana Islands	1	5.9	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	78	16.2	25	5.2	60	12.5	7	1.5	4	0.8	73	15.2	2	0.4
Washington														
Eastern	18	6.0	62	20.7	17	5.7	5	1.7	1	0.3	55	18.3	0	0.0
Western	85	12.3	26	3.8	136	19.7	12	1.7	11	1.6	115	16.6	2	0.3
TENTH CIRCUIT	334	7.0	496	10.4	363	7.6	101	2.1	39	0.8	384	8.0	23	0.5
Colorado	71	18.3	0	0.0	13	3.4	15	3.9	2	0.5	65	16.8	1	0.3
Kansas	104	19.3	0	0.0	52	9.6	0	0.0	2	0.4	51	9.5	1	0.2
New Mexico	43	1.8	375	15.7	248	10.4	60	2.5	13	0.5	104	4.4	7	0.3
Oklahoma														
Eastern	11	15.5	0	0.0	1	1.4	2	2.8	1	1.4	11	15.5	1	1.4
Northern	29	16.3	0	0.0	1	0.6	0	0.0	1	0.6	17	9.6	0	0.0
Western	21	6.3	0	0.0	2	0.6	0	0.0	2	0.6	29	8.7	1	0.3
Utah	27	4.5	121	20.0	29	4.8	18	3.0	4	0.7	69	11.4	9	1.5
Wyoming	28	10.1	0	0.0	17	6.2	6	2.2	14	5.1	38	13.8	3	1.1
ELEVENTH CIRCUIT	807	15.2	20	0.4	52	1.0	42	0.8	42	0.8	721	13.6	47	0.9
Alabama														
Middle	49	29.3	0	0.0	1	0.6	0	0.0	1	0.6	12	7.2	3	1.8
Northern	85	23.5	0	0.0	1	0.3	1	0.3	2	0.6	51	14.1	4	1.1
Southern	77	24.4	0	0.0	0	0.0	2	0.6	1	0.3	40	12.7	0	0.0
Florida														
Middle	252	19.8	19	1.5	11	0.9	17	1.3	14	1.1	186	14.6	11	0.9
Northern	63	21.7	0	0.0	0	0.0	0	0.0	1	0.3	21	7.2	3	1.0
Southern	131	7.8	0	0.0	20	1.2	8	0.5	10	0.6	273	16.3	16	1.0
Georgia														
Middle	26	10.9	0	0.0	2	0.8	0	0.0	1	0.4	20	8.4	0	0.0
Northern	86	16.2	1	0.2	13	2.4	10	1.9	11	2.1	78	14.7	8	1.5
Southern	38	8.5	0	0.0	4	0.9	4	0.9	1	0.2	40	8.9	2	0.4

¹Of the 59,076 cases, 1,230 were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Districts for which information needed to determine the relationship between the sentence imposed and the guideline range is missing in five percent or more of the cases received included: Middle Georgia (24.4%), Eastern Virginia (16.0%), Arizona (12.8%), Maryland (9.7%), Northern New York (9.2%), Southern Mississippi (7.5%), and Virgin Islands (6.8%). Descriptions of variables used in this table are provided in Appendix A.

Table 3

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURES		UPWARD DEPARTURES W/ <i>BOOKER</i>		ABOVE RANGE WITH W/ <i>BOOKER</i>		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
TOTAL	57,846	33,231	57.4	271	0.5	117	0.2	570	1.0	76	0.1
Murder	66	36	54.5	3	4.5	1	1.5	2	3.0	0	0.0
Manslaughter	41	24	58.5	2	4.9	1	2.4	4	9.8	0	0.0
Kidnapping/Hostage Taking	32	10	31.3	1	3.1	0	0.0	1	3.1	1	3.1
Sexual Abuse	335	232	69.3	11	3.3	1	0.3	11	3.3	1	0.3
Assault	463	268	57.9	10	2.2	5	1.1	15	3.2	1	0.2
Robbery	737	439	59.6	10	1.4	3	0.4	20	2.7	2	0.3
Arson	47	28	59.6	1	2.1	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	17,582	8,248	46.9	45	0.3	9	0.1	65	0.4	17	0.1
Drugs - Communication Facility	384	198	51.6	0	0.0	0	0.0	2	0.5	0	0.0
Drugs - Simple Possession	364	323	88.7	3	0.8	1	0.3	10	2.7	3	0.8
Firearms	6,035	3,774	62.5	48	0.8	29	0.5	85	1.4	8	0.1
Burglary/B&E	26	21	80.8	0	0.0	0	0.0	1	3.8	1	3.8
Auto Theft	55	31	56.4	0	0.0	0	0.0	2	3.6	0	0.0
Larceny	1,060	784	74.0	6	0.6	1	0.1	9	0.8	1	0.1
Fraud	5,208	3,135	60.2	24	0.5	14	0.3	68	1.3	9	0.2
Embezzlement	347	228	65.7	0	0.0	1	0.3	4	1.2	0	0.0
Forgery/Counterfeiting	628	426	67.8	5	0.8	1	0.2	11	1.8	2	0.3
Bribery	117	40	34.2	0	0.0	0	0.0	1	0.9	0	0.0
Tax	449	173	38.5	0	0.0	1	0.2	3	0.7	0	0.0
Money Laundering	615	238	38.7	1	0.2	1	0.2	2	0.3	1	0.2
Racketeering/Extortion	463	202	43.6	1	0.2	7	1.5	5	1.1	0	0.0
Gambling/Lottery	42	19	45.2	0	0.0	0	0.0	1	2.4	0	0.0
Civil Rights	42	20	47.6	0	0.0	0	0.0	1	2.4	0	0.0
Immigration	18,393	11,677	63.5	81	0.4	27	0.1	191	1.0	21	0.1
Pornography/Prostitution	1,470	687	46.7	9	0.6	4	0.3	27	1.8	2	0.1
Prison Offenses	342	245	71.6	0	0.0	3	0.9	5	1.5	2	0.6
Administration of Justice Offenses	735	418	56.9	5	0.7	3	0.4	12	1.6	0	0.0
Environmental/Wildlife	148	79	53.4	1	0.7	0	0.0	0	0.0	0	0.0
National Defense	46	16	34.8	0	0.0	0	0.0	0	0.0	0	0.0
Antitrust	19	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Food & Drug	53	32	60.4	0	0.0	0	0.0	0	0.0	0	0.0
Other Miscellaneous Offenses	1,502	1,180	78.6	4	0.3	4	0.3	12	0.8	4	0.3

Table 3 (cont.)

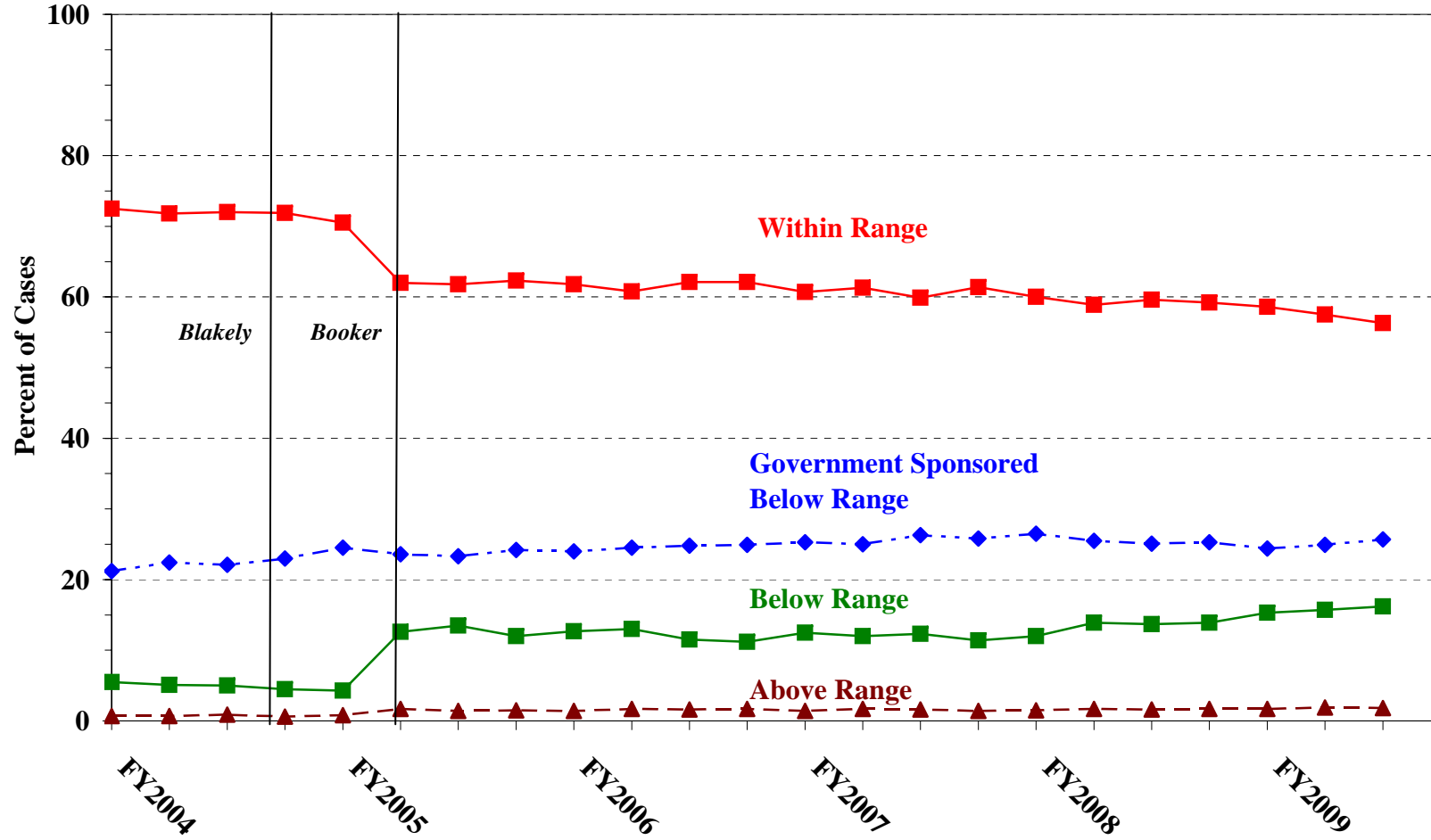
PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	7,293	12.6	5,067	8.8	2,111	3.6	1,159	2.0	599	1.0	6,658	11.5	694	1.2
Murder	18	27.3	0	0.0	2	3.0	0	0.0	1	1.5	3	4.5	0	0.0
Manslaughter	0	0.0	0	0.0	1	2.4	6	14.6	0	0.0	3	7.3	0	0.0
Kidnapping/Hostage Taking	9	28.1	2	6.3	4	12.5	0	0.0	0	0.0	3	9.4	1	3.1
Sexual Abuse	9	2.7	1	0.3	18	5.4	4	1.2	5	1.5	40	11.9	2	0.6
Assault	4	0.9	1	0.2	59	12.7	23	5.0	9	1.9	61	13.2	7	1.5
Robbery	83	11.3	1	0.1	21	2.8	14	1.9	17	2.3	123	16.7	4	0.5
Arson	13	27.7	0	0.0	1	2.1	0	0.0	1	2.1	3	6.4	0	0.0
Drugs - Trafficking	4,630	26.3	957	5.4	654	3.7	310	1.8	215	1.2	2,272	12.9	160	0.9
Drugs - Communication Facility	69	18.0	1	0.3	18	4.7	10	2.6	3	0.8	77	20.1	6	1.6
Drugs - Simple Possession	9	2.5	0	0.0	1	0.3	5	1.4	0	0.0	5	1.4	4	1.1
Firearms	688	11.4	14	0.2	215	3.6	121	2.0	65	1.1	900	14.9	88	1.5
Burglary/B&E	2	7.7	0	0.0	0	0.0	0	0.0	0	0.0	1	3.8	0	0.0
Auto Theft	9	16.4	0	0.0	3	5.5	1	1.8	1	1.8	8	14.5	0	0.0
Larceny	66	6.2	0	0.0	23	2.2	11	1.0	8	0.8	125	11.8	26	2.5
Fraud	747	14.3	7	0.1	151	2.9	87	1.7	64	1.2	804	15.4	98	1.9
Embezzlement	9	2.6	0	0.0	10	2.9	7	2.0	7	2.0	70	20.2	11	3.2
Forgery/Counterfeiting	65	10.4	1	0.2	9	1.4	5	0.8	7	1.1	87	13.9	9	1.4
Bribery	36	30.8	1	0.9	5	4.3	3	2.6	0	0.0	29	24.8	2	1.7
Tax	66	14.7	0	0.0	23	5.1	16	3.6	16	3.6	142	31.6	9	2.0
Money Laundering	150	24.4	7	1.1	47	7.6	7	1.1	17	2.8	134	21.8	10	1.6
Racketeering/Extortion	84	18.1	0	0.0	71	15.3	10	2.2	8	1.7	72	15.6	3	0.6
Gambling/Lottery	11	26.2	0	0.0	3	7.1	2	4.8	1	2.4	4	9.5	1	2.4
Civil Rights	8	19.0	0	0.0	2	4.8	0	0.0	0	0.0	9	21.4	2	4.8
Immigration	237	1.3	4,071	22.1	497	2.7	418	2.3	89	0.5	906	4.9	178	1.0
Pornography/Prostitution	58	3.9	0	0.0	120	8.2	28	1.9	39	2.7	475	32.3	21	1.4
Prison Offenses	13	3.8	2	0.6	31	9.1	8	2.3	1	0.3	29	8.5	3	0.9
Administration of Justice Offenses	83	11.3	1	0.1	50	6.8	28	3.8	9	1.2	116	15.8	10	1.4
Environmental/Wildlife	15	10.1	0	0.0	17	11.5	6	4.1	3	2.0	19	12.8	8	5.4
National Defense	4	8.7	0	0.0	3	6.5	5	10.9	1	2.2	15	32.6	2	4.3
Antitrust	16	84.2	0	0.0	1	5.3	0	0.0	0	0.0	2	10.5	0	0.0
Food & Drug	8	15.1	0	0.0	8	15.1	0	0.0	1	1.9	3	5.7	1	1.9
Other Miscellaneous Offenses	74	4.9	0	0.0	43	2.9	24	1.6	11	0.7	118	7.9	28	1.9

¹Of the 59,076 cases, 1,230 were excluded due to missing information from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through June 30, 2009).

Figure A

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹
 Fiscal Years 2004 - 2008,
 3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)



¹Descriptions of variables used in this table are provided in Appendix A.

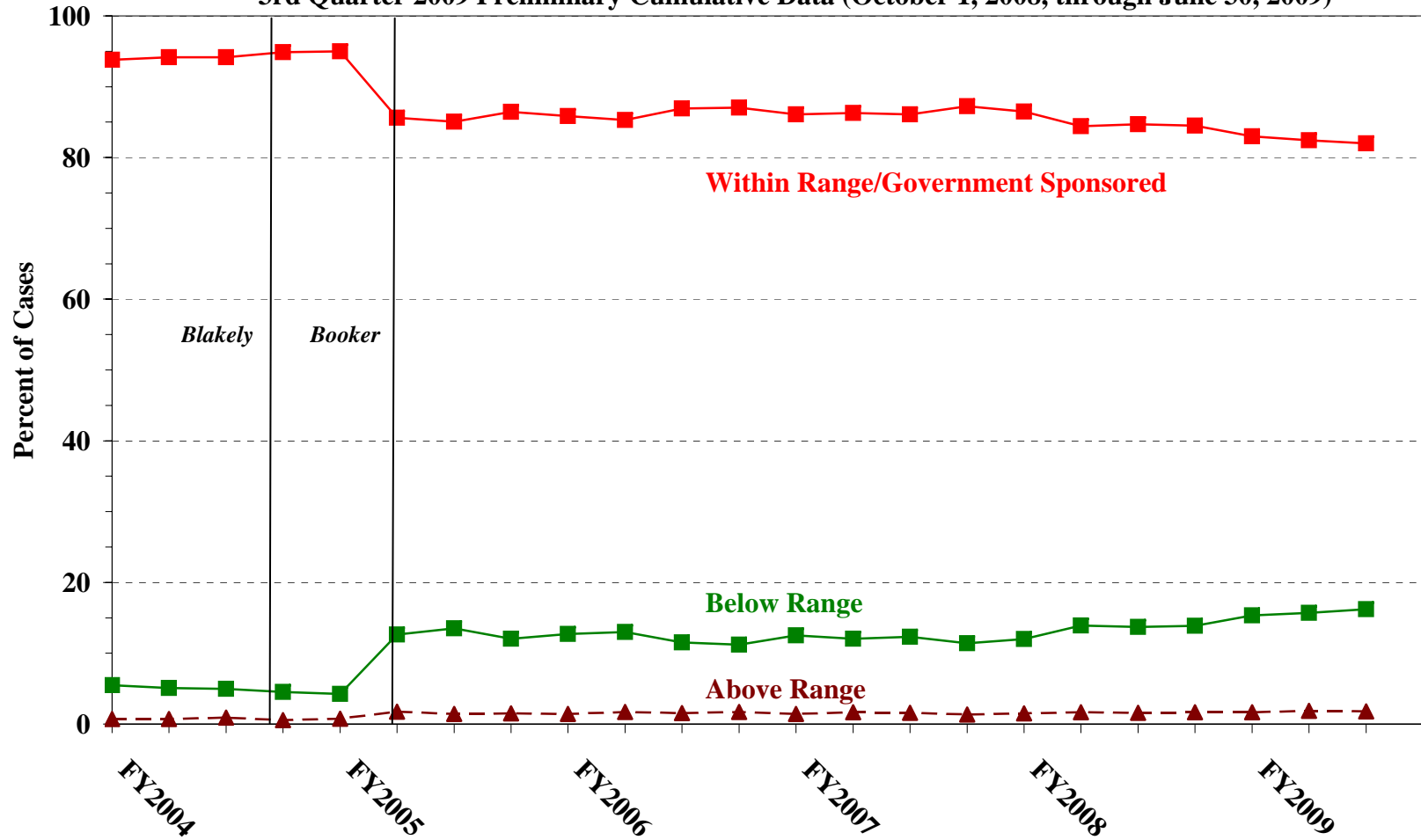
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through June 30, 2009).

Figure B

**QUARTERLY DATA FOR WITHIN RANGE/GOVERNMENT SPONSORED
AND OTHER OUT OF RANGE SENTENCES¹**

Fiscal Years 2004 - 2008,

3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)



¹Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through June 30, 2009).

Table 4

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹
Fiscal Years 2004 - 2008,
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

FISCAL YEAR	WITHIN GUIDELINE RANGE	GOVERNMENT SPONSORED BELOW RANGE	BELOW RANGE	ABOVE RANGE
Quarter	%	%	%	%
FY2004				
1st Quarter	72.5	21.2	5.5	0.7
2ndQuarter	71.8	22.4	5.1	0.7
3rd Quarter	72.0	22.1	5.0	0.9
4th Quarter	71.9	23.0	4.5	0.6
FY2005				
1st Quarter	70.5	24.5	4.3	0.8
2ndQuarter	62.0	23.6	12.6	1.7
3rd Quarter	61.8	23.3	13.5	1.4
4th Quarter	62.3	24.2	12.0	1.5
FY2006				
1st Quarter	61.8	24.0	12.7	1.4
2ndQuarter	60.8	24.5	13.0	1.7
3rd Quarter	62.1	24.8	11.5	1.6
4th Quarter	62.1	24.9	11.2	1.7
FY2007				
1st Quarter	60.7	25.3	12.5	1.4
2ndQuarter	61.3	25.0	12.0	1.7
3rd Quarter	59.9	26.3	12.3	1.6
4th Quarter	61.4	25.8	11.4	1.4
FY2008				
1st Quarter	60.0	26.5	12.0	1.5
2ndQuarter	58.9	25.5	13.9	1.7
3rd Quarter	59.6	25.1	13.7	1.6
4th Quarter	59.2	25.3	13.9	1.7
FY2009				
1st Quarter	58.6	24.4	15.3	1.7
2ndQuarter	57.5	24.9	15.7	1.9
3rd Quarter	56.3	25.7	16.2	1.8
4th Quarter	--	--	--	--

¹Descriptions of variables used in this table are provided in Appendix A.

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward				Government Sponsored			Downward		Below Range	
			Gdline Only	with Booker	Above Range with Booker	All Others	\$5K1.1	\$5K3.1	Other Gov't	Gdline Only	with Booker	with Booker	All Others
§2H4.1	5	3	0	0	1	0	0	0	0	0	0	0	1
§2H4.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.2	109	44	2	1	2	0	23	0	7	6	1	22	1
§2J1.3	59	17	0	0	1	0	10	0	4	3	4	19	1
§2J1.4	15	12	0	0	1	0	0	0	0	0	1	1	0
§2J1.5	1	1	0	0	0	0	0	0	0	0	0	0	0
§2J1.6	40	32	0	0	0	0	0	0	0	0	1	6	1
§2J1.7	1	1	0	0	0	0	0	0	0	0	0	0	0
§2J1.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.9	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.1	1	1	0	0	0	0	0	0	0	0	0	0	0
§2K1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.3	18	9	0	0	1	0	2	0	2	0	1	3	0
§2K1.4	55	33	0	0	1	0	15	0	2	0	1	3	0
§2K1.5	4	4	0	0	0	0	0	0	0	0	0	0	0
§2K1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.1	4,674	2,978	34	23	60	3	425	14	155	107	62	758	55
§2K2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.4 ³	--	--	--	--	--	--	--	--	--	--	--	--	--
§2K2.5	8	7	0	0	1	0	0	0	0	0	0	0	0
§2K2.6	2	2	0	0	0	0	0	0	0	0	0	0	0
§2K3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K3.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L1.1	2,490	1,235	24	11	10	6	143	736	108	44	11	132	30
§2L1.2	12,241	7,373	44	12	157	12	51	3,065	347	338	70	670	102
§2L1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.1	273	150	0	0	8	0	50	0	15	8	2	29	11
§2L2.2	1,251	1,145	10	3	23	0	14	1	10	9	2	19	15
§2L2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.1	2	0	0	0	0	0	0	0	0	0	0	2	0
§2M2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.1	1	0	0	0	0	0	0	0	1	0	0	0	0
§2M3.2	2	1	0	0	0	0	0	0	1	0	0	0	0
§2M3.3	1	1	0	0	0	0	0	0	0	0	0	0	0
§2M3.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.9	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M4.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M5.1	6	1	0	0	0	0	3	0	0	0	0	1	1
§2M5.2	43	14	0	0	0	0	5	0	1	6	2	13	2
§2M5.3	8	2	0	0	0	0	1	0	0	0	0	5	0
§2M6.1	2	2	0	0	0	0	0	0	0	0	0	0	0
§2M6.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2N1.1	3	0	0	0	0	0	0	0	1	0	0	2	0
§2N1.2	2	0	0	0	0	0	1	0	0	0	0	1	0

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward Departure		Above Range		Government Sponsored			Downward Departure		Below Range	
			Gdline Only	with Booker	with Booker	All Others	§5K1.1	§5K3.1	Other Gov't	Gdline Only	with Booker	with Booker	All Others
§2N1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2N2.1	27	27	0	0	0	0	0	0	0	0	0	0	0
§2N3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2P1.1	197	152	0	1	3	1	6	2	4	4	1	22	1
§2P1.2	91	63	0	2	2	1	5	0	10	3	0	4	1
§2P1.3	4	1	0	0	0	0	0	0	3	0	0	0	0
§2P1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.2	35	9	0	0	0	0	5	0	5	5	3	8	0
§2Q1.3	39	16	0	0	0	0	7	0	2	7	1	5	1
§2Q1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q2.1	98	53	1	0	0	0	12	0	8	0	1	16	7
§2Q2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2R1.1	11	0	0	0	0	0	10	0	1	0	0	0	0
§2S1.1	745	259	1	2	7	2	239	3	57	9	18	139	9
§2S1.2	3	2	0	0	0	0	0	0	0	0	1	0	0
§2S1.3	184	89	1	0	0	0	25	4	13	1	4	42	5
§2S1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.1	401	154	1	1	2	0	69	0	21	14	13	122	4
§2T1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.4	95	33	0	0	0	0	16	0	4	3	4	32	3
§2T1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.6	17	11	0	0	0	0	1	0	1	0	0	4	0
§2T1.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.9	10	3	0	0	0	0	3	0	0	0	0	4	0
§2T2.1	4	4	0	0	0	0	0	0	0	0	0	0	0
§2T2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T3.1	13	11	0	0	0	0	1	0	0	0	0	1	0
§2T3.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T4.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X1.1	12	6	0	0	0	0	1	0	1	0	0	4	0
§2X2.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X3.1	98	45	1	1	2	0	21	1	2	4	4	17	0
§2X4.1	352	201	2	1	6	0	41	0	28	13	1	53	6
§2X5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X5.2	134	119	0	0	6	2	0	0	3	0	0	3	1
§2X6.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X7.1	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	53,405	29,459	268	115	567	69	7,230	4,757	2,009	1,132	593	6,558	648

¹Of the 59,076 cases, 5,671 were excluded due to one or both of the following reasons: missing information from the submitted documents that prevented the comparison of the sentence and the guideline range (1,230) or missing guideline applied (5,623). Descriptions of variables used in this table are provided in Appendix A.

²In 695 cases the defendant was convicted of one or more counts of violating 18 U.S.C. § 1028A. By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 695 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

³In 1,826 cases the defendant was convicted of one or more counts of violating 18 U.S.C. § 924(c). By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 1,826 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
IN EACH OUTSIDE OF THE RANGE ATTRIBUTION CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

	Pursuant to a Plea Agreement										
	TOTAL CASES	§5K1.1 Plea Agreement		§5K3.1 Plea Agreement		Binding Plea Accepted by Court		Plea w/ Departure Court Finds Reasonable		Plea Agreement States Gov't Will Not Oppose	
		N	%	N	%	N	%	N	%	N	%
TOTAL	24,615	5,006	20.3	4,863	19.8	1,816	7.4	1,142	4.6	106	0.4
Above Range	1,034	8	0.8	9	0.9	157	15.2	75	7.3	2	0.2
Upward Departure From Guideline Range	271	3	1.1	3	1.1	68	25.1	40	14.8	1	0.4
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	117	0	0.0	0	0.0	22	18.8	9	7.7	1	0.9
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	570	0	0.0	0	0.0	64	11.2	26	4.6	0	0.0
All Remaining Cases Above Guideline Range	76	5	6.6	6	7.9	3	3.9	0	0.0	0	0.0
Government Sponsored Below Range	14,471	4,998	34.5	4,854	33.5	1,659	11.5	1,067	7.4	104	0.7
§5K1.1 Substantial Assistance Departure	7,293	4,998	68.5	72	1.0	150	2.1	147	2.0	20	0.3
§5K3.1 Early Disposition Program Departure	5,067	0	0.0	4,782	94.4	613	12.1	195	3.8	11	0.2
Other Government Sponsored Below Range	2,111	0	0.0	0	0.0	896	42.4	725	34.3	73	3.5
Below Range	9,110	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure From Guideline Range	1,159	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553	599	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	6,658	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	694	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0

Table 6 (cont.)

	Pursuant to a Motion Not in a Plea Agreement													
	§5K1.1 Government Motion		§5K3.1 Government Motion		Other Government Motion		Defense Motion/ Government Did Not Object		Defense Motion/ Government Did Object		Other than a Plea/Motion by Parties		No Information Available	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	2,187	8.9	161	0.7	603	2.4	2,349	9.5	2,797	11.4	4,095	16.6	2,994	12.2
Above Range	2	0.2	0	0.0	126	12.2	8	0.8	8	0.8	512	49.5	228	22.1
Upward Departure From Guideline Range	1	0.4	0	0.0	33	12.2	2	0.7	1	0.4	110	40.6	32	11.8
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	36	30.8	2	1.7	2	1.7	81	69.2	23	19.7
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	57	10.0	4	0.7	4	0.7	316	55.4	113	19.8
All Remaining Cases Above Guideline Range	1	1.3	0	0.0	0	0.0	0	0.0	1	1.3	5	6.6	60	78.9
Government Sponsored Below Range	2,185	15.1	161	1.1	477	3.3	603	4.2	390	2.7	564	3.9	398	2.8
§5K1.1 Substantial Assistance Departure	2,185	30.0	2	0.0	148	2.0	245	3.4	195	2.7	292	4.0	162	2.2
§5K3.1 Early Disposition Program Departure	0	0.0	159	3.1	23	0.5	181	3.6	121	2.4	96	1.9	136	2.7
Other Government Sponsored Below Range	0	0.0	0	0.0	306	14.5	177	8.4	74	3.5	176	8.3	100	4.7
Below Range	0	0.0	0	0.0	0	0.0	1,738	19.1	2,399	26.3	3,019	33.1	2,368	26.0
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	376	32.4	261	22.5	357	30.8	188	16.2
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	176	29.4	266	44.4	326	54.4	125	20.9
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	1,163	17.5	1,856	27.9	2,317	34.8	1,418	21.3
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	23	3.3	16	2.3	19	2.7	637	91.8

¹Multiple attributions may be made on the SOR. Therefore, the numbers reported in this table may exceed the number of total cases. For example, among SORs with an attribution, 3,146 cases indicated more than one attribution. Note that only outside of the range cases are included in this table. Descriptions of variables used in this table are provided in Appendix A.

**§5K1.1 SUBSTANTIAL ASSISTANCE DEPARTURE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	6,897	36.0	31.0	48.9
Murder	8	71.5	77.0	44.4
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	7	120.0	94.0	42.9
Sexual Abuse	8	27.0	49.5	46.9
Assault	4	30.0	18.5	43.0
Robbery	82	38.5	23.0	34.1
Arson	13	36.0	36.0	56.7
Drugs - Trafficking	4,384	49.0	42.0	46.2
Drugs - Communication Facility	66	0.0	10.0	100.0
Drugs - Simple Possession	9	0.0	9.0	100.0
Firearms	649	57.0	32.5	42.9
Burglary/B&E	2	--	--	--
Auto Theft	9	35.0	42.0	50.0
Larceny	61	5.0	10.0	67.5
Fraud	701	10.0	15.0	66.7
Embezzlement	8	0.0	10.0	100.0
Forgery/Counterfeiting	65	8.0	9.0	50.0
Bribery	35	5.8	21.0	68.0
Tax	65	0.0	12.0	100.0
Money Laundering	148	12.0	27.0	72.2
Racketeering/Extortion	69	21.0	22.0	52.4
Gambling/Lottery	11	0.0	6.0	100.0
Civil Rights	7	25.0	90.0	86.3
Immigration	229	12.0	9.3	44.4
Pornography/Prostitution	54	57.0	48.5	43.3
Prison Offenses	12	5.2	8.5	56.9
Administration of Justice Offenses	80	0.0	12.0	100.0
Environmental/Wildlife	15	0.0	12.0	100.0
National Defense	4	11.5	22.0	75.0
Antitrust	11	12.0	33.0	64.9
Food & Drug	7	0.0	12.0	100.0
Other Miscellaneous Offenses	74	0.0	15.0	100.0

¹Of the 59,076 cases, 7,293 received a §5K1.1 substantial assistance departure. Of these, 7,012 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 110 cases were also excluded from this table. Of the remaining 6,902 cases, five were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**§5K3.1 EARLY DISPOSITION PROGRAM DEPARTURE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	4,659	18.0	7.0	33.2
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	2	--	--	--
Sexual Abuse	1	--	--	--
Assault	1	--	--	--
Robbery	1	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	896	13.0	9.9	40.0
Drugs - Communication Facility	1	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	14	49.0	13.0	18.6
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	0	--	--	--
Fraud	6	0.1	13.5	90.0
Embezzlement	0	--	--	--
Forgery/Counterfeiting	1	--	--	--
Bribery	1	--	--	--
Tax	0	--	--	--
Money Laundering	6	0.0	9.4	100.0
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	3,726	18.0	6.0	28.6
Pornography/Prostitution	0	--	--	--
Prison Offenses	2	--	--	--
Administration of Justice Offenses	1	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	0	--	--	--

¹Of the 59,076 cases, 5,067 received a §5K3.1 early disposition program departure. Of these, 4,660 had complete guideline application information. Of the remaining 4,660 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**OTHER GOVERNMENT SPONSORED BELOW RANGE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,932	27.0	12.1	33.3
Murder	1	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	4	168.0	42.0	20.0
Sexual Abuse	16	75.0	47.5	43.9
Assault	41	24.0	16.6	41.5
Robbery	21	52.0	21.0	26.8
Arson	1	--	--	--
Drugs - Trafficking	614	63.0	21.4	26.9
Drugs - Communication Facility	17	30.0	18.0	37.5
Drugs - Simple Possession	1	--	--	--
Firearms	203	42.0	15.0	30.0
Burglary/B&E	0	--	--	--
Auto Theft	2	--	--	--
Larceny	21	0.0	10.0	100.0
Fraud	131	12.0	12.0	55.4
Embezzlement	9	0.0	6.0	99.9
Forgery/Counterfeiting	8	8.1	11.0	68.8
Bribery	3	4.0	15.7	86.7
Tax	22	4.5	10.0	73.2
Money Laundering	44	12.0	18.5	59.7
Racketeering/Extortion	61	48.0	21.0	25.9
Gambling/Lottery	3	0.0	6.0	100.0
Civil Rights	1	--	--	--
Immigration	465	12.0	5.0	33.3
Pornography/Prostitution	118	60.0	37.0	33.3
Prison Offenses	18	16.0	9.0	34.2
Administration of Justice Offenses	46	2.3	13.5	85.7
Environmental/Wildlife	14	1.5	6.0	88.3
National Defense	1	--	--	--
Antitrust	1	--	--	--
Food & Drug	7	0.0	12.0	100.0
Other Miscellaneous Offenses	37	0.0	12.0	100.0

¹Of the 59,076 cases, 2,111 received an other government sponsored downward departure. Of these, 1,948 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 13 cases were also excluded from this table. Of the remaining 1,935 cases, three were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through June 30, 2009).

**DOWNWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,091	24.0	10.0	28.6
Murder	0	--	--	--
Manslaughter	6	27.5	18.0	45.0
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	4	60.0	31.5	47.4
Assault	20	21.0	7.0	23.5
Robbery	14	32.0	12.0	31.3
Arson	0	--	--	--
Drugs - Trafficking	297	60.0	14.0	23.8
Drugs - Communication Facility	10	27.0	15.0	35.3
Drugs - Simple Possession	5	1.0	11.0	85.0
Firearms	119	30.0	10.0	21.7
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	11	0.0	10.0	100.0
Fraud	78	5.0	10.0	64.1
Embezzlement	7	13.0	11.3	38.1
Forgery/Counterfeiting	5	0.0	12.0	100.0
Bribery	3	0.0	30.0	100.0
Tax	15	0.1	10.0	99.7
Money Laundering	4	32.5	13.5	21.0
Racketeering/Extortion	9	40.0	17.4	21.7
Gambling/Lottery	2	--	--	--
Civil Rights	0	--	--	--
Immigration	389	18.0	6.0	27.0
Pornography/Prostitution	27	50.0	19.0	25.8
Prison Offenses	7	10.0	3.0	11.1
Administration of Justice Offenses	25	0.0	9.8	100.0
Environmental/Wildlife	6	2.5	14.0	88.1
National Defense	5	12.0	19.0	59.9
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	22	4.5	9.0	63.3

¹Of the 59,076 cases, 1,159 received a downward departure from the guideline range. Of these, 1,094 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, one additional case was also excluded from this table. Of the remaining 1,093 cases, two were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through June 30, 2009).

**DOWNWARD DEPARTURES WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	559	24.0	18.0	43.2
Murder	1	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	4	13.5	16.0	46.3
Assault	9	18.0	16.0	46.8
Robbery	17	36.0	31.0	41.5
Arson	1	--	--	--
Drugs - Trafficking	203	60.0	26.0	31.4
Drugs - Communication Facility	3	0.0	48.0	100.0
Drugs - Simple Possession	0	--	--	--
Firearms	61	15.0	18.0	46.1
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	7	0.0	12.0	100.0
Fraud	57	3.0	12.0	86.3
Embezzlement	7	0.0	10.0	99.8
Forgery/Counterfeiting	7	0.0	8.0	100.0
Bribery	0	--	--	--
Tax	15	0.0	13.0	100.0
Money Laundering	16	18.0	15.0	54.8
Racketeering/Extortion	6	36.0	50.9	72.8
Gambling/Lottery	1	--	--	--
Civil Rights	0	--	--	--
Immigration	82	24.0	16.0	40.7
Pornography/Prostitution	38	60.0	40.5	45.3
Prison Offenses	1	--	--	--
Administration of Justice Offenses	9	8.0	13.0	50.0
Environmental/Wildlife	3	0.0	8.0	100.0
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	9	0.0	10.0	100.0

¹Of the 59,076 cases, 599 received a downward departure from the guideline range with *Booker* /18 U.S.C § 3553. Of these, 563 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional three cases were also excluded from this table. Of the remaining 560 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**BELOW GUIDELINE RANGE WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	6,328	27.0	13.0	34.8
Murder	2	--	--	--
Manslaughter	3	12.0	6.0	50.0
Kidnapping/Hostage Taking	3	168.0	35.0	14.9
Sexual Abuse	34	24.0	16.0	33.7
Assault	59	18.0	9.0	33.3
Robbery	120	48.0	15.5	22.1
Arson	3	0.6	59.4	99.0
Drugs - Trafficking	2,174	60.0	18.0	27.0
Drugs - Communication Facility	75	12.0	18.0	63.4
Drugs - Simple Possession	5	6.0	26.0	60.0
Firearms	873	32.0	13.0	25.5
Burglary/B&E	1	--	--	--
Auto Theft	8	18.0	13.5	34.4
Larceny	120	0.0	9.3	100.0
Fraud	768	12.0	10.0	50.0
Embezzlement	66	0.1	9.0	99.2
Forgery/Counterfeiting	84	0.0	9.0	99.9
Bribery	27	6.9	10.0	55.7
Tax	136	5.5	10.0	66.7
Money Laundering	123	15.0	15.0	54.8
Racketeering/Extortion	66	33.0	19.5	33.9
Gambling/Lottery	4	0.0	9.0	100.0
Civil Rights	8	26.0	17.5	55.4
Immigration	823	24.0	10.5	33.3
Pornography/Prostitution	461	60.0	30.0	35.8
Prison Offenses	26	10.0	6.0	33.3
Administration of Justice Offenses	108	0.0	12.0	100.0
Environmental/Wildlife	19	0.0	12.0	100.0
National Defense	12	32.5	12.0	40.0
Antitrust	2	--	--	--
Food & Drug	3	6.0	43.0	50.0
Other Miscellaneous Offenses	112	0.0	10.0	100.0

¹Of the 59,076 cases, 6,658 were sentenced below the guideline range with *Booker* /18 U.S.C § 3553. Of these, 6,364 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 28 cases were also excluded from this table. Furthermore, one case was excluded due to several logical criteria. Of the remaining 6,335 cases, seven were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ALL REMAINING BELOW GUIDELINE RANGE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	606	12.0	6.0	35.8
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	2	--	--	--
Assault	6	4.0	7.5	68.3
Robbery	4	52.0	8.5	17.1
Arson	0	--	--	--
Drugs - Trafficking	145	58.0	12.0	26.7
Drugs - Communication Facility	6	21.0	6.0	50.0
Drugs - Simple Possession	3	0.0	1.0	100.0
Firearms	82	63.0	13.0	23.9
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	25	0.0	6.0	100.0
Fraud	86	0.9	6.0	91.3
Embezzlement	10	0.0	6.0	100.0
Forgery/Counterfeiting	9	9.0	6.0	41.7
Bribery	2	--	--	--
Tax	7	0.0	6.0	100.0
Money Laundering	8	8.5	13.5	71.8
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	1	--	--	--
Civil Rights	2	--	--	--
Immigration	141	8.0	4.0	33.2
Pornography/Prostitution	20	66.0	18.0	23.1
Prison Offenses	2	--	--	--
Administration of Justice Offenses	9	0.0	6.0	100.0
Environmental/Wildlife	8	0.0	9.0	100.0
National Defense	2	--	--	--
Antitrust	0	--	--	--
Food & Drug	1	--	--	--
Other Miscellaneous Offenses	23	0.0	6.0	100.0

¹Of the 59,076 cases, 694 were otherwise sentenced below the guideline range. Of these, 610 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional three cases were also excluded from this table. Of the remaining 607 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**UPWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	262	57.5	12.0	33.3
Murder	3	406.0	196.0	80.8
Manslaughter	2	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	11	288.0	38.0	22.9
Assault	9	78.0	24.0	25.0
Robbery	10	159.0	31.0	24.5
Arson	1	--	--	--
Drugs - Trafficking	44	82.0	13.0	25.0
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	3	36.0	6.0	33.3
Firearms	46	98.5	19.5	28.7
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	6	30.0	12.0	125.0
Fraud	24	38.0	14.5	55.0
Embezzlement	0	--	--	--
Forgery/Counterfeiting	5	48.0	18.0	60.0
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	76	24.0	6.0	38.1
Pornography/Prostitution	9	180.0	43.0	27.7
Prison Offenses	0	--	--	--
Administration of Justice Offenses	5	36.0	9.0	36.5
Environmental/Wildlife	1	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	4	90.0	20.5	38.2

¹Of the 59,076 cases, 271 received an upward departure from the guideline range. Of these, 262 had complete guideline application information. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through June 30, 2009).

**UPWARD DEPARTURES WITH *BOOKER*/18 U.S.C. § 3553: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	108	69.5	18.5	46.3
Murder	0	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	1	--	--	--
Assault	5	132.0	36.0	37.5
Robbery	3	188.0	105.0	116.1
Arson	0	--	--	--
Drugs - Trafficking	6	144.5	17.0	19.6
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	1	--	--	--
Firearms	28	75.0	15.5	32.6
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	1	--	--	--
Fraud	13	57.0	14.0	29.2
Embezzlement	0	--	--	--
Forgery/Counterfeiting	1	--	--	--
Bribery	0	--	--	--
Tax	1	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	6	228.0	92.0	142.4
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	26	54.0	14.0	78.3
Pornography/Prostitution	4	300.0	108.5	67.9
Prison Offenses	3	54.0	14.0	77.8
Administration of Justice Offenses	3	36.0	9.0	33.3
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	4	9.5	3.0	35.0

¹Of the 59,076 cases, 117 received an upward departure from the guideline range with *Booker*/18 U.S.C § 3553. Of these, 110 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, one additional case was also excluded from this table. Furthermore, one case was excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ABOVE GUIDELINE RANGE WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	535	48.0	11.0	36.1
Murder	1	--	--	--
Manslaughter	4	141.0	55.5	58.1
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	10	87.0	20.0	22.6
Assault	15	60.0	15.0	33.3
Robbery	20	120.0	20.0	23.2
Arson	0	--	--	--
Drugs - Trafficking	58	101.0	15.0	21.6
Drugs - Communication Facility	2	--	--	--
Drugs - Simple Possession	9	10.0	4.0	66.7
Firearms	79	96.0	15.0	24.1
Burglary/B&E	1	--	--	--
Auto Theft	2	--	--	--
Larceny	9	60.0	18.0	52.4
Fraud	61	60.0	14.0	37.4
Embezzlement	4	48.0	12.5	58.5
Forgery/Counterfeiting	10	39.5	8.5	39.5
Bribery	1	--	--	--
Tax	3	60.0	9.0	17.6
Money Laundering	1	--	--	--
Racketeering/Extortion	5	60.0	14.0	30.4
Gambling/Lottery	1	--	--	--
Civil Rights	1	--	--	--
Immigration	183	18.0	6.0	50.0
Pornography/Prostitution	27	144.0	33.0	23.7
Prison Offenses	5	24.0	6.0	60.0
Administration of Justice Offenses	11	36.0	3.0	17.1
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	12	19.5	8.5	88.9

¹Of the 59,076 cases, 570 were sentenced above the guideline range with *Booker* /18 U.S.C § 3553. Of these, 543 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, an additional two cases were also excluded from this table. Furthermore, six cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ALL REMAINING ABOVE GUIDELINE RANGE CASES: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	46	51.0	9.0	27.2
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	1	--	--	--
Assault	1	--	--	--
Robbery	2	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	10	87.0	8.5	10.2
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	1	--	--	--
Firearms	4	202.0	66.0	46.2
Burglary/B&E	1	--	--	--
Auto Theft	0	--	--	--
Larceny	0	--	--	--
Fraud	5	36.0	9.0	33.3
Embezzlement	0	--	--	--
Forgery/Counterfeiting	1	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	14	39.0	13.0	38.0
Pornography/Prostitution	2	--	--	--
Prison Offenses	1	--	--	--
Administration of Justice Offenses	0	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	2	--	--	--

¹Of the 59,076 cases, 76 were otherwise sentenced above the guideline range. Of these, 65 had complete guideline application information. Furthermore, 19 cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through June 30, 2009).

OFFENDERS RECEIVING SENTENCING OPTIONS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	TOTAL	TOTAL RECEIVING IMPRISONMENT		Prison Only		Prison/Community Split Sentence ²		TOTAL RECEIVING PROBATION		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	58,533	52,455	89.6	50,971	87.1	1,484	2.5	6,078	10.4	1,831	3.1	4,247	7.3
Murder	67	67	100.0	67	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Manslaughter	41	41	100.0	41	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Kidnapping/Hostage Taking	32	32	100.0	31	96.9	1	3.1	0	0.0	0	0.0	0	0.0
Sexual Abuse	335	324	96.7	311	92.8	13	3.9	11	3.3	5	1.5	6	1.8
Assault	474	412	86.9	397	83.8	15	3.2	62	13.1	18	3.8	44	9.3
Robbery	735	720	98.0	703	95.6	17	2.3	15	2.0	5	0.7	10	1.4
Arson	47	46	97.9	44	93.6	2	4.3	1	2.1	1	2.1	0	0.0
Drugs - Trafficking	17,602	17,007	96.6	16,575	94.2	432	2.5	595	3.4	263	1.5	332	1.9
Drugs - Communication Facility	385	286	74.3	275	71.4	11	2.9	99	25.7	35	9.1	64	16.6
Drugs - Simple Possession	441	247	56.0	239	54.2	8	1.8	194	44.0	22	5.0	172	39.0
Firearms	6,040	5,672	93.9	5,524	91.5	148	2.5	368	6.1	143	2.4	225	3.7
Burglary/B&E	26	23	88.5	23	88.5	0	0.0	3	11.5	3	11.5	0	0.0
Auto Theft	55	51	92.7	49	89.1	2	3.6	4	7.3	1	1.8	3	5.5
Larceny	1,042	447	42.9	390	37.4	57	5.5	595	57.1	164	15.7	431	41.4
Fraud	5,427	4,199	77.4	3,915	72.1	284	5.2	1,228	22.6	440	8.1	788	14.5
Embezzlement	345	174	50.4	140	40.6	34	9.9	171	49.6	44	12.8	127	36.8
Forgery/Counterfeiting	627	451	71.9	419	66.8	32	5.1	176	28.1	76	12.1	100	15.9
Bribery	117	86	73.5	78	66.7	8	6.8	31	26.5	12	10.3	19	16.2
Tax	452	282	62.4	231	51.1	51	11.3	170	37.6	89	19.7	81	17.9
Money Laundering	616	476	77.3	433	70.3	43	7.0	140	22.7	51	8.3	89	14.4
Racketeering/Extortion	471	437	92.8	425	90.2	12	2.5	34	7.2	13	2.8	21	4.5
Gambling/Lottery	42	19	45.2	15	35.7	4	9.5	23	54.8	8	19.0	15	35.7
Civil Rights	42	26	61.9	25	59.5	1	2.4	16	38.1	5	11.9	11	26.2
Immigration	18,669	17,963	96.2	17,778	95.2	185	1.0	706	3.8	130	0.7	576	3.1
Pornography/Prostitution	1,472	1,437	97.6	1,415	96.1	22	1.5	35	2.4	24	1.6	11	0.7
Prison Offenses	350	336	96.0	324	92.6	12	3.4	14	4.0	4	1.1	10	2.9
Administration of Justice Offenses	736	468	63.6	439	59.6	29	3.9	268	36.4	80	10.9	188	25.5
Environmental/Wildlife	144	43	29.9	33	22.9	10	6.9	101	70.1	22	15.3	79	54.9
National Defense	47	38	80.9	35	74.5	3	6.4	9	19.1	4	8.5	5	10.6
Antitrust	19	16	84.2	15	78.9	1	5.3	3	15.8	1	5.3	2	10.5
Food & Drug	51	11	21.6	8	15.7	3	5.9	40	78.4	9	17.6	31	60.8
Other Miscellaneous Offenses	1,584	618	39.0	574	36.2	44	2.8	966	61.0	159	10.0	807	50.9

¹Of the 59,076 cases, 543 were excluded due to one or more of the following reasons: the offender received neither imprisonment nor probation (541), or missing sentencing information (2). Descriptions of variables used in this table are provided in Appendix A.

²Prison/Community Split Sentence includes all cases in which offenders received prison and conditions of confinement as described in USSG §5C1.1.

Table 19

AVERAGE SENTENCE LENGTH IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	Mean Months	Median Months	N
TOTAL	47.6	24.0	59,075
Murder	282.6	300.0	67
Manslaughter	69.9	51.0	41
Kidnapping/Hostage Taking	190.2	164.0	32
Sexual Abuse	95.4	60.0	335
Assault	38.4	26.0	481
Robbery	80.5	63.0	739
Arson	57.8	60.0	47
Drugs - Trafficking	79.4	60.0	17,604
Drugs - Communication Facility	31.4	30.0	385
Drugs - Simple Possession	5.1	0.1	475
Firearms	83.3	57.0	6,044
Burglary/B&E	23.8	24.0	26
Auto Theft	61.9	27.0	55
Larceny	7.9	2.0	1,107
Fraud	21.8	12.0	5,453
Embezzlement	9.0	4.0	351
Forgery/Counterfeiting	16.0	12.0	629
Bribery	19.9	12.0	117
Tax	15.6	12.0	453
Money Laundering	32.3	18.0	617
Racketeering/Extortion	95.2	51.0	472
Gambling/Lottery	7.5	5.5	42
Civil Rights	31.9	12.0	42
Immigration	17.7	12.0	18,677
Pornography/Prostitution	118.7	78.0	1,472
Prison Offenses	15.5	12.0	350
Administration of Justice Offenses	14.9	7.0	751
Environmental/Wildlife	4.4	0.0	159
National Defense	44.5	24.0	47
Antitrust	13.5	9.5	20
Food & Drug	4.7	0.0	55
Other Miscellaneous Offenses	5.5	0.0	1,930

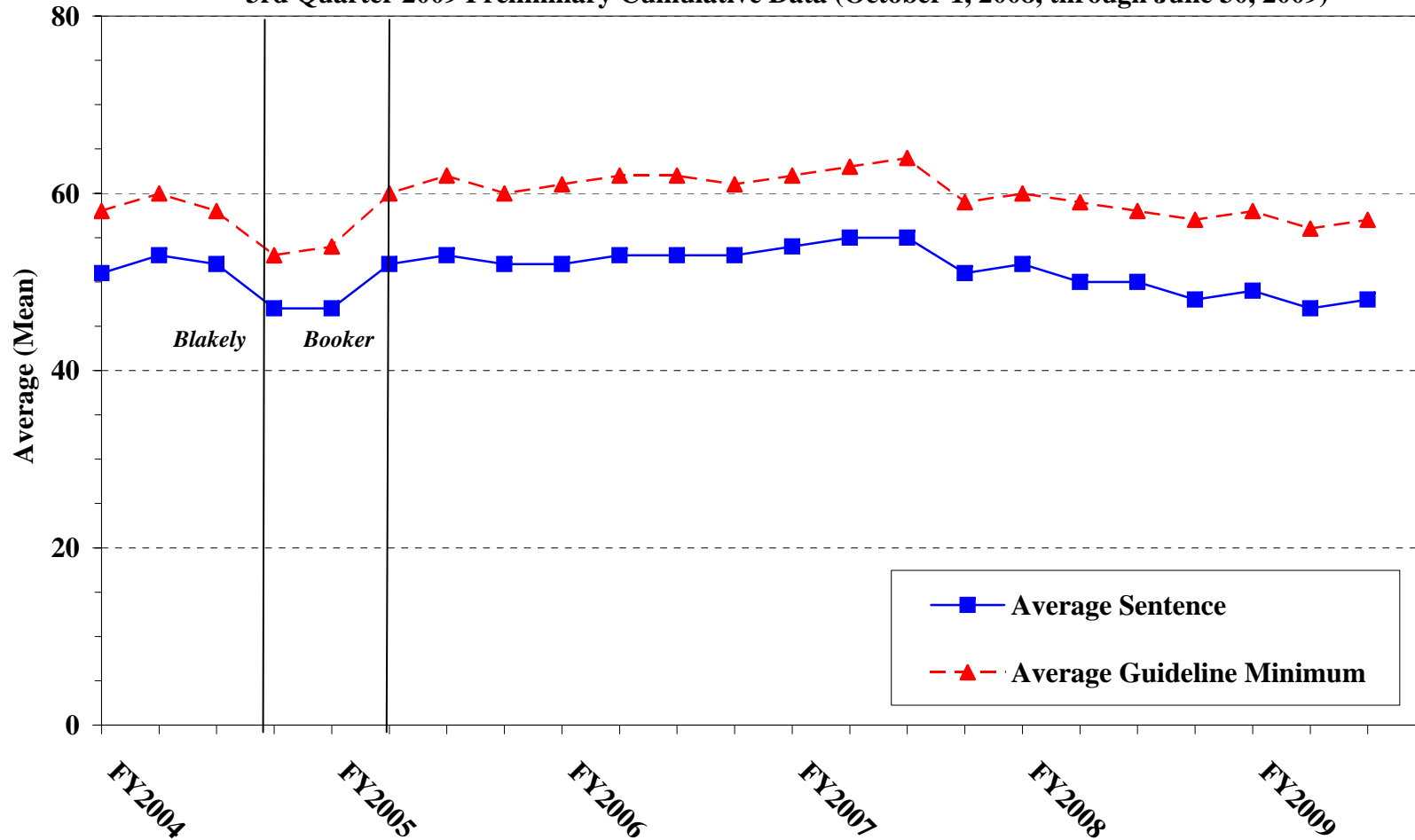
¹Of the 59,076 cases, one was excluded due to missing or indeterminable sentencing information. Sentences of probation only are included in this table as zero months of imprisonment. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

Figure C

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM
QUARTERLY DATA FOR ALL CASES¹**

Fiscal Years 2004 - 2008,

3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)



¹Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

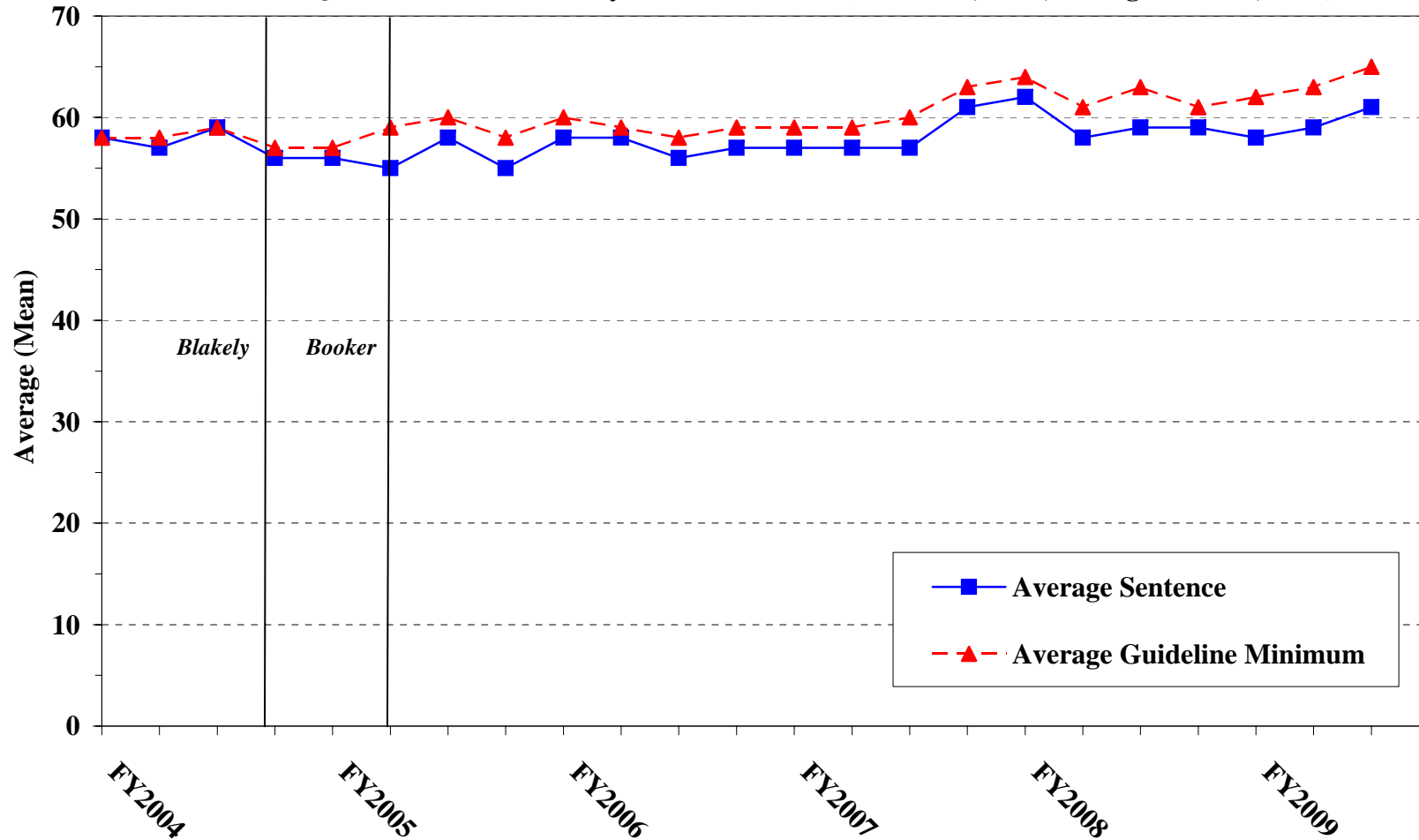
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through June 30, 2009).

Figure E

AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY DATA FOR §2K2.1 OFFENDERS (UNLAWFUL POSSESSION OF OR TRANSACTION IN FIREARMS)¹

Fiscal Years 2004 - 2008,

3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)



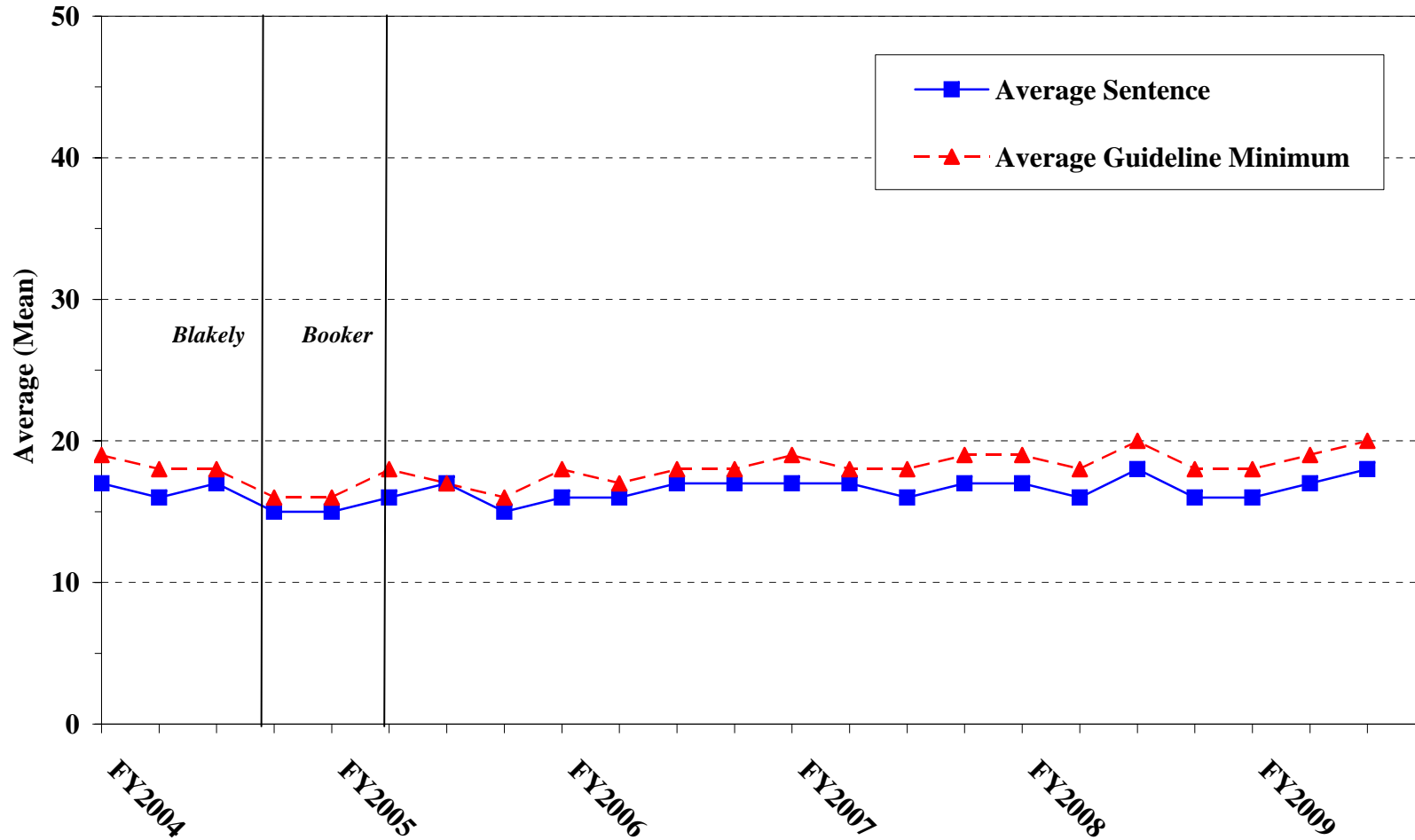
¹Figure includes only cases with a primary sentencing guideline of USSG §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through June 30, 2009).

Figure F

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM
QUARTERLY DATA FOR §2L1.1 OFFENDERS (ALIEN SMUGGLING)¹**

**Fiscal Years 2004 - 2008,
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**



¹Figure includes only cases with a primary sentencing guideline of USSG §2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

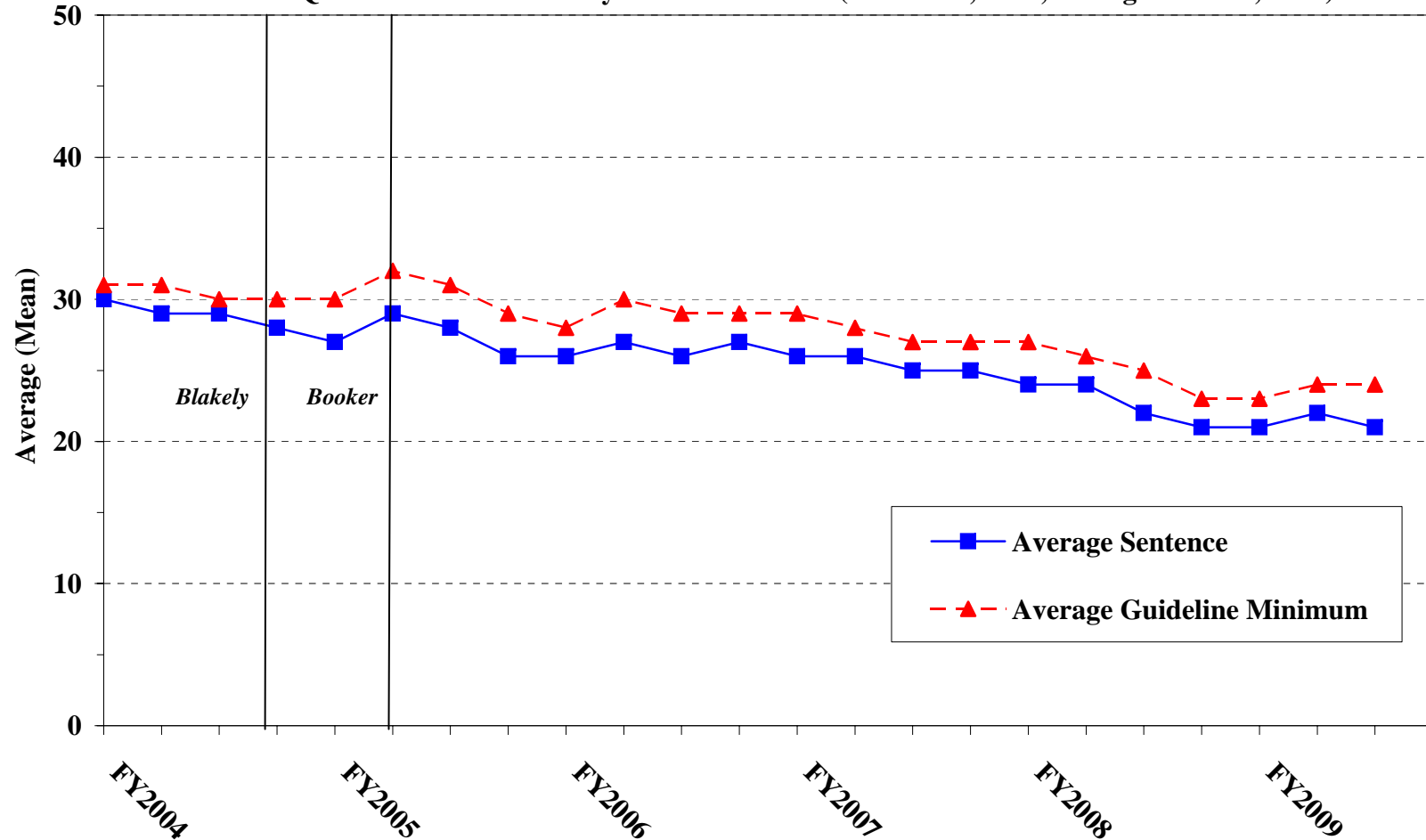
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through June 30, 2009).

Figure G

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY DATA FOR
§2L1.2 OFFENDERS (UNLAWFUL ENTERING OR REMAINING IN THE UNITED STATES)¹**

Fiscal Years 2004 - 2008,

3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)



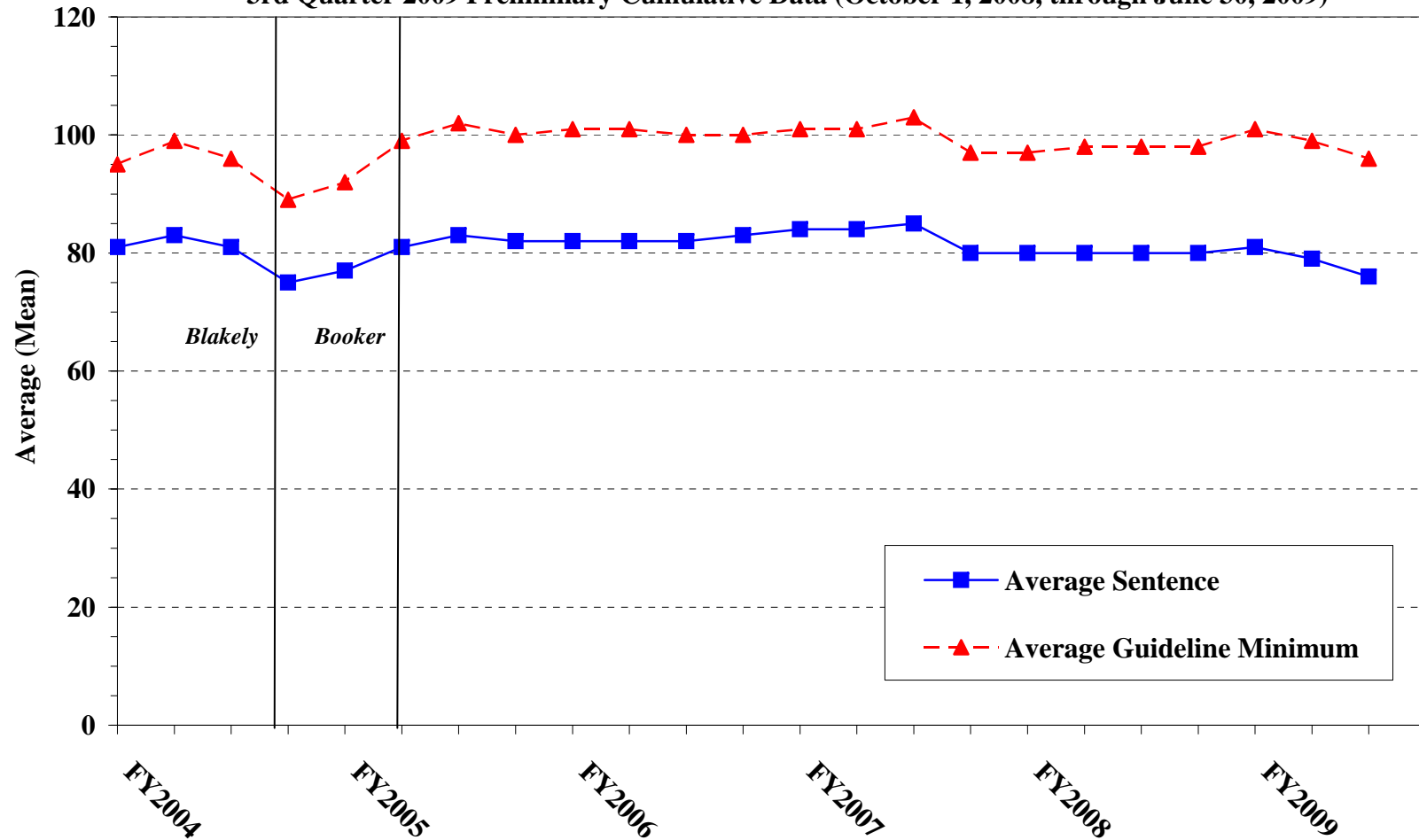
¹Figure includes only cases with a primary sentencing guideline of USSG §2L1.2. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure H

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY
DATA FOR §2D1.1 OFFENDERS (UNLAWFUL DRUG TRAFFICKING OR MANUFACTURING)¹**

Fiscal Years 2004 - 2008,

3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

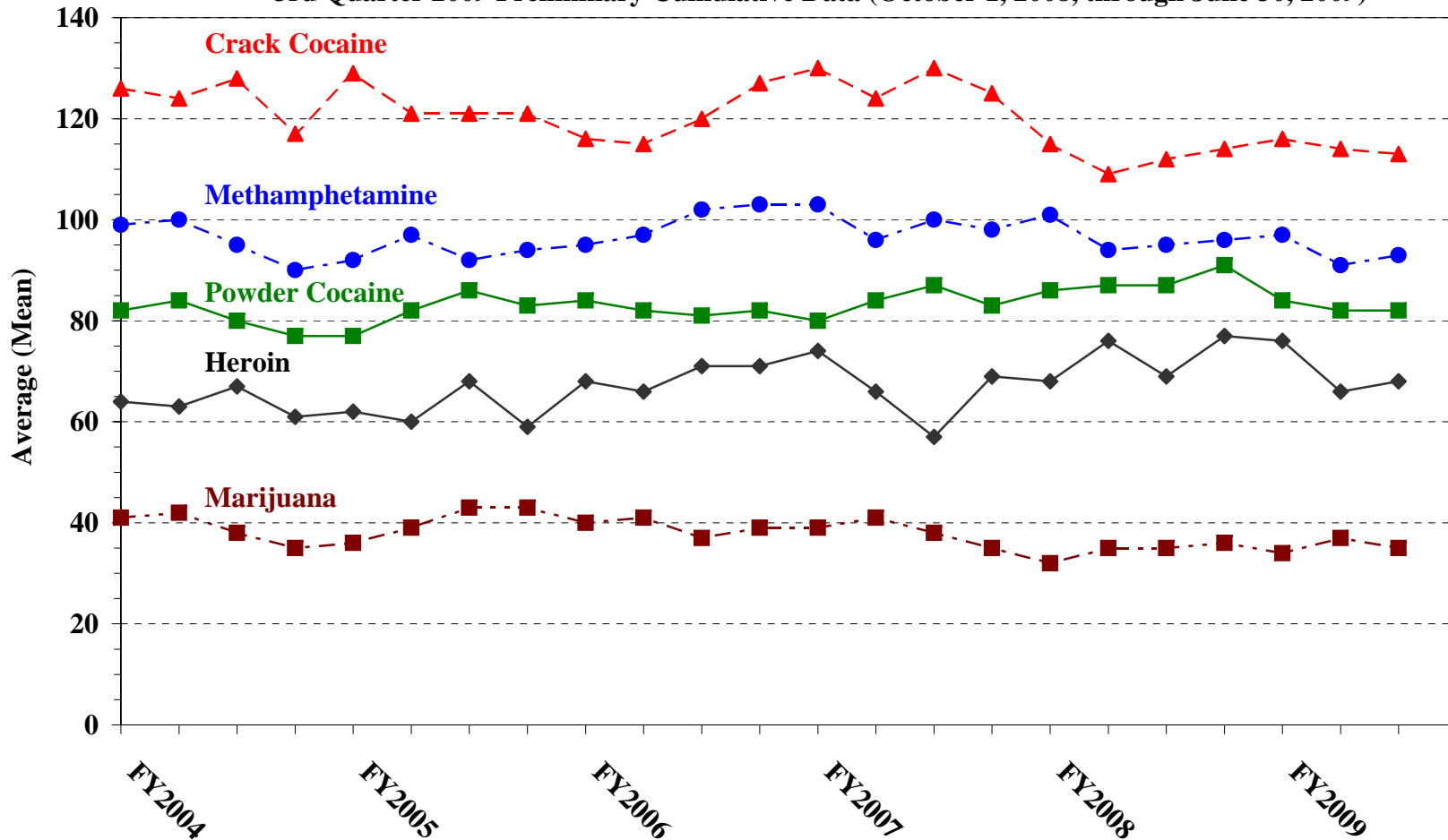


¹Figure includes only cases with a primary sentencing guideline of USSG §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure I

AVERAGE SENTENCE LENGTH FOR EACH DRUG TYPE¹

Fiscal Years 2004 - 2008,
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)



¹Only cases sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), or 2D2.1 (Simple Possession) are depicted in this figure. Figure includes only cases with a primary sentencing guideline of USSG §2D1.1. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

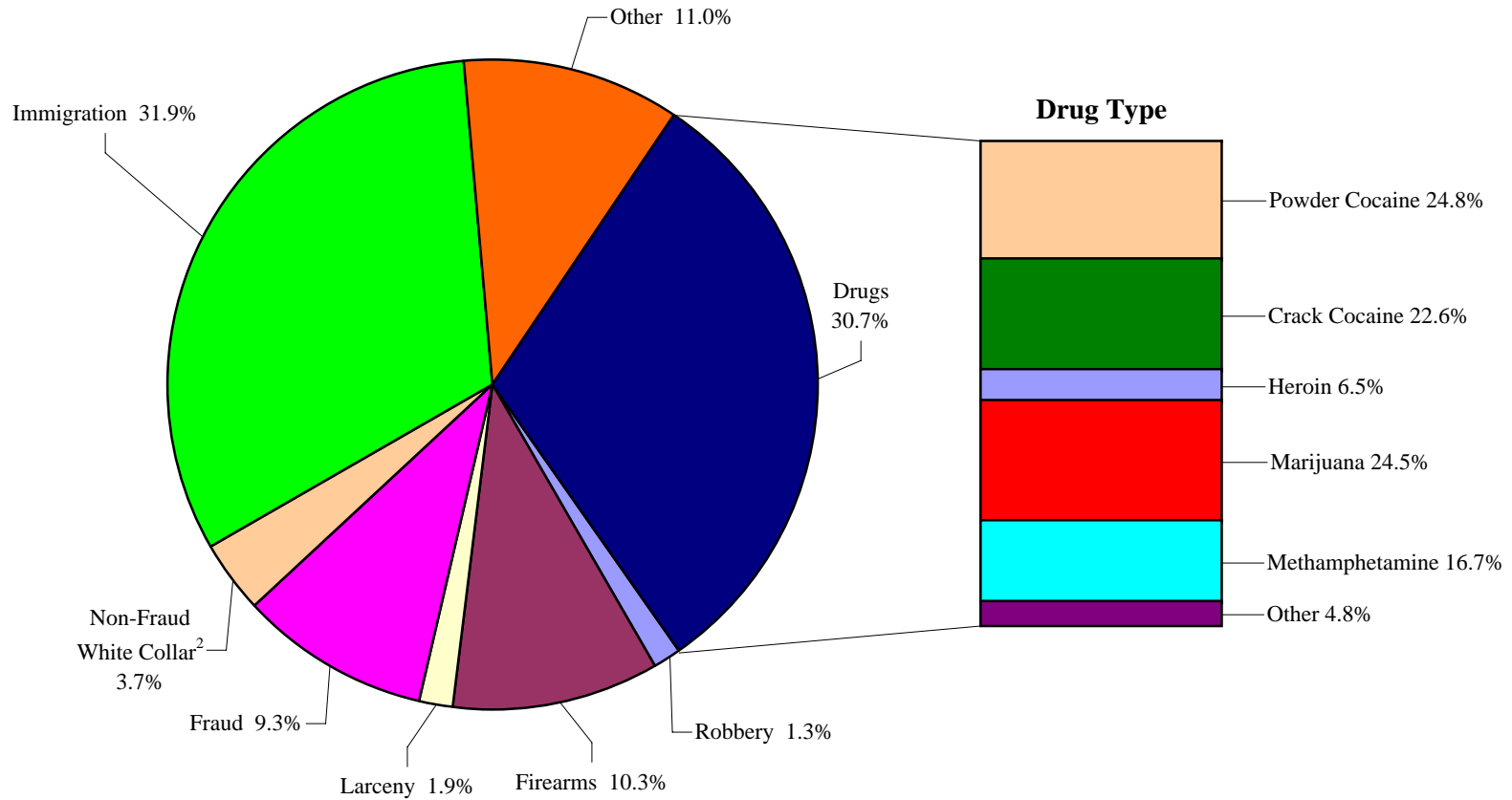
**WITHIN RANGE CASES: POSITION OF SENTENCE FOR OFFENDERS
IN EACH PRIMARY OFFENSE CATEGORY¹**
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	TOTAL	Guideline Minimum		Lower Half of Range		Midpoint of Range		Upper Half of Range		Guideline Maximum	
		N	%	N	%	N	%	N	%	N	%
TOTAL	25,469	13,455	52.8	4,584	18.0	2,357	9.3	2,253	8.8	2,820	11.1
Murder	13	2	15.4	1	7.7	1	7.7	2	15.4	7	53.8
Manslaughter	24	7	29.2	4	16.7	4	16.7	2	8.3	7	29.2
Kidnapping/Hostage Taking	7	5	71.4	1	14.3	0	0.0	1	14.3	0	0.0
Sexual Abuse	177	83	46.9	27	15.3	13	7.3	24	13.6	30	16.9
Assault	226	101	44.7	33	14.6	19	8.4	22	9.7	51	22.6
Robbery	408	204	50.0	70	17.2	28	6.9	43	10.5	63	15.4
Arson	12	6	50.0	3	25.0	1	8.3	0	0.0	2	16.7
Drugs - Trafficking	6,938	4,785	69.0	918	13.2	466	6.7	329	4.7	440	6.3
Drugs - Communication Facility	81	49	60.5	6	7.4	10	12.3	4	4.9	12	14.8
Drugs - Simple Possession	156	105	67.3	17	10.9	13	8.3	7	4.5	14	9.0
Firearms	3,240	1,803	55.6	423	13.1	317	9.8	236	7.3	461	14.2
Burglary/B&E	19	13	68.4	2	10.5	2	10.5	0	0.0	2	10.5
Auto Theft	24	12	50.0	5	20.8	2	8.3	1	4.2	4	16.7
Larceny	589	415	70.5	63	10.7	39	6.6	20	3.4	52	8.8
Fraud	2,334	1,327	56.9	358	15.3	206	8.8	164	7.0	279	12.0
Embezzlement	194	148	76.3	27	13.9	5	2.6	8	4.1	6	3.1
Forgery/Counterfeiting	390	216	55.4	48	12.3	44	11.3	28	7.2	54	13.8
Bribery	39	20	51.3	9	23.1	3	7.7	2	5.1	5	12.8
Tax	149	83	55.7	31	20.8	19	12.8	6	4.0	10	6.7
Money Laundering	219	146	66.7	33	15.1	15	6.8	10	4.6	15	6.8
Racketeering/Extortion	133	75	56.4	26	19.5	8	6.0	10	7.5	14	10.5
Gambling/Lottery	18	10	55.6	2	11.1	2	11.1	2	11.1	2	11.1
Civil Rights	16	10	62.5	1	6.3	2	12.5	1	6.3	2	12.5
Immigration	8,328	2,726	32.7	2,258	27.1	1,034	12.4	1,227	14.7	1,083	13.0
Pornography/Prostitution	548	366	66.8	60	10.9	24	4.4	40	7.3	58	10.6
Prison Offenses	220	89	40.5	41	18.6	24	10.9	18	8.2	48	21.8
Administration of Justice Offenses	334	200	59.9	42	12.6	27	8.1	16	4.8	49	14.7
Environmental/Wildlife	57	46	80.7	4	7.0	2	3.5	2	3.5	3	5.3
National Defense	14	11	78.6	2	14.3	1	7.1	0	0.0	0	0.0
Antitrust	0	0	--	0	--	0	--	0	--	0	--
Food & Drug	25	22	88.0	2	8.0	0	0.0	0	0.0	1	4.0
Other Miscellaneous Offenses	537	370	68.9	67	12.5	26	4.8	28	5.2	46	8.6

¹Of the 59,076 cases, 33,231 were sentenced within the applicable guideline range. Of those, 28,668 had complete guideline application information. An additional 2,105 cases were excluded due to several logical criteria. Of the remaining 26,563 cases, 1,094 were excluded due to missing point in range information. Descriptions of variables used in this table are provided in Appendix A.

Figure J

DISTRIBUTION OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)



¹Of the 59,076 guideline cases, none were excluded due to missing primary offense category. Of the 18,465 drug cases, 469 were excluded due to missing drug type. The Drug category includes the following offense types: trafficking, use of a communication facility, and simple possession. Descriptions of variables used in this figure are provided in Appendix A.

²The Non-Fraud White Collar category includes the following offense types: embezzlement, forgery/counterfeiting, bribery, money laundering, and tax.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through June 30, 2009).

Table 21

GUIDELINE OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	N	%
TOTAL	59,076	100.0
Murder	67	0.1
Manslaughter	41	0.1
Kidnapping/Hostage Taking	32	0.1
Sexual Abuse	335	0.6
Assault	481	0.8
Robbery	739	1.3
Arson	47	0.1
Drugs - Trafficking	17,605	29.8
Drugs - Communication Facility	385	0.7
Drugs - Simple Possession	475	0.8
Firearms	6,044	10.2
Burglary/B&E	26	0.0
Auto Theft	55	0.1
Larceny	1,107	1.9
Fraud	5,453	9.2
Embezzlement	351	0.6
Forgery/Counterfeiting	629	1.1
Bribery	117	0.2
Tax	453	0.8
Money Laundering	617	1.0
Racketeering/Extortion	472	0.8
Gambling/Lottery	42	0.1
Civil Rights	42	0.1
Immigration	18,677	31.6
Pornography/Prostitution	1,472	2.5
Prison Offenses	350	0.6
Administration of Justice Offenses	751	1.3
Environmental/Wildlife	159	0.3
National Defense	47	0.1
Antitrust	20	0.0
Food & Drug	55	0.1
Other Miscellaneous Offenses	1,930	3.3

¹Descriptions of variables used in this table are provided in Appendix A.

Table 22

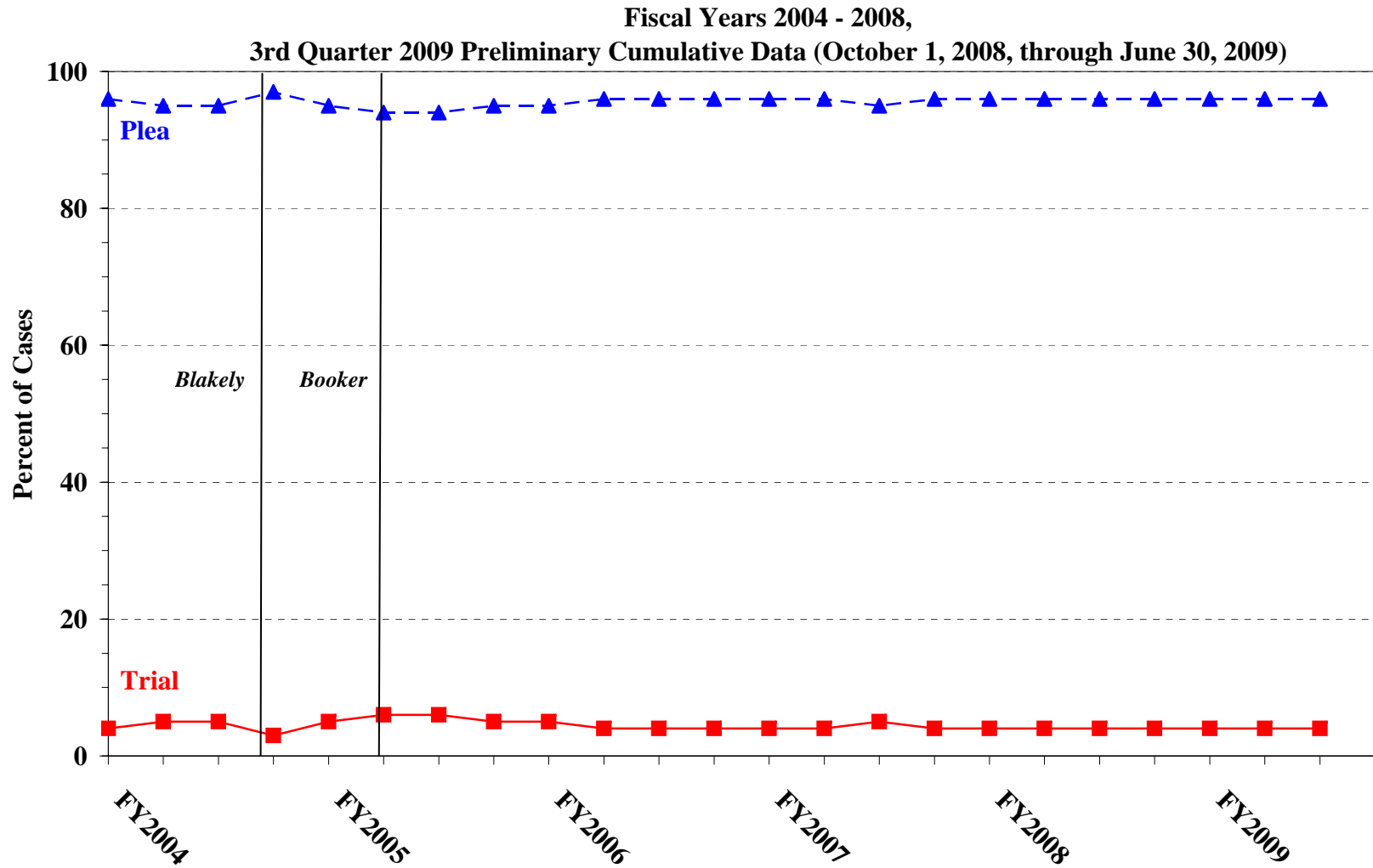
GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	59,076	56,899	96.3	2,177	3.7
Murder	67	48	71.6	19	28.4
Manslaughter	41	37	90.2	4	9.8
Kidnapping/Hostage Taking	32	29	90.6	3	9.4
Sexual Abuse	335	292	87.2	43	12.8
Assault	481	448	93.1	33	6.9
Robbery	739	709	95.9	30	4.1
Arson	47	43	91.5	4	8.5
Drugs - Trafficking	17,605	16,888	95.9	717	4.1
Drugs - Communication Facility	385	385	100.0	0	0.0
Drugs - Simple Possession	475	455	95.8	20	4.2
Firearms	6,044	5,604	92.7	440	7.3
Burglary/B&E	26	26	100.0	0	0.0
Auto Theft	55	54	98.2	1	1.8
Larceny	1,107	1,081	97.7	26	2.3
Fraud	5,453	5,175	94.9	278	5.1
Embezzlement	351	343	97.7	8	2.3
Forgery/Counterfeiting	629	615	97.8	14	2.2
Bribery	117	111	94.9	6	5.1
Tax	453	403	89.0	50	11.0
Money Laundering	617	577	93.5	40	6.5
Racketeering/Extortion	472	404	85.6	68	14.4
Gambling/Lottery	42	38	90.5	4	9.5
Civil Rights	42	37	88.1	5	11.9
Immigration	18,677	18,537	99.3	140	0.7
Pornography/Prostitution	1,472	1,390	94.4	82	5.6
Prison Offenses	350	344	98.3	6	1.7
Administration of Justice Offenses	751	720	95.9	31	4.1
Environmental/Wildlife	159	145	91.2	14	8.8
National Defense	47	43	91.5	4	8.5
Antitrust	20	20	100.0	0	0.0
Food & Drug	55	54	98.2	1	1.8
Other Miscellaneous Offenses	1,930	1,844	95.5	86	4.5

¹Descriptions of variables used in this table are provided in Appendix A.

Figure K

QUARTERLY DATA FOR GUILTY PLEAS AND TRIALS¹



¹Descriptions of variables used in this table are provided in Appendix A.

Table 23

RACE OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	TOTAL	WHITE		BLACK		HISPANIC		OTHER	
		N	%	N	%	N	%	N	%
TOTAL	53,660	15,344	28.6	12,063	22.5	24,100	44.9	2,153	4.0
Murder	66	26	39.4	12	18.2	11	16.7	17	25.8
Manslaughter	41	4	9.8	1	2.4	2	4.9	34	82.9
Kidnapping/Hostage Taking	31	5	16.1	6	19.4	19	61.3	1	3.2
Sexual Abuse	331	179	54.1	28	8.5	32	9.7	92	27.8
Assault	426	116	27.2	54	12.7	62	14.6	194	45.5
Robbery	733	376	51.3	272	37.1	65	8.9	20	2.7
Arson	47	39	83.0	3	6.4	2	4.3	3	6.4
Drugs - Trafficking	17,452	4,564	26.2	5,313	30.4	6,940	39.8	635	3.6
Drugs - Communication Facility	384	113	29.4	140	36.5	111	28.9	20	5.2
Drugs - Simple Possession	244	118	48.4	86	35.2	32	13.1	8	3.3
Firearms	6,005	1,775	29.6	3,046	50.7	1,027	17.1	157	2.6
Burglary/B&E	26	6	23.1	4	15.4	1	3.8	15	57.7
Auto Theft	54	27	50.0	15	27.8	11	20.4	1	1.9
Larceny	910	469	51.5	264	29.0	115	12.6	62	6.8
Fraud	4,700	2,212	47.1	1,388	29.5	810	17.2	290	6.2
Embezzlement	327	203	62.1	73	22.3	16	4.9	35	10.7
Forgery/Counterfeiting	625	277	44.3	230	36.8	95	15.2	23	3.7
Bribery	114	63	55.3	20	17.5	16	14.0	15	13.2
Tax	439	304	69.2	65	14.8	30	6.8	40	9.1
Money Laundering	608	233	38.3	75	12.3	250	41.1	50	8.2
Racketeering/Extortion	458	176	38.4	117	25.5	135	29.5	30	6.6
Gambling/Lottery	42	30	71.4	0	0.0	3	7.1	9	21.4
Civil Rights	39	27	69.2	6	15.4	5	12.8	1	2.6
Immigration	15,909	1,685	10.6	283	1.8	13,775	86.6	166	1.0
Pornography/Prostitution	1,471	1,251	85.0	81	5.5	98	6.7	41	2.8
Prison Offenses	298	80	26.8	121	40.6	76	25.5	21	7.0
Administration of Justice Offenses	686	288	42.0	158	23.0	200	29.2	40	5.8
Environmental/Wildlife	125	93	74.4	1	0.8	5	4.0	26	20.8
National Defense	45	17	37.8	1	2.2	22	48.9	5	11.1
Antitrust	15	10	66.7	0	0.0	4	26.7	1	6.7
Food & Drug	51	29	56.9	4	7.8	9	17.6	9	17.6
Other Miscellaneous Offenses	958	549	57.3	196	20.5	121	12.6	92	9.6

¹Of the 59,076 cases, 5,416 were excluded due to missing information on race. Descriptions of variables used in this table are provided in Appendix A.

Table 24

GENDER OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	TOTAL	MALE		FEMALE	
		N	%	N	%
TOTAL	57,058	49,834	87.3	7,224	12.7
Murder	67	55	82.1	12	17.9
Manslaughter	41	33	80.5	8	19.5
Kidnapping/Hostage Taking	32	32	100.0	0	0.0
Sexual Abuse	334	321	96.1	13	3.9
Assault	467	408	87.4	59	12.6
Robbery	737	677	91.9	60	8.1
Arson	47	45	95.7	2	4.3
Drugs - Trafficking	17,571	15,448	87.9	2,123	12.1
Drugs - Communication Facility	385	313	81.3	72	18.7
Drugs - Simple Possession	368	300	81.5	68	18.5
Firearms	6,032	5,839	96.8	193	3.2
Burglary/B&E	26	22	84.6	4	15.4
Auto Theft	55	50	90.9	5	9.1
Larceny	1,017	653	64.2	364	35.8
Fraud	5,326	3,724	69.9	1,602	30.1
Embezzlement	348	162	46.6	186	53.4
Forgery/Counterfeiting	629	458	72.8	171	27.2
Bribery	117	103	88.0	14	12.0
Tax	449	353	78.6	96	21.4
Money Laundering	617	465	75.4	152	24.6
Racketeering/Extortion	466	428	91.8	38	8.2
Gambling/Lottery	42	42	100.0	0	0.0
Civil Rights	42	36	85.7	6	14.3
Immigration	17,513	16,219	92.6	1,294	7.4
Pornography/Prostitution	1,472	1,439	97.8	33	2.2
Prison Offenses	344	317	92.2	27	7.8
Administration of Justice Offenses	718	481	67.0	237	33.0
Environmental/Wildlife	148	138	93.2	10	6.8
National Defense	46	45	97.8	1	2.2
Antitrust	20	20	100.0	0	0.0
Food & Drug	53	45	84.9	8	15.1
Other Miscellaneous Offenses	1,529	1,163	76.1	366	23.9

¹Of the 59,076 cases, 2,018 were excluded due to missing information on gender. Descriptions of variables used in this table are provided in Appendix A.

Table 25

AGE, RACE, AND GENDER OF OFFENDERS¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

Gender and Age	White		Black		Hispanic		Other	
	N	%	N	%	N	%	N	%
Males	12,766	100.0	10,592	100.0	22,084	100.0	1,738	100.0
Under 21	345	2.7	339	3.2	935	4.2	58	3.3
21 - 25	1,453	11.4	1,819	17.2	3,705	16.8	281	16.2
26 - 30	1,932	15.1	2,660	25.1	4,854	22.0	345	19.9
31 - 35	1,782	14.0	2,030	19.2	4,536	20.5	243	14.0
36 - 40	1,762	13.8	1,508	14.2	3,345	15.1	260	15.0
41 - 50	2,914	22.8	1,575	14.9	3,526	16.0	326	18.8
Over 50	2,578	20.2	661	6.2	1,183	5.4	225	12.9
Females	2,574	100.0	1,471	100.0	1,995	100.0	412	100.0
Under 21	98	3.8	40	2.7	101	5.1	12	2.9
21 - 25	378	14.7	219	14.9	318	15.9	62	15.0
26 - 30	426	16.6	295	20.1	387	19.4	56	13.6
31 - 35	334	13.0	260	17.7	345	17.3	62	15.0
36 - 40	360	14.0	181	12.3	293	14.7	61	14.8
41 - 50	577	22.4	306	20.8	411	20.6	97	23.5
Over 50	401	15.6	170	11.6	140	7.0	62	15.0

¹Of the 59,076 cases, 5,444 were excluded due to one or more of the following reasons: missing race (5,416), missing gender (2,018), or missing age (309). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through June 30, 2009).

Table 26

CITIZENSHIP OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

PRIMARY OFFENSE	TOTAL	U.S. CITIZEN		NON-U.S. CITIZEN	
		N	%	N	%
TOTAL	57,092	32,009	56.1	25,083	43.9
Murder	66	58	87.9	8	12.1
Manslaughter	41	39	95.1	2	4.9
Kidnapping/Hostage Taking	31	15	48.4	16	51.6
Sexual Abuse	334	317	94.9	17	5.1
Assault	432	384	88.9	48	11.1
Robbery	735	718	97.7	17	2.3
Arson	47	46	97.9	1	2.1
Drugs - Trafficking	17,509	12,623	72.1	4,886	27.9
Drugs - Communication Facility	385	329	85.5	56	14.5
Drugs - Simple Possession	300	239	79.7	61	20.3
Firearms	6,019	5,526	91.8	493	8.2
Burglary/B&E	26	26	100.0	0	0.0
Auto Theft	54	52	96.3	2	3.7
Larceny	925	870	94.1	55	5.9
Fraud	5,258	3,837	73.0	1,421	27.0
Embezzlement	333	325	97.6	8	2.4
Forgery/Counterfeiting	627	568	90.6	59	9.4
Bribery	115	94	81.7	21	18.3
Tax	443	409	92.3	34	7.7
Money Laundering	611	424	69.4	187	30.6
Racketeering/Extortion	461	383	83.1	78	16.9
Gambling/Lottery	42	38	90.5	4	9.5
Civil Rights	40	33	82.5	7	17.5
Immigration	18,514	1,332	7.2	17,182	92.8
Pornography/Prostitution	1,472	1,411	95.9	61	4.1
Prison Offenses	306	281	91.8	25	8.2
Administration of Justice Offenses	694	548	79.0	146	21.0
Environmental/Wildlife	131	115	87.8	16	12.2
National Defense	45	23	51.1	22	48.9
Antitrust	18	10	55.6	8	44.4
Food & Drug	51	42	82.4	9	17.6
Other Miscellaneous Offenses	1,027	894	87.0	133	13.0

¹Of the 59,076 cases, 1,984 were excluded due to missing citizenship information. Descriptions of variables used in this table are provided in Appendix A.

Table 27

DOCUMENT SUBMISSION BY EACH CIRCUIT AND DISTRICT¹
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received N	Received N	Received N	Received N	No Written Plea/Trial N	Received N	Received N	Waived N
TOTAL	59,076	272,775	59,076	57,972	42,628	16,149	58,945	54,154	4,920
D.C. CIRCUIT	282	1,370	282	281	249	32	282	276	6
District of Columbia	282	1,370	282	281	249	32	282	276	6
FIRST CIRCUIT	1,330	6,095	1,330	1,326	849	470	1,328	1,262	68
Maine	176	787	176	176	83	89	176	176	0
Massachusetts	380	1,662	380	379	146	234	380	377	3
New Hampshire	148	722	148	147	132	16	147	148	0
Puerto Rico	526	2,457	526	524	421	103	525	461	65
Rhode Island	100	467	100	100	67	28	100	100	0
SECOND CIRCUIT	3,333	15,487	3,333	3,287	2,397	919	3,323	3,147	186
Connecticut	285	1,405	285	285	268	15	283	284	1
New York									
Eastern	823	4,024	823	820	742	79	821	818	5
Northern	426	1,798	426	386	208	214	426	352	74
Southern	1,149	5,096	1,149	1,146	559	583	1,145	1,097	52
Western	514	2,496	514	514	495	19	512	461	53
Vermont	136	668	136	136	125	9	136	135	1
THIRD CIRCUIT	2,258	10,739	2,258	2,250	1,775	470	2,237	2,219	39
Delaware	120	594	120	120	114	5	120	120	0
New Jersey	678	3,290	678	678	596	82	662	676	2
Pennsylvania									
Eastern	621	2,896	621	619	421	200	621	614	7
Middle	457	2,239	457	455	418	37	457	452	5
Western	338	1,524	338	337	200	128	333	316	22
Virgin Islands	44	196	44	41	26	18	44	41	3
FOURTH CIRCUIT	5,062	22,809	5,062	4,754	3,528	1,506	5,029	4,436	626
Maryland	595	2,736	595	532	476	112	592	541	54
North Carolina									
Eastern	474	2,225	474	461	368	105	474	448	26
Middle	314	1,547	314	314	291	22	314	314	0
Western	412	1,956	412	410	311	98	412	411	1
South Carolina	858	3,910	858	854	487	371	857	854	4
Virginia									
Eastern	1,531	6,172	1,531	1,307	813	702	1,503	1,018	513
Western	369	1,779	369	367	306	63	369	368	1
West Virginia									
Northern	296	1,435	296	296	278	18	296	269	27
Southern	213	1,049	213	213	198	15	212	213	0

Table 27 (cont.)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
FIFTH CIRCUIT	14,297	63,362	14,297	14,233	7,833	6,409	14,278	12,721	1,576
Louisiana									
Eastern	326	1,524	326	323	223	102	326	326	0
Middle	123	590	123	123	98	25	123	123	0
Western	285	1,324	285	284	201	83	284	270	15
Mississippi									
Northern	105	515	105	105	100	5	105	100	5
Southern	227	1,072	227	218	194	31	225	208	19
Texas									
Eastern	744	3,652	744	742	681	62	744	741	3
Northern	730	3,438	730	729	522	207	729	728	2
Southern	5,484	25,393	5,484	5,481	3,539	1,941	5,484	5,405	79
Western	6,273	25,854	6,273	6,228	2,275	3,953	6,258	4,820	1,453
SIXTH CIRCUIT	3,811	18,107	3,811	3,788	3,037	723	3,804	3,667	144
Kentucky									
Eastern	485	2,360	485	485	432	52	484	474	11
Western	289	1,312	289	289	230	58	289	215	74
Michigan									
Eastern	555	2,671	555	555	457	93	553	551	4
Western	368	1,726	368	368	268	96	368	354	14
Ohio									
Northern	502	2,343	502	498	342	157	502	499	3
Southern	451	2,221	451	450	421	27	451	448	3
Tennessee									
Eastern	446	2,110	446	443	335	108	445	441	5
Middle	250	1,141	250	238	168	51	247	238	12
Western	465	2,223	465	462	384	81	465	447	18
SEVENTH CIRCUIT	2,174	10,437	2,174	2,157	1,779	390	2,173	2,154	20
Illinois									
Central	269	1,240	269	269	164	105	269	269	0
Northern	653	3,108	653	643	519	131	652	641	12
Southern	237	1,116	237	236	170	67	237	236	1
Indiana									
Northern	328	1,596	328	323	289	39	328	328	0
Southern	165	800	165	165	142	22	165	163	2
Wisconsin									
Eastern	374	1,848	374	374	357	17	374	369	5
Western	148	729	148	147	138	9	148	148	0
EIGHTH CIRCUIT	4,006	19,178	4,006	3,986	3,216	784	4,002	3,968	38
Arkansas									
Eastern	317	1,503	317	315	246	70	316	309	8
Western	196	973	196	195	191	5	196	195	1
Iowa									
Northern	259	1,196	259	259	161	97	258	259	0
Southern	345	1,639	345	345	259	85	345	345	0
Minnesota	496	2,436	496	496	457	38	496	491	5
Missouri									
Eastern	738	3,644	738	735	697	40	738	736	2
Western	607	2,792	607	604	374	233	607	600	7
Nebraska	486	2,374	486	484	435	51	486	483	3
North Dakota	190	832	190	181	95	94	188	178	12
South Dakota	372	1,789	372	372	301	71	372	372	0

Table 27 (cont.)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
NINTH CIRCUIT	12,243	57,867	12,243	11,748	11,022	1,173	12,220	10,634	1,607
Alaska	146	665	146	146	91	55	146	136	10
Arizona	3,085	14,409	3,085	2,684	2,869	212	3,082	2,689	396
California									
Central	1,478	7,118	1,478	1,449	1,293	160	1,467	1,431	45
Eastern	795	3,893	795	786	729	60	794	789	6
Northern	587	2,756	587	569	497	87	583	520	67
Southern	3,540	16,531	3,540	3,510	3,316	219	3,538	2,627	913
Guam	47	221	47	46	35	12	47	46	1
Hawaii	243	1,107	243	243	141	101	243	237	6
Idaho	249	1,207	249	246	218	31	249	245	4
Montana	297	1,422	297	296	237	60	297	295	2
Nevada	268	1,280	268	268	213	53	267	264	4
Northern Mariana Islands	17	83	17	17	15	2	17	17	0
Oregon	487	2,371	487	484	445	42	486	469	18
Washington									
Eastern	300	1,442	300	300	248	51	300	294	6
Western	704	3,362	704	704	675	28	704	575	129
TENTH CIRCUIT	4,804	22,252	4,804	4,787	3,328	1,443	4,801	4,532	272
Colorado	390	1,926	390	387	381	9	390	378	12
Kansas	550	2,650	550	539	483	65	549	529	21
New Mexico	2,386	10,919	2,386	2,383	1,391	995	2,386	2,373	13
Oklahoma									
Eastern	71	328	71	71	44	24	71	71	0
Northern	178	810	178	178	99	79	178	177	1
Western	349	1,435	349	349	188	140	349	200	149
Utah	604	2,887	604	604	540	58	602	537	67
Wyoming	276	1,297	276	276	202	73	276	267	9
ELEVENTH CIRCUIT	5,476	25,072	5,476	5,375	3,615	1,830	5,468	5,138	338
Alabama									
Middle	167	808	167	167	141	26	166	167	0
Northern	365	1,715	365	359	277	86	365	349	16
Southern	316	1,515	316	316	256	60	316	311	5
Florida									
Middle	1,275	5,891	1,275	1,272	796	477	1,274	1,274	1
Northern	297	1,364	297	295	190	107	296	286	11
Southern	1,752	7,886	1,752	1,672	1,033	702	1,748	1,681	71
Georgia									
Middle	316	1,359	316	314	175	138	316	238	78
Northern	540	2,585	540	532	446	93	539	528	12
Southern	448	1,949	448	448	301	141	448	304	144

¹Descriptions of variables used in this table are provided in Appendix A.

²The figures presented in this table regarding plea agreement submission exclude from the analysis 122 cases for which the Commission was unable to determine definitively whether the defendant's guilty plea was entered pursuant to a written plea agreement.

Table 28

**RATE OF SUBMISSION OF STATEMENT OF REASONS FORM
IN EACH CIRCUIT AND DISTRICT
3rd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through June 30, 2009)**

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
TOTAL	59,076	51,677	87.5	6,338	10.7	1,061	1.8
D.C. CIRCUIT	282	278	98.6	4	1.4	0	0.0
District of Columbia	282	278	98.6	4	1.4	0	0.0
FIRST CIRCUIT	1,330	1,317	99.0	11	0.8	2	0.2
Maine	176	175	99.4	1	0.6	0	0.0
Massachusetts	380	378	99.5	2	0.5	0	0.0
New Hampshire	148	145	98.0	3	2.0	0	0.0
Puerto Rico	526	519	98.7	5	1.0	2	0.4
Rhode Island	100	100	100.0	0	0.0	0	0.0
SECOND CIRCUIT	3,333	3,222	96.7	66	2.0	45	1.4
Connecticut	285	284	99.6	1	0.4	0	0.0
New York							
Eastern	823	773	93.9	47	5.7	3	0.4
Northern	426	383	89.9	3	0.7	40	9.4
Southern	1,149	1,136	98.9	11	1.0	2	0.2
Western	514	513	99.8	1	0.2	0	0.0
Vermont	136	133	97.8	3	2.2	0	0.0
THIRD CIRCUIT	2,258	1,648	73.0	602	26.7	8	0.4
Delaware	120	118	98.3	2	1.7	0	0.0
New Jersey	678	84	12.4	594	87.6	0	0.0
Pennsylvania							
Eastern	621	616	99.2	3	0.5	2	0.3
Middle	457	453	99.1	2	0.4	2	0.4
Western	338	336	99.4	1	0.3	1	0.3
Virgin Islands	44	41	93.2	0	0.0	3	6.8
FOURTH CIRCUIT	5,062	4,684	92.5	86	1.7	292	5.8
Maryland	595	537	90.3	9	1.5	49	8.2
North Carolina							
Eastern	474	458	96.6	4	0.8	12	2.5
Middle	314	314	100.0	0	0.0	0	0.0
Western	412	407	98.8	3	0.7	2	0.5
South Carolina	858	853	99.4	1	0.1	4	0.5
Virginia							
Eastern	1,531	1,245	81.3	63	4.1	223	14.6
Western	369	367	99.5	0	0.0	2	0.5
West Virginia							
Northern	296	292	98.6	4	1.4	0	0.0
Southern	213	211	99.1	2	0.9	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
FIFTH CIRCUIT	14,297	9,451	66.1	4,786	33.5	60	0.4
Louisiana							
Eastern	326	323	99.1	2	0.6	1	0.3
Middle	123	122	99.2	1	0.8	0	0.0
Western	285	264	92.6	20	7.0	1	0.4
Mississippi							
Northern	105	104	99.0	1	1.0	0	0.0
Southern	227	219	96.5	1	0.4	7	3.1
Texas							
Eastern	744	739	99.3	3	0.4	2	0.3
Northern	730	724	99.2	5	0.7	1	0.1
Southern	5,484	5,457	99.5	24	0.4	3	0.1
Western	6,273	1,499	23.9	4,729	75.4	45	0.7
SIXTH CIRCUIT	3,811	3,655	95.9	135	3.5	21	0.6
Kentucky							
Eastern	485	481	99.2	4	0.8	0	0.0
Western	289	287	99.3	2	0.7	0	0.0
Michigan							
Eastern	555	551	99.3	4	0.7	0	0.0
Western	368	367	99.7	1	0.3	0	0.0
Ohio							
Northern	502	496	98.8	3	0.6	3	0.6
Southern	451	402	89.1	48	10.6	1	0.2
Tennessee							
Eastern	446	440	98.7	3	0.7	3	0.7
Middle	250	186	74.4	52	20.8	12	4.8
Western	465	445	95.7	18	3.9	2	0.4
SEVENTH CIRCUIT	2,174	2,090	96.1	67	3.1	17	0.8
Illinois							
Central	269	269	100.0	0	0.0	0	0.0
Northern	653	639	97.9	4	0.6	10	1.5
Southern	237	233	98.3	3	1.3	1	0.4
Indiana							
Northern	328	323	98.5	0	0.0	5	1.5
Southern	165	164	99.4	1	0.6	0	0.0
Wisconsin							
Eastern	374	316	84.5	58	15.5	0	0.0
Western	148	146	98.6	1	0.7	1	0.7
EIGHTH CIRCUIT	4,006	3,915	97.7	71	1.8	20	0.5
Arkansas							
Eastern	317	313	98.7	2	0.6	2	0.6
Western	196	194	99.0	1	0.5	1	0.5
Iowa							
Northern	259	257	99.2	2	0.8	0	0.0
Southern	345	342	99.1	3	0.9	0	0.0
Minnesota	496	446	89.9	50	10.1	0	0.0
Missouri							
Eastern	738	729	98.8	6	0.8	3	0.4
Western	607	601	99.0	3	0.5	3	0.5
Nebraska	486	482	99.2	2	0.4	2	0.4
North Dakota	190	181	95.3	0	0.0	9	4.7
South Dakota	372	370	99.5	2	0.5	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
NINTH CIRCUIT	12,243	11,425	93.3	332	2.7	486	4.0
Alaska	146	145	99.3	1	0.7	0	0.0
Arizona	3,085	2,674	86.7	13	0.4	398	12.9
California							
Central	1,478	1,438	97.3	15	1.0	25	1.7
Eastern	795	781	98.2	5	0.6	9	1.1
Northern	587	564	96.1	6	1.0	17	2.9
Southern	3,540	3,495	98.7	16	0.5	29	0.8
Guam	47	46	97.9	0	0.0	1	2.1
Hawaii	243	237	97.5	6	2.5	0	0.0
Idaho	249	246	98.8	0	0.0	3	1.2
Montana	297	293	98.7	3	1.0	1	0.3
Nevada	268	267	99.6	1	0.4	0	0.0
Northern Mariana Islands	17	17	100.0	0	0.0	0	0.0
Oregon	487	223	45.8	261	53.6	3	0.6
Washington							
Eastern	300	299	99.7	1	0.3	0	0.0
Western	704	700	99.4	4	0.6	0	0.0
TENTH CIRCUIT	4,804	4,696	97.8	92	1.9	16	0.3
Colorado	390	381	97.7	7	1.8	2	0.5
Kansas	550	537	97.6	2	0.4	11	2.0
New Mexico	2,386	2,368	99.2	15	0.6	3	0.1
Oklahoma							
Eastern	71	71	100.0	0	0.0	0	0.0
Northern	178	178	100.0	0	0.0	0	0.0
Western	349	344	98.6	5	1.4	0	0.0
Utah	604	541	89.6	63	10.4	0	0.0
Wyoming	276	276	100.0	0	0.0	0	0.0
ELEVENTH CIRCUIT	5,476	5,296	96.7	86	1.6	94	1.7
Alabama							
Middle	167	165	98.8	2	1.2	0	0.0
Northern	365	359	98.4	3	0.8	3	0.8
Southern	316	312	98.7	4	1.3	0	0.0
Florida							
Middle	1,275	1,268	99.5	5	0.4	2	0.2
Northern	297	294	99.0	1	0.3	2	0.7
Southern	1,752	1,668	95.2	7	0.4	77	4.4
Georgia							
Middle	316	287	90.8	27	8.5	2	0.6
Northern	540	498	92.2	34	6.3	8	1.5
Southern	448	445	99.3	3	0.7	0	0.0

¹Cases included in this category are those in which the court submitted Form AO 245B (Revision 06/05) to the Commission. Only cases in which all required pages of this form were submitted with no deletions or substantive changes are included in this category. Form AO 245B was approved by the Executive Committee of the Judicial Conference of the United States in June 2005.

²Cases are included in this category for one or more of the following reasons: one or more of the required pages of Form AO 245B (Revision 06/05) were missing; deletions or substantive changes were made in Form AO 245B (Revision 06/05) that prevented the USSC from collecting the information required to be submitted by 18 U.S.C. §3553(c); the outdated version of Form AO 245B was submitted; or a unique, district created, or modified form was submitted.

Appendix A

Descriptions of Datafiles and Variables

Introduction

Federal courts are required to forward to the Commission sentencing documentation on all offenders sentenced under the Sentencing Reform Act of 1984 (SRA), except in cases that solely involve petty offenses. Standard information on each case is extracted from sentencing documents received and computerized for analysis.

Given the nature of the datafile and reporting requirements, the following are not included: cases initiated but for which no convictions were obtained, offenders convicted for whom no sentences were yet issued, and offenders sentenced but for whom no sentencing documents were submitted to the Commission. Because the Commission collects information only on cases sentenced under the guidelines, information on cases sentenced under prior law (pre-guidelines) during the current fiscal year is not available in this dataset. When cases are sentenced under both prior law and the guidelines, only the guideline relevant information is coded in the dataset.

Note that for all tables, total percentages may not add up to exactly 100 percent due to rounding.

Variables

The following section describes the variables used in this report.

Above Guideline Range With *Booker*/18 U.S.C. § 3553

Above Guideline Range with Booker/18 U.S.C. § 3553 consist of cases sentenced above the guideline range in which no departure was indicated and in which the court cited *United States v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing of the guideline system.

Age

The *Age* of the offender on the day of sentencing is calculated using the offender's date of birth as reported in the presentence report and the date of sentencing as reported in the Judgment and Commitment Order.

All Remaining Cases Above Guideline Range

All Remaining Cases Above Guideline Range consist of cases sentenced above the guideline range that could not be classified into any of the other three above the range categories. This category includes cases in which no reason was provided for a sentence above the guideline range.

All Remaining Cases Below Guideline Range

All Remaining Cases Below Guideline Range consist of cases sentenced below the guideline range that could not be classified into any of the other three below the range categories. This category includes cases in which no reason was provided for a sentence below the guideline range.

Average Sentence Length

Using sentencing information obtained from the Judgment and Commitment Order, *Average Sentence Length* is reported as the mean and median terms of imprisonment (including any months of alternative confinement as defined in §5C1.1) ordered for cases committed to the Bureau of Prisons. Cases that

receive no term of imprisonment (i.e. probation) are also included in the average. Cases for which a term of imprisonment is ordered but the length is indeterminable are excluded. In most cases for which the exact term is unknown, the Judgment and Commitment Order merely specifies a sentence of time served. Prior to fiscal year 1993, the Commission defined life sentences as 360 months. However, to reflect life expectancy of federal criminal offenders more precisely and to provide more accurate length of imprisonment information, life sentences are now defined as 470 months.

Below Guideline Range With *Booker*/18 U.S.C. § 3553

Below Guideline Range with Booker/18 U.S.C. § 3553 consist of cases sentenced below the guideline range in which no departure was indicated and in which the court cited *United States v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing of the guideline system.

Circuit

Information on judicial *Circuit* is generated by computer using the location of the judicial district in which the offender was sentenced.

Citizenship Status

Information on the *Citizenship Status* of offenders is obtained from the presentence report. Offenders are categorized as one of the following: “U.S. citizen,” “resident alien,” “illegal alien,” and “non-U.S. citizen, alien status unknown.” The latter three categories are collapsed into the category of “non-U.S. citizen.”

Degree of Decrease

Degree of Decrease is calculated based on the difference between the length of imprisonment (not including any months of alternative confinement as defined in §5C1.1) and the guideline minimum for the following categories of below range cases: departures below the guideline range, departures below the guideline range with *Booker*/18 U.S.C. § 3553, below the guideline range with *Booker*/18 U.S.C. § 3553, all other below range cases, §5K1.1 substantial assistance cases, and §5K3.1 early disposition program cases, and other government sponsored cases. Life sentences, and cases where the guideline minimum is zero months or life are all excluded from all degree of decrease calculations due to the logical difficulty in calculating a decrease from these values.

Degree of Increase

Degree of Increase is calculated based on the difference between the guideline maximum and the length of imprisonment (not including any months of alternative confinement as defined in §5C1.1) for the following categories of above range cases: departures above the guideline range, departures above the guideline range with *Booker*/18 U.S.C. § 3553, above the guideline range with *Booker*/18 U.S.C. § 3553, and all other above range cases. Life sentences, sentences of probation, and cases where the guideline minimum is life are all excluded from all degree of increase calculations due to the logical difficulty in calculating an increase from these values.

District

Information on the judicial *District* in which sentencing occurred is obtained from the Judgment and Commitment Order.

Document Submission Rates

Five documents are represented in the document submission rate table: Judgment and Commitment Order (J&C), Presentence Report (PSR), Statement of Reasons (SOR), Indictment/Information (Ind), and Plea Agreements (Plea). The J&C and PSR generally are submitted in a standardized format. PSRs waived by

the court are indicated in a separate column. Standardized forms for the Statement of Reasons are most frequently submitted; however, transcripts or partial transcripts from the sentencing hearing are also included as *Statement of Reasons Received*. Cases in which the Commission was unable to determine definitively whether the offender's guilty plea was entered pursuant to a written agreement are excluded from the Plea Agreement totals.

Downward Departure From Guideline Range

Downward Departure from Guideline Range consist of cases with downward departures in which the court did not indicate as a reason either *United States v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

Downward Departure With *Booker*/18 U.S.C. § 3553

Downward Departure with Booker/18 U.S.C. § 3553 consist of cases sentenced below the guideline range in which the court indicated both a departure (see Downward Departure From Guideline Range) and a reference to either *United States v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

Drug Offense Guideline

Drug Offense Guideline information is obtained from the presentence report and is based on the guidelines in USSG Chapter Two, Part D. The six guidelines featured in the tables (§2D1.1, §2D1.2, §2D1.5, §2D1.6, §2D1.8, and §2D2.1) represent the vast majority of drug cases.

Drug Type

Information on *Drug Type* is obtained from the Judgment and Commitment Order or the presentence report. It is recorded only if at least one of the statutes of conviction recorded by the Commission is a title 21 U.S. Code offense or a non-title 21 offense when the underlying conduct involves a controlled substance. Information about type of drug in the text and tables is derived from the primary drug type (*i.e.*, the type that produces the highest base offense level). The category *Marijuana* includes Hashish and Hashish oil. The category *Methamphetamine* includes pure (actual) methamphetamine, "ICE", methamphetamine mixture, and methamphetamine precursors (specifically including ephedrine and pseudoephedrine). ("ICE" has been included in the methamphetamine category since FY1996). All drug types not listed separately in this report are collapsed into the "other" drug category.

Education

Information on education of the offender is obtained from the presentence report and is collapsed into general categories. Technical, military, and vocational training as well as course work at community colleges are included in the *Some College* category. A general equivalency degree (GED) is included in the *High School Graduate* category.

Gender

Gender of the offender is obtained from the presentence report or probation office.

Government Sponsored

Government sponsorship of a departure is determined by a yearly case review by USSC staff of both the reasons for departure and the coding by USSC staff of any indication of government sponsorship as indicated on the Statement of Reasons. The SOR form AO245B version 12/03 and 06/05 have specific check-boxes to indicate the origins of the departure, but cases which do not use this form may also indicate in writing the origins of the departure. Additionally, all cases with one or more of the following

reasons were classified as being sponsored by the government regardless of whether the SOR indicated sponsorship: pursuant to a plea agreement (binding, non-binding, or unknown), fast track, savings to the government, early plea, deportation, waiver of indictment and/or appeal, other government motion, global disposition, due to stipulations, facilitated early release of a material witness, joint recommendation, and large number of immigration cases. Note that since the USSC reviews the reasons on a yearly basis this list might be modified slightly from year to year. Unless otherwise broken out in the table or chart, this category also includes cases with §5K3.1 Early Disposition Program (EDP) departures.

Guideline Offenders Sentenced

Each *Guideline Offender Sentenced* or case, as recorded by the USSC, involves a single sentencing event for a single offender. Multiple counts, and even multiple indictments, are considered a single sentencing event if sentenced at the same time by the same judge. A single offender may appear in more than one case if involved in more than one sentencing event during the fiscal year. Co-offenders in the same sentencing will each appear as separate cases.

Guideline Sentencing Range

The *Guideline Sentencing Range* is taken from the Statement of Reasons provided by the sentencing court. Alternatively, if the Statement of Reasons is missing, then the information is taken from the presentence report.

For tables in this report, unless otherwise indicated, the guideline sentencing range does not take into account applicable statutory restrictions on either the maximum or the minimum of the range; therefore, it may differ from the available range, which does take into account the statutory restrictions.

Mode of Conviction

Information on *Mode of Conviction* is obtained from the Judgment and Commitment Order. Offenders sentenced subsequent to a plea of guilty or *nolo contendere* are included in the *Plea* category. Offenders sentenced subsequent to a trial by judge or jury are included in the *Trial* category. Rare cases involving both a plea and a trial are included in the *Plea* category.

Outside of the Range Attribution Categories

All categories replicate the list of checkboxes available on the SOR Form AO245B (Both 12/03 and 06/05). Not all checkbox categories are available in both the departure section and sentences outside the guideline system section on this form and that multiple checkboxes may be indicated in a single case so that totals in a table may exceed the total number of cases. USSC uses these checkboxes in determining government sponsorship: all cases in which one of the pursuant to a plea agreement boxes is indicated are attributed to the government. Additionally cases where a §5K1.1, §5K3.1, or other government motion checkbox was indicated in the pursuant to a motion not in a plea agreement section are also attributed to one of the government sponsored categories. Additionally other types of SOR forms may indicate sponsorship in writing and these attributions are also included in the appropriate category.

Position of Sentence

The *Position of Sentence* describes within-range guideline sentences in terms of their relative positions within their applicable guideline ranges. Only cases with complete information from the Statement of Reasons are used for this table. The *Position of Sentence* is determined by dividing the available range in half. This allows a sentence to fall into one of five distinct categories: the guideline minimum; the exact midpoint of the range; the guideline maximum; the lower-half of the range (when not at the guideline minimum); and the upper-half of the range (when not at the guideline maximum). The “available range”

is the guideline range with applicable statutory restrictions on either the maximum or the minimum of the range taken into account. (For cases in which guideline §5C1.2 was applied, in accordance with the provisions of the guideline, the statutory restrictions on the range are those from 18 U.S.C. § 3553(f).) In cases in which the sentence is located outside the available sentencing range, departure information is provided as reported by the sentencing court. Differences in the number and percentage of cases in each range quarter may differ from other tables presented in this report; this is due to the exclusion of any case missing both complete information from the Statement of Reasons and information on statutory minima and maxima.

Primary Offense Category

Information on *Primary Offense Category* is obtained from the Judgment and Commitment Order. The “primary” offense code for the case is determined to be the offense code applicable for the count of conviction with the highest statutory maximum. If two or more counts are found to have the same statutory maximum, “primary” offense is selected according to which count of conviction has the highest statutory minimum. Finally, in the event of a small number of cases still tied, the offense type that best represented the nature of the criminal behavior is chosen.

For convenience in analysis, a summary variable describing “primary offense category” is derived. This code is generated by grouping similar primary offense codes into a smaller set of categories. Note that the primary offense categories differ between the individual and organizational offender datafiles. Listed below are the offense types that are grouped into each of the primary offense categories used in the individual datafile tables for this report:

Murder includes first degree murder, felony with death resulting, second degree murder, and conspiracy to murder (with death resulting).

Manslaughter includes both involuntary and voluntary manslaughter.

Kidnapping/Hostage includes ransom taking and hostage/kidnapping.

Sexual Abuse includes sexual abuse of a minor, sexual abuse of a ward, criminal sexual abuse, and abusive sexual contact.

Assault includes attempt to commit murder, assault with intent to murder, threatening communication, aggravated assault, conspiracy with attempt to murder, obstructing or impeding officers, minor assault, and conspiracy that includes assault with attempt to murder.

Robbery includes bank robbery, aggravated bank robbery, Hobbs Act robbery, mail robbery, other robbery, and carjacking.

Arson also includes damage by explosives.

Drugs: Trafficking includes drug distribution/manufacture, drug distribution/manufacture – conspiracy, continuing criminal enterprise, drug distribution – employee under 21, drug distribution near school, drug import/export, drug distribution to person under 21, and establish/rent drug operation.

Drugs: Communication Facility includes use of a communication facility in a drug trafficking offense.

Drugs: Simple Possession includes distribution of a small amount of marijuana and simple possession.

Firearms includes unlawful possession/transportation of firearms or ammunition; possession of guns/explosives on aircraft; unlawful trafficking, etc. in explosives; possession of guns/explosives in federal facility/schools; use of fire or explosives to commit felony; and use of firearms or ammunition during crime.

Burglary/Breaking & Entering includes post office burglary, burglary of DEA premises (pharmacy), burglary of other structure, bank burglary, and burglary of a residence.

Auto Theft includes auto theft (including parts), receipt/possession of stolen auto or parts, and altered identification numbers/trafficking in altered (auto).

Larceny includes bank larceny, theft from benefit plans, other theft – mail/post office, receipt/possession of stolen property (not auto), other theft – property, larceny/theft-mail/post office, larceny/theft – property (not auto), and theft from labor union.

Fraud includes odometer laws and regulations, insider trading, and fraud and deceit.

Embezzlement includes embezzlement – property, embezzlement from labor unions, embezzlement – mail/post office, embezzlement from benefit plans, and bank embezzlement.

Forgery/Counterfeiting includes counterfeit bearer obligations and forgery/counterfeit (non-bearer obligations).

Bribery includes payment to obtain office, bribe involving officials, bribery – bank loan/commercial, loan or gratuity to bank examiner, etc., gratuity involving officials, and bribe or gratuity affecting employee plan.

Tax Offenses include receipt/trafficking in smuggled property, aid, etc., in tax fraud; fraud – tax returns, statements, etc.; fraud, false statement – perjury; failure to file or pay; tax evasion; evading import duties (smuggle); failure to collect or account for taxes; regulatory offenses – taxes; failure to deposit taxes in trust account; non-payment of taxes; conspiracy to avoid taxes; and offenses relating to withholding statements.

Money Laundering includes laundering of monetary instruments, monetary transaction from unlawful activity, failure to file currency report, and failure to report monetary transactions.

Extortion/Racketeering includes extortionate extension of credit, blackmail, extortion by force or treat, Hobbs Act extortion, travel in aid of racketeering, crime relating to racketeering, and violent crimes in aid of racketeering.

Gambling/Lottery includes engaging in a gambling business, transmission of wagering

information, obstruction to facilitate gambling, and interstate transportation of wagering paraphernalia.

Civil Rights includes interference with rights under color of law; force or threats to deny benefits or rights; obstructing an election or registration; manufacture, etc. – eavesdropping device; other deprivations/discrimination; obstructing correspondence; peonage, servitude, and slave trade; intercept communication or eavesdropping; and conspiracy to deprive individual of civil rights.

Immigration includes trafficking in U.S. passports; trafficking in entry documents; failure to surrender naturalization certificate; fraudulently acquiring U.S. passports; smuggling, etc.; unlawful alien; fraudulently acquiring entry documents; and unlawfully entering U.S.

Pornography, Prostitution includes dealing in obscene matter, transportation of minor for prostitution/sex, transportation for prostitution/sex (adult), sexual exploitation of minors, materials involving sexual exploitation of minors, obscene telephone or broadcasting, and selling or buying children for pornography.

Offenses In Prisons includes contraband in prisons, riots in federal facilities, and escape.

Administration of Justice includes commission of offense while on release, bribery of a witness, failure to appear by offender, contempt, failure to appear by material witness, obstruction of justice, payment of witness, perjury or subornation of perjury, misprision of a felony, and accessory after the fact.

Environmental/Fish And Wildlife includes waste discharge, specially protected fish, wildlife, and plants (waste discharge is presented as a separate offense category in Tables 51 and 52).

National Defense includes evasion of export controls and exportation of arms, etc., without license.

Antitrust includes bid-rigging, price-fixing, and market allocation agreement.

Food and Drug includes false information or tampering with products, tampering to injure business, tampering with risk of death or injury, and violation of regulations involving food, drugs, etc.

Other Miscellaneous Offenses includes illegal use of regulatory number – drugs; illegal transfer of drugs; illegal regulatory number to get drugs; drug paraphernalia; forgery/fraud for drugs; dangerous devices to protect drugs; manufacture drugs against quota; endangering life while manufacturing drugs; operate carrier under drugs; endangerment from hazardous/toxic substances; mishandling substances, records, etc.; threat of tampering with public water system; hazardous devices of federal lands; mishandling other pollutants, records, etc.; improper storage of explosives; record keeping violation – explosives; possession of other weapon – on aircraft, in federal facility; failure to report theft of explosives; feloniously mailing injurious articles; transport of hazardous material in commerce; interference with flight crew, other offense

– aboard aircraft; criminal infringement of copyright/trademark; conflict of interest; unauthorized payment; non-drug forfeiture; impersonation; false statement to Employee Act; reporting offenses – labor related; criminal infringement of trademark; unlawful conduct relating to control/cigarettes; trespass; destruction of property; destruction of mail; aircraft piracy; conspiracy to murder (no death, assault, or attempt); conspiracy to commit murder; and all other miscellaneous offenses not previously listed in any of the other categories.

Race

Information on *Race* of the offender is obtained from the presentence report in separate categories of race and ethnicity (*White, Black, Native American or Alaskan Native, and Asian or Pacific Islander*). Ethnicity data indicate whether an offender is of Hispanic origin. (For purposes of this report, offenders whose ethnic background is designated as Hispanic are represented as Hispanic in all tables regardless of racial background.) The *Other* category includes offenders of Native American, Alaskan Native, and Asian or Pacific Islander origin.

Type of Guideline Sentence Imposed

Using sentencing information obtained from the Judgment and Commitment Order, the *Total Receiving Prison* column includes the number of offenders sentenced (and percent of *Total Cases*) who received a commitment to the Bureau of Prisons. This column is the sum of cases in *Prison* and the *Prison/Community Split Sentence* categories.

The *Prison* category includes offenders sentenced to a term of imprisonment only, with no additional conditions of community confinement, home detention or intermittent confinement.

The *Prison/Community Split Sentence* category includes all cases in which offenders received prison and conditions of alternative confinement as defined in USSG §5C1.1. This category includes, but is not limited to, Zone A, Zone B, or Zone C cases receiving prison with additional conditions of a term of community confinement, home detention, or intermittent confinement.

The *Total Receiving Probation* column includes the number of offenders sentenced (and the percent of *Total Cases*) who received a term of probation with or without a condition of community confinement, intermittent confinement, or home detention. This column also represents the total of the *Probation Only* and *Probation and Confinement* categories.

The *Probation Only* column includes the number of offenders who received a term of probation without a condition of community confinement, intermittent confinement, or home detention.

Probation and Confinement includes the number of offenders who received a term of probation with a condition of community confinement, intermittent confinement, or home detention.

Upward Departure From Guideline Range

Upward Departure from Guideline Range consist of cases with upward departures in which the court did

not indicate as a reason either *United States v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

Upward Departure With *Booker*/18 U.S.C. § 3553

Upward Departure with Booker/18 U.S.C. § 3553 consist of cases sentenced above the guideline range in which the court indicated both a departure (see Upward Departure From Guideline Range) and a reference to either *United States v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

Year

Information on Year is obtained from the Judgment and Commitment Order. Unless otherwise indicated, the sentencing year is defined as the fiscal year in which the offender was sentenced.

Zone

The *Sentencing Table* is categorized into sentencing *Zones*. Courts may impose various types of punishment as alternatives to imprisonment. Alternative types of punishment include: probation, home detention, community confinement, and intermittent confinement. Imposition of alternative types of punishment is restricted to offenders within specific sentencing zones.

Zone A: a guideline range is in Zone A when the minimum term of imprisonment specified is zero months;

Zone B: a guideline range is in Zone B when the minimum term of imprisonment specified is at least one but not more than six months;

Zone C: a guideline range is in Zone C when the minimum term of imprisonment specified is eight months when criminal history category is four or less, and nine months if the criminal history category is greater than four;

Zone D: a guideline range is in Zone D when the minimum term of imprisonment specified is twelve months or more.

See Chapter 5 of the *Guidelines Manual* for a description of alternatives to imprisonment and the conditions under which they are applicable.

**Appendix B:
List of Quarterly Report Tables and Figures
and Comparable FY06 *Sourcebook* Number/Letter**

<u>Quarterly Report Tables/Figures</u>	<u>Comparable <i>Sourcebook</i> Tables/Figures</u>
Table 1	Table N
Table 2	Table 26
Table 3	Table 27
Figure A	N/A
Figure B	N/A
Table 4	N/A
Table 5	Table 28
Table 6	Table 28A
Table 7	Table 30
Table 8	Table 30A
Table 9	Table 31
Table 10	Table 31A
Table 11	Table 31B
Table 12	Table 31C
Table 13	Table 31D
Table 14	Table 32
Table 15	Table 32A
Table 16	Table 32B
Table 17	Table 32C
Table 18	Table 15
Table 19	Table 13
Figure C	N/A
Figure D	N/A
Figure E	N/A
Figure F	N/A
Figure G	N/A
Figure H	N/A
Figure I	N/A
Table 20	Table 29
Figure J	Figure A
Table 21	Table 3
Table 22	Table 11
Figure K	N/A
Table 23	Table 4

Table 24 Table 5
Table 25 Table 7
Table 26 Table 9
Table 27 Tables 1
Table 28 N/A