

# United States Sentencing Commission



## *Statistical Information Packet*

*Fiscal Year 2005*

*Ninth Circuit*

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(October 1, 2004, through September 30, 2005)

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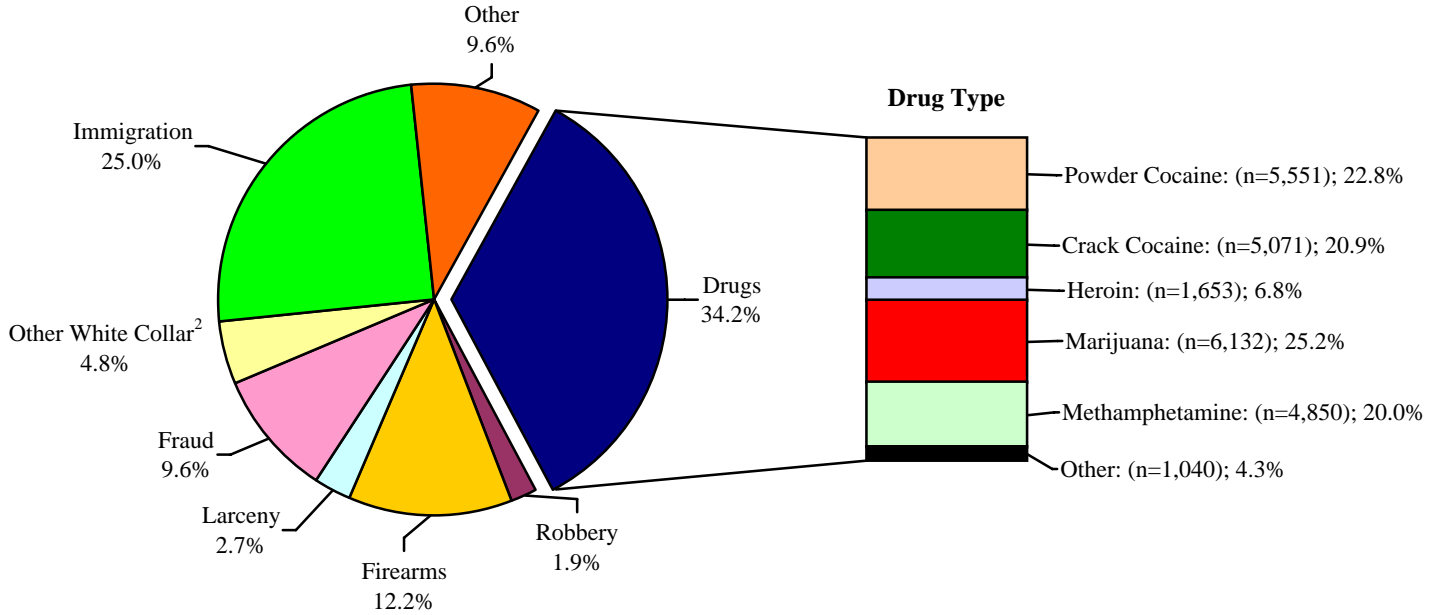
**SECTION ONE: Fiscal Year 2005**  
*(October 1, 2004, through September 30, 2005)*

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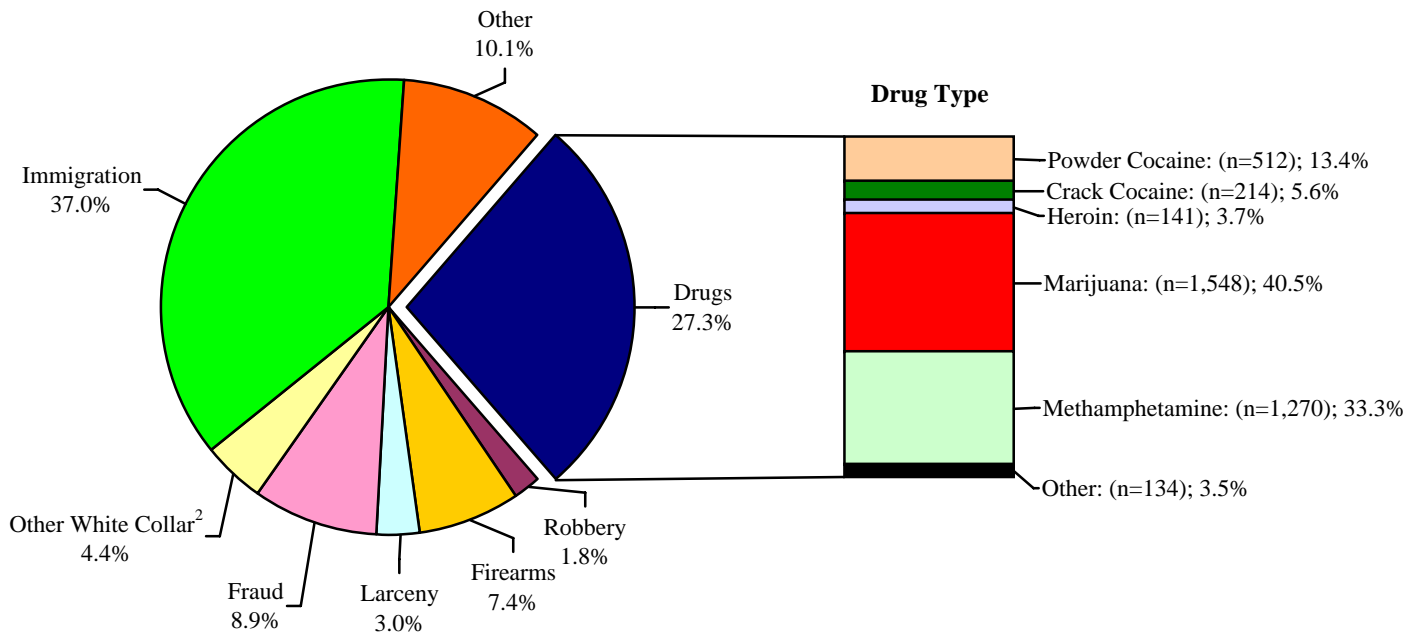
**Figure A**

**DISTRIBUTION OF SENTENCED GUIDELINE OFFENDERS BY SELECT PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Fiscal Year 2005**

**National**



**Ninth Circuit**



<sup>1</sup>Of the 72,462 guideline cases, 1,519 cases were excluded due to one of the following reasons: missing primary offense category (54) or missing drug type (1,465). Of the 14,476 guideline cases from the Ninth Circuit, 467 cases were excluded due to one of the following reasons: missing primary offense category (19) or missing drug type (448).

<sup>2</sup>The Other White Collar category includes the following offense types: Embezzlement, Forgery/Counterfeiting, Bribery, Money Laundering and Tax.

**Table 1**

**DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2005**

| PRIMARY OFFENSE                    | National      |              | Ninth Circuit |              |
|------------------------------------|---------------|--------------|---------------|--------------|
|                                    | Number        | Percent      | Number        | Percent      |
| <b>TOTAL</b>                       | <b>72,408</b> | <b>100.0</b> | <b>14,457</b> | <b>100.0</b> |
| Murder                             | 91            | 0.1          | 28            | 0.2          |
| Manslaughter                       | 51            | 0.1          | 23            | 0.2          |
| Kidnapping/Hostage Taking          | 42            | 0.1          | 12            | 0.1          |
| Sexual Abuse                       | 336           | 0.5          | 123           | 0.9          |
| Assault                            | 599           | 0.8          | 184           | 1.3          |
| Robbery                            | 1,370         | 1.9          | 258           | 1.8          |
| Arson                              | 51            | 0.1          | 8             | 0.1          |
| Drugs - Trafficking                | 24,338        | 33.6         | 3,746         | 25.9         |
| Drugs - Communication Facility     | 388           | 0.5          | 90            | 0.6          |
| Drugs - Simple Possession          | 1,036         | 1.4          | 431           | 3.0          |
| Firearms                           | 8,648         | 11.9         | 1,037         | 7.2          |
| Burglary/B&E                       | 39            | 0.1          | 18            | 0.1          |
| Auto Theft                         | 67            | 0.1          | 2             | 0.0          |
| Larceny                            | 1,911         | 2.6          | 418           | 2.9          |
| Fraud                              | 6,809         | 9.4          | 1,249         | 8.6          |
| Embezzlement                       | 577           | 0.8          | 95            | 0.7          |
| Forgery/Counterfeiting             | 1,083         | 1.5          | 171           | 1.2          |
| Bribery                            | 199           | 0.3          | 37            | 0.3          |
| Tax                                | 604           | 0.8          | 126           | 0.9          |
| Money Laundering                   | 934           | 1.3          | 193           | 1.3          |
| Racketeering/Extortion             | 715           | 1.0          | 82            | 0.6          |
| Gambling/Lottery                   | 105           | 0.1          | 14            | 0.1          |
| Civil Rights                       | 72            | 0.1          | 10            | 0.1          |
| Immigration                        | 17,717        | 24.5         | 5,187         | 35.9         |
| Pornography/Prostitution           | 1,198         | 1.7          | 217           | 1.5          |
| Prison Offenses                    | 367           | 0.5          | 95            | 0.7          |
| Administration of Justice Offenses | 1,047         | 1.4          | 242           | 1.7          |
| Environmental/Wildlife             | 182           | 0.3          | 56            | 0.4          |
| National Defense                   | 27            | 0.0          | 8             | 0.1          |
| Antitrust                          | 18            | 0.0          | 6             | 0.0          |
| Food & Drug                        | 78            | 0.1          | 11            | 0.1          |
| Other Miscellaneous Offenses       | 1,709         | 2.4          | 280           | 1.9          |

Of the 72,462 guideline cases, 54 cases were excluded due to missing information on primary offense category.

Of the 14,476 guideline cases from the Ninth Circuit, 19 cases were excluded due to missing information on primary offense category.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05.

**SECTION TWO: Pre-Booker**  
***(October 1, 2004, through January 11, 2005)***

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Table 2

**MODE OF CONVICTION BY CIRCUIT AND DISTRICT**  
**Fiscal Year 2005, Pre-Booker (October 1, 2004, through January 11, 2005)**

| CIRCUIT<br>District   | TOTAL         | PLEA          |             | TRIAL      |             |
|-----------------------|---------------|---------------|-------------|------------|-------------|
|                       |               | Number        | Percent     | Number     | Percent     |
| <b>TOTAL</b>          | <b>18,749</b> | <b>17,917</b> | <b>95.6</b> | <b>832</b> | <b>4.4</b>  |
| <b>D.C. CIRCUIT</b>   | <b>144</b>    | <b>126</b>    | <b>87.5</b> | <b>18</b>  | <b>12.5</b> |
| District of Columbia  | 144           | 126           | 87.5        | 18         | 12.5        |
| <b>FIRST CIRCUIT</b>  | <b>415</b>    | <b>388</b>    | <b>93.5</b> | <b>27</b>  | <b>6.5</b>  |
| Maine                 | 70            | 67            | 95.7        | 3          | 4.3         |
| Massachusetts         | 109           | 98            | 89.9        | 11         | 10.1        |
| New Hampshire         | 44            | 43            | 97.7        | 1          | 2.3         |
| Puerto Rico           | 170           | 161           | 94.7        | 9          | 5.3         |
| Rhode Island          | 22            | 19            | 86.4        | 3          | 13.6        |
| <b>SECOND CIRCUIT</b> | <b>1,065</b>  | <b>1,028</b>  | <b>96.5</b> | <b>37</b>  | <b>3.5</b>  |
| Connecticut           | 94            | 89            | 94.7        | 5          | 5.3         |
| New York              |               |               |             |            |             |
| Eastern               | 312           | 299           | 95.8        | 13         | 4.2         |
| Northern              | 147           | 145           | 98.6        | 2          | 1.4         |
| Southern              | 284           | 270           | 95.1        | 14         | 4.9         |
| Western               | 173           | 171           | 98.8        | 2          | 1.2         |
| Vermont               | 55            | 54            | 98.2        | 1          | 1.8         |
| <b>THIRD CIRCUIT</b>  | <b>745</b>    | <b>704</b>    | <b>94.5</b> | <b>41</b>  | <b>5.5</b>  |
| Delaware              | 14            | 14            | 100.0       | 0          | 0.0         |
| New Jersey            | 269           | 259           | 96.3        | 10         | 3.7         |
| Pennsylvania          |               |               |             |            |             |
| Eastern               | 228           | 213           | 93.4        | 15         | 6.6         |
| Middle                | 142           | 134           | 94.4        | 8          | 5.6         |
| Western               | 75            | 70            | 93.3        | 5          | 6.7         |
| Virgin Islands        | 17            | 14            | 82.4        | 3          | 17.6        |
| <b>FOURTH CIRCUIT</b> | <b>1,647</b>  | <b>1,530</b>  | <b>92.9</b> | <b>117</b> | <b>7.1</b>  |
| Maryland              | 161           | 144           | 89.4        | 17         | 10.6        |
| North Carolina        |               |               |             |            |             |
| Eastern               | 195           | 185           | 94.9        | 10         | 5.1         |
| Middle                | 71            | 67            | 94.4        | 4          | 5.6         |
| Western               | 178           | 157           | 88.2        | 21         | 11.8        |
| South Carolina        | 226           | 220           | 97.3        | 6          | 2.7         |
| Virginia              |               |               |             |            |             |
| Eastern               | 549           | 516           | 94.0        | 33         | 6.0         |
| Western               | 133           | 117           | 88.0        | 16         | 12.0        |
| West Virginia         |               |               |             |            |             |
| Northern              | 71            | 68            | 95.8        | 3          | 4.2         |
| Southern              | 63            | 56            | 88.9        | 7          | 11.1        |

| CIRCUIT<br>District    | TOTAL        | PLEA         |             | TRIAL      |            |
|------------------------|--------------|--------------|-------------|------------|------------|
|                        |              | Number       | Percent     | Number     | Percent    |
| <b>FIFTH CIRCUIT</b>   | <b>4,088</b> | <b>3,978</b> | <b>97.3</b> | <b>110</b> | <b>2.7</b> |
| Louisiana              |              |              |             |            |            |
| Eastern                | 94           | 92           | 97.9        | 2          | 2.1        |
| Middle                 | 25           | 19           | 76.0        | 6          | 24.0       |
| Western                | 108          | 101          | 93.5        | 7          | 6.5        |
| Mississippi            |              |              |             |            |            |
| Northern               | 46           | 42           | 91.3        | 4          | 8.7        |
| Southern               | 149          | 148          | 99.3        | 1          | 0.7        |
| Texas                  |              |              |             |            |            |
| Eastern                | 163          | 155          | 95.1        | 8          | 4.9        |
| Northern               | 249          | 227          | 91.2        | 22         | 8.8        |
| Southern               | 1,617        | 1,591        | 98.4        | 26         | 1.6        |
| Western                | 1,637        | 1,603        | 97.9        | 34         | 2.1        |
| <b>SIXTH CIRCUIT</b>   | <b>1,335</b> | <b>1,261</b> | <b>94.5</b> | <b>74</b>  | <b>5.5</b> |
| Kentucky               |              |              |             |            |            |
| Eastern                | 132          | 127          | 96.2        | 5          | 3.8        |
| Western                | 91           | 86           | 94.5        | 5          | 5.5        |
| Michigan               |              |              |             |            |            |
| Eastern                | 204          | 187          | 91.7        | 17         | 8.3        |
| Western                | 105          | 101          | 96.2        | 4          | 3.8        |
| Ohio                   |              |              |             |            |            |
| Northern               | 256          | 239          | 93.4        | 17         | 6.6        |
| Southern               | 138          | 128          | 92.8        | 10         | 7.2        |
| Tennessee              |              |              |             |            |            |
| Eastern                | 159          | 156          | 98.1        | 3          | 1.9        |
| Middle                 | 82           | 79           | 96.3        | 3          | 3.7        |
| Western                | 168          | 158          | 94.0        | 10         | 6.0        |
| <b>SEVENTH CIRCUIT</b> | <b>541</b>   | <b>516</b>   | <b>95.4</b> | <b>25</b>  | <b>4.6</b> |
| Illinois               |              |              |             |            |            |
| Central                | 41           | 40           | 97.6        | 1          | 2.4        |
| Northern               | 162          | 158          | 97.5        | 4          | 2.5        |
| Southern               | 55           | 53           | 96.4        | 2          | 3.6        |
| Indiana                |              |              |             |            |            |
| Northern               | 69           | 62           | 89.9        | 7          | 10.1       |
| Southern               | 86           | 84           | 97.7        | 2          | 2.3        |
| Wisconsin              |              |              |             |            |            |
| Eastern                | 58           | 53           | 91.4        | 5          | 8.6        |
| Western                | 70           | 66           | 94.3        | 4          | 5.7        |
| <b>EIGHTH CIRCUIT</b>  | <b>1,370</b> | <b>1,266</b> | <b>92.4</b> | <b>104</b> | <b>7.6</b> |
| Arkansas               |              |              |             |            |            |
| Eastern                | 94           | 84           | 89.4        | 10         | 10.6       |
| Western                | 63           | 62           | 98.4        | 1          | 1.6        |
| Iowa                   |              |              |             |            |            |
| Northern               | 142          | 132          | 93.0        | 10         | 7.0        |
| Southern               | 96           | 87           | 90.6        | 9          | 9.4        |
| Minnesota              | 142          | 115          | 81.0        | 27         | 19.0       |
| Missouri               |              |              |             |            |            |
| Eastern                | 220          | 212          | 96.4        | 8          | 3.6        |
| Western                | 196          | 184          | 93.9        | 12         | 6.1        |
| Nebraska               | 201          | 187          | 93.0        | 14         | 7.0        |
| North Dakota           | 81           | 77           | 95.1        | 4          | 4.9        |
| South Dakota           | 135          | 126          | 93.3        | 9          | 6.7        |



| CIRCUIT<br>District      | TOTAL        | PLEA         |             | TRIAL      |            |
|--------------------------|--------------|--------------|-------------|------------|------------|
|                          |              | Number       | Percent     | Number     | Percent    |
| <b>NINTH CIRCUIT</b>     | <b>3,989</b> | <b>3,879</b> | <b>97.2</b> | <b>110</b> | <b>2.8</b> |
| Alaska                   | 37           | 35           | 94.6        | 2          | 5.4        |
| Arizona                  | 1,361        | 1,350        | 99.2        | 11         | 0.8        |
| California               |              |              |             |            |            |
| Central                  | 473          | 458          | 96.8        | 15         | 3.2        |
| Eastern                  | 236          | 228          | 96.6        | 8          | 3.4        |
| Northern                 | 219          | 213          | 97.3        | 6          | 2.7        |
| Southern                 | 746          | 721          | 96.6        | 25         | 3.4        |
| Guam                     | 15           | 14           | 93.3        | 1          | 6.7        |
| Hawaii                   | 46           | 46           | 100.0       | 0          | 0.0        |
| Idaho                    | 68           | 65           | 95.6        | 3          | 4.4        |
| Montana                  | 129          | 116          | 89.9        | 13         | 10.1       |
| Nevada                   | 127          | 120          | 94.5        | 7          | 5.5        |
| Northern Mariana Islands | 6            | 2            | 33.3        | 4          | 66.7       |
| Oregon                   | 175          | 172          | 98.3        | 3          | 1.7        |
| Washington               |              |              |             |            |            |
| Eastern                  | 106          | 96           | 90.6        | 10         | 9.4        |
| Western                  | 245          | 243          | 99.2        | 2          | 0.8        |
| <b>TENTH CIRCUIT</b>     | <b>1,518</b> | <b>1,466</b> | <b>96.6</b> | <b>52</b>  | <b>3.4</b> |
| Colorado                 | 187          | 184          | 98.4        | 3          | 1.6        |
| Kansas                   | 205          | 194          | 94.6        | 11         | 5.4        |
| New Mexico               | 669          | 664          | 99.3        | 5          | 0.7        |
| Oklahoma                 |              |              |             |            |            |
| Eastern                  | 30           | 29           | 96.7        | 1          | 3.3        |
| Northern                 | 53           | 49           | 92.5        | 4          | 7.5        |
| Western                  | 90           | 86           | 95.6        | 4          | 4.4        |
| Utah                     | 224          | 205          | 91.5        | 19         | 8.5        |
| Wyoming                  | 60           | 55           | 91.7        | 5          | 8.3        |
| <b>ELEVENTH CIRCUIT</b>  | <b>1,892</b> | <b>1,775</b> | <b>93.8</b> | <b>117</b> | <b>6.2</b> |
| Alabama                  |              |              |             |            |            |
| Middle                   | 52           | 49           | 94.2        | 3          | 5.8        |
| Northern                 | 133          | 126          | 94.7        | 7          | 5.3        |
| Southern                 | 84           | 80           | 95.2        | 4          | 4.8        |
| Florida                  |              |              |             |            |            |
| Middle                   | 401          | 362          | 90.3        | 39         | 9.7        |
| Northern                 | 96           | 89           | 92.7        | 7          | 7.3        |
| Southern                 | 694          | 653          | 94.1        | 41         | 5.9        |
| Georgia                  |              |              |             |            |            |
| Middle                   | 133          | 127          | 95.5        | 6          | 4.5        |
| Northern                 | 159          | 150          | 94.3        | 9          | 5.7        |
| Southern                 | 140          | 139          | 99.3        | 1          | 0.7        |

Of the 18,788 guideline cases, 39 cases were excluded due to missing information on mode of conviction.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Pre-Booker Only Cases (October 1, 2004, through January 11, 2005).

**Table 3**

**MODE OF CONVICTION BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2005, Pre-Booker (October 1, 2004, through January 11, 2005)**

| PRIMARY OFFENSE                           | TOTAL         | National      |              |            |             | Ninth Circuit |              |            |             |
|---|---------------|---------------|--------------|------------|-------------|---------------|--------------|------------|-------------|
|   |               | PLEA          |              | TRIAL      |             | PLEA          |              | TRIAL      |             |
|   |               | n             | %            | n          | %           | n             | %            | n          | %           |
| <b>TOTAL</b>                              | <b>18,748</b> | <b>17,916</b> | <b>95.6</b>  | <b>832</b> | <b>4.4</b>  | <b>3,878</b>  | <b>97.2</b>  | <b>110</b> | <b>2.8</b>  |
| <b>Murder</b>                             | <b>28</b>     | <b>21</b>     | <b>75.0</b>  | <b>7</b>   | <b>25.0</b> | <b>8</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Manslaughter</b>                       | <b>9</b>      | <b>9</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  | <b>3</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Kidnapping/Hostage Taking</b>          | <b>18</b>     | <b>13</b>     | <b>72.2</b>  | <b>5</b>   | <b>27.8</b> | <b>8</b>      | <b>80.0</b>  | <b>2</b>   | <b>20.0</b> |
| <b>Sexual Abuse</b>                       | <b>99</b>     | <b>89</b>     | <b>89.9</b>  | <b>10</b>  | <b>10.1</b> | <b>36</b>     | <b>97.3</b>  | <b>1</b>   | <b>2.7</b>  |
| <b>Assault</b>                            | <b>143</b>    | <b>129</b>    | <b>90.2</b>  | <b>14</b>  | <b>9.8</b>  | <b>43</b>     | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Robbery</b>                            | <b>349</b>    | <b>333</b>    | <b>95.4</b>  | <b>16</b>  | <b>4.6</b>  | <b>71</b>     | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Arson</b>                              | <b>11</b>     | <b>7</b>      | <b>63.6</b>  | <b>4</b>   | <b>36.4</b> | <b>3</b>      | <b>60.0</b>  | <b>2</b>   | <b>40.0</b> |
| <b>Drugs - Trafficking</b>                | <b>5,975</b>  | <b>5,654</b>  | <b>94.6</b>  | <b>321</b> | <b>5.4</b>  | <b>871</b>    | <b>96.3</b>  | <b>33</b>  | <b>3.7</b>  |
| <b>Drugs - Communication Facility</b>     | <b>79</b>     | <b>78</b>     | <b>98.7</b>  | <b>1</b>   | <b>1.3</b>  | <b>30</b>     | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Drugs - Simple Possession</b>          | <b>312</b>    | <b>306</b>    | <b>98.1</b>  | <b>6</b>   | <b>1.9</b>  | <b>138</b>    | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Firearms</b>                           | <b>2,259</b>  | <b>2,078</b>  | <b>92.0</b>  | <b>181</b> | <b>8.0</b>  | <b>246</b>    | <b>95.3</b>  | <b>12</b>  | <b>4.7</b>  |
| <b>Burglary/B&amp;E</b>                   | <b>10</b>     | <b>10</b>     | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  | <b>6</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Auto Theft</b>                         | <b>20</b>     | <b>17</b>     | <b>85.0</b>  | <b>3</b>   | <b>15.0</b> | <b>1</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Larceny</b>                            | <b>485</b>    | <b>473</b>    | <b>97.5</b>  | <b>12</b>  | <b>2.5</b>  | <b>120</b>    | <b>99.2</b>  | <b>1</b>   | <b>0.8</b>  |
| <b>Fraud</b>                              | <b>1,733</b>  | <b>1,650</b>  | <b>95.2</b>  | <b>83</b>  | <b>4.8</b>  | <b>366</b>    | <b>97.1</b>  | <b>11</b>  | <b>2.9</b>  |
| <b>Embezzlement</b>                       | <b>164</b>    | <b>161</b>    | <b>98.2</b>  | <b>3</b>   | <b>1.8</b>  | <b>30</b>     | <b>96.8</b>  | <b>1</b>   | <b>3.2</b>  |
| <b>Forgery/Counterfeiting</b>             | <b>288</b>    | <b>279</b>    | <b>96.9</b>  | <b>9</b>   | <b>3.1</b>  | <b>56</b>     | <b>98.2</b>  | <b>1</b>   | <b>1.8</b>  |
| <b>Bribery</b>                            | <b>42</b>     | <b>37</b>     | <b>88.1</b>  | <b>5</b>   | <b>11.9</b> | <b>13</b>     | <b>92.9</b>  | <b>1</b>   | <b>7.1</b>  |
| <b>Tax</b>                                | <b>142</b>    | <b>135</b>    | <b>95.1</b>  | <b>7</b>   | <b>4.9</b>  | <b>21</b>     | <b>95.5</b>  | <b>1</b>   | <b>4.5</b>  |
| <b>Money Laundering</b>                   | <b>216</b>    | <b>205</b>    | <b>94.9</b>  | <b>11</b>  | <b>5.1</b>  | <b>40</b>     | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Racketeering/Extortion</b>             | <b>192</b>    | <b>182</b>    | <b>94.8</b>  | <b>10</b>  | <b>5.2</b>  | <b>8</b>      | <b>72.7</b>  | <b>3</b>   | <b>27.3</b> |
| <b>Gambling/Lottery</b>                   | <b>23</b>     | <b>23</b>     | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  | <b>1</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Civil Rights</b>                       | <b>26</b>     | <b>24</b>     | <b>92.3</b>  | <b>2</b>   | <b>7.7</b>  | <b>5</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Immigration</b>                        | <b>4,845</b>  | <b>4,783</b>  | <b>98.7</b>  | <b>62</b>  | <b>1.3</b>  | <b>1,525</b>  | <b>98.0</b>  | <b>31</b>  | <b>2.0</b>  |
| <b>Pornography/Prostitution</b>           | <b>298</b>    | <b>285</b>    | <b>95.6</b>  | <b>13</b>  | <b>4.4</b>  | <b>55</b>     | <b>93.2</b>  | <b>4</b>   | <b>6.8</b>  |
| <b>Prison Offenses</b>                    | <b>89</b>     | <b>88</b>     | <b>98.9</b>  | <b>1</b>   | <b>1.1</b>  | <b>14</b>     | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Administration of Justice Offenses</b> | <b>265</b>    | <b>247</b>    | <b>93.2</b>  | <b>18</b>  | <b>6.8</b>  | <b>53</b>     | <b>98.1</b>  | <b>1</b>   | <b>1.9</b>  |
| <b>Environmental/Wildlife</b>             | <b>49</b>     | <b>49</b>     | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  | <b>15</b>     | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>National Defense</b>                   | <b>8</b>      | <b>8</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  | <b>3</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Antitrust</b>                          | <b>6</b>      | <b>6</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  | <b>4</b>      | <b>100.0</b> | <b>0</b>   | <b>0.0</b>  |
| <b>Food &amp; Drug</b>                    | <b>21</b>     | <b>19</b>     | <b>90.5</b>  | <b>2</b>   | <b>9.5</b>  | <b>5</b>      | <b>83.3</b>  | <b>1</b>   | <b>16.7</b> |
| <b>Other Miscellaneous Offenses</b>       | <b>544</b>    | <b>518</b>    | <b>95.2</b>  | <b>26</b>  | <b>4.8</b>  | <b>80</b>     | <b>95.2</b>  | <b>4</b>   | <b>4.8</b>  |

Of the 18,788 guideline cases, 40 cases were excluded due to one or both of the following reasons: missing primary offense category (30) or missing mode of conviction (39).

Of the 4,004 guideline cases from the Ninth Circuit, 16 cases were excluded due to one or both of the following reasons: missing primary offense category (10) or missing mode of conviction (15).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, PreBooker Only Cases (October 1, 2004, through January 11, 2005).

Table 4

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2005, Pre-Booker (October 1, 2004, through January 11, 2005)**

## National

| PRIMARY OFFENSE                    | TOTAL         | Prison        |             | Prison/Community Split Sentence |            | Probation and Confinement |            | Probation Only |            |
|------------------------------------|---------------|---------------|-------------|---------------------------------|------------|---------------------------|------------|----------------|------------|
|                                    |               | Number        | Percent     | Number                          | Percent    | Number                    | Percent    | Number         | Percent    |
| <b>TOTAL</b>                       | <b>18,572</b> | <b>15,802</b> | <b>85.1</b> | <b>517</b>                      | <b>2.8</b> | <b>752</b>                | <b>4.0</b> | <b>1,501</b>   | <b>8.1</b> |
| Murder                             | 28            | 28            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Manslaughter                       | 9             | 9             | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Kidnapping/Hostage Taking          | 18            | 18            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Sexual Abuse                       | 98            | 93            | 94.9        | 1                               | 1.0        | 3                         | 3.1        | 1              | 1.0        |
| Assault                            | 141           | 108           | 76.6        | 1                               | 0.7        | 5                         | 3.5        | 27             | 19.1       |
| Robbery                            | 344           | 321           | 93.3        | 2                               | 0.6        | 9                         | 2.6        | 12             | 3.5        |
| Arson                              | 11            | 11            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Drugs - Trafficking                | 5,968         | 5,644         | 94.6        | 118                             | 2.0        | 94                        | 1.6        | 112            | 1.9        |
| Drugs - Communication Facility     | 79            | 69            | 87.3        | 3                               | 3.8        | 1                         | 1.3        | 6              | 7.6        |
| Drugs - Simple Possession          | 293           | 175           | 59.7        | 2                               | 0.7        | 10                        | 3.4        | 106            | 36.2       |
| Firearms                           | 2,254         | 2,066         | 91.7        | 58                              | 2.6        | 57                        | 2.5        | 73             | 3.2        |
| Burglary/B&E                       | 9             | 8             | 88.9        | 0                               | 0.0        | 0                         | 0.0        | 1              | 11.1       |
| Auto Theft                         | 20            | 17            | 85.0        | 2                               | 10.0       | 0                         | 0.0        | 1              | 5.0        |
| Larceny                            | 450           | 158           | 35.1        | 18                              | 4.0        | 68                        | 15.1       | 206            | 45.8       |
| Fraud                              | 1,716         | 1,022         | 59.6        | 143                             | 8.3        | 198                       | 11.5       | 353            | 20.6       |
| Embezzlement                       | 160           | 51            | 31.9        | 27                              | 16.9       | 20                        | 12.5       | 62             | 38.8       |
| Forgery/Counterfeiting             | 287           | 195           | 67.9        | 19                              | 6.6        | 26                        | 9.1        | 47             | 16.4       |
| Bribery                            | 41            | 20            | 48.8        | 4                               | 9.8        | 8                         | 19.5       | 9              | 22.0       |
| Tax                                | 141           | 64            | 45.4        | 13                              | 9.2        | 31                        | 22.0       | 33             | 23.4       |
| Money Laundering                   | 216           | 153           | 70.8        | 14                              | 6.5        | 25                        | 11.6       | 24             | 11.1       |
| Racketeering/Extortion             | 191           | 162           | 84.8        | 5                               | 2.6        | 14                        | 7.3        | 10             | 5.2        |
| Gambling/Lottery                   | 23            | 4             | 17.4        | 1                               | 4.3        | 12                        | 52.2       | 6              | 26.1       |
| Civil Rights                       | 26            | 10            | 38.5        | 2                               | 7.7        | 5                         | 19.2       | 9              | 34.6       |
| Immigration                        | 4,838         | 4,660         | 96.3        | 48                              | 1.0        | 61                        | 1.3        | 69             | 1.4        |
| Pornography/Prostitution           | 297           | 287           | 96.6        | 4                               | 1.3        | 5                         | 1.7        | 1              | 0.3        |
| Prison Offenses                    | 89            | 82            | 92.1        | 1                               | 1.1        | 1                         | 1.1        | 5              | 5.6        |
| Administration of Justice Offenses | 262           | 158           | 60.3        | 10                              | 3.8        | 35                        | 13.4       | 59             | 22.5       |
| Environmental/Wildlife             | 43            | 7             | 16.3        | 1                               | 2.3        | 12                        | 27.9       | 23             | 53.5       |
| National Defense                   | 8             | 4             | 50.0        | 2                               | 25.0       | 0                         | 0.0        | 2              | 25.0       |
| Antitrust                          | 5             | 4             | 80.0        | 0                               | 0.0        | 0                         | 0.0        | 1              | 20.0       |
| Food & Drug                        | 18            | 6             | 33.3        | 2                               | 11.1       | 2                         | 11.1       | 8              | 44.4       |
| Other Miscellaneous Offenses       | 489           | 188           | 38.4        | 16                              | 3.3        | 50                        | 10.2       | 235            | 48.1       |

Of the 18,788 guideline cases, 216 cases were excluded due to one or more of the following reasons: missing sentencing information (71), missing primary offense category (30), or cases in which the defendant received no imprisonment or probation (141).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Pre-Booker Only Cases (October 1, 2004, through January 11, 2005).

Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2005, Pre-Booker (October 1, 2004, through January 11, 2005)**

**Ninth Circuit**

| PRIMARY OFFENSE                    | TOTAL        | Prison       |             | Prison/Community Split Sentence |            | Probation and Confinement |            | Probation Only |            |
|------------------------------------|--------------|--------------|-------------|---------------------------------|------------|---------------------------|------------|----------------|------------|
|                                    |              | Number       | Percent     | Number                          | Percent    | Number                    | Percent    | Number         | Percent    |
| <b>TOTAL</b>                       | <b>3,960</b> | <b>3,465</b> | <b>87.5</b> | <b>90</b>                       | <b>2.3</b> | <b>132</b>                | <b>3.3</b> | <b>273</b>     | <b>6.9</b> |
| Murder                             | 8            | 8            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Manslaughter                       | 3            | 3            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Kidnapping/Hostage Taking          | 10           | 10           | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Sexual Abuse                       | 36           | 35           | 97.2        | 1                               | 2.8        | 0                         | 0.0        | 0              | 0.0        |
| Assault                            | 43           | 33           | 76.7        | 0                               | 0.0        | 2                         | 4.7        | 8              | 18.6       |
| Robbery                            | 71           | 67           | 94.4        | 0                               | 0.0        | 2                         | 2.8        | 2              | 2.8        |
| Arson                              | 5            | 5            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Drugs - Trafficking                | 905          | 856          | 94.6        | 17                              | 1.9        | 12                        | 1.3        | 20             | 2.2        |
| Drugs - Communication Facility     | 30           | 26           | 86.7        | 1                               | 3.3        | 0                         | 0.0        | 3              | 10.0       |
| Drugs - Simple Possession          | 138          | 113          | 81.9        | 1                               | 0.7        | 1                         | 0.7        | 23             | 16.7       |
| Firearms                           | 258          | 239          | 92.6        | 4                               | 1.6        | 6                         | 2.3        | 9              | 3.5        |
| Burglary/B&E                       | 5            | 4            | 80.0        | 0                               | 0.0        | 0                         | 0.0        | 1              | 20.0       |
| Auto Theft                         | 1            | 1            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Larceny                            | 117          | 48           | 41.0        | 4                               | 3.4        | 17                        | 14.5       | 48             | 41.0       |
| Fraud                              | 373          | 241          | 64.6        | 25                              | 6.7        | 39                        | 10.5       | 68             | 18.2       |
| Embezzlement                       | 30           | 6            | 20.0        | 3                               | 10.0       | 4                         | 13.3       | 17             | 56.7       |
| Forgery/Counterfeiting             | 57           | 39           | 68.4        | 4                               | 7.0        | 5                         | 8.8        | 9              | 15.8       |
| Bribery                            | 14           | 6            | 42.9        | 2                               | 14.3       | 4                         | 28.6       | 2              | 14.3       |
| Tax                                | 22           | 7            | 31.8        | 1                               | 4.5        | 3                         | 13.6       | 11             | 50.0       |
| Money Laundering                   | 40           | 30           | 75.0        | 2                               | 5.0        | 5                         | 12.5       | 3              | 7.5        |
| Racketeering/Extortion             | 11           | 11           | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Gambling/Lottery                   | 1            | 0            | 0.0         | 0                               | 0.0        | 0                         | 0.0        | 1              | 100.0      |
| Civil Rights                       | 5            | 2            | 40.0        | 0                               | 0.0        | 1                         | 20.0       | 2              | 40.0       |
| Immigration                        | 1,552        | 1,529        | 98.5        | 11                              | 0.7        | 8                         | 0.5        | 4              | 0.3        |
| Pornography/Prostitution           | 59           | 57           | 96.6        | 2                               | 3.4        | 0                         | 0.0        | 0              | 0.0        |
| Prison Offenses                    | 14           | 13           | 92.9        | 0                               | 0.0        | 0                         | 0.0        | 1              | 7.1        |
| Administration of Justice Offenses | 53           | 33           | 62.3        | 3                               | 5.7        | 7                         | 13.2       | 10             | 18.9       |
| Environmental/Wildlife             | 14           | 2            | 14.3        | 1                               | 7.1        | 5                         | 35.7       | 6              | 42.9       |
| National Defense                   | 3            | 1            | 33.3        | 1                               | 33.3       | 0                         | 0.0        | 1              | 33.3       |
| Antitrust                          | 4            | 4            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Food & Drug                        | 5            | 0            | 0.0         | 2                               | 40.0       | 0                         | 0.0        | 3              | 60.0       |
| Other Miscellaneous Offenses       | 73           | 36           | 49.3        | 5                               | 6.8        | 11                        | 15.1       | 21             | 28.8       |

Of the 4,004 guideline cases from the Ninth Circuit, 44 cases were excluded due to one or more of the following reasons: missing sentencing information (20), missing primary offense category (10), or cases in which the defendant received no imprisonment or probation (23).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Pre-Booker Only Cases (October 1, 2004, through January 11, 2005).

**Table 6**

**INCARCERATION RATE OF DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2005, Pre-Booker (October 1, 2004, through January 11, 2005)**

| PRIMARY OFFENSE                     | TOTAL        | National        |             |                     |             | Ninth Circuit   |             |                     |             |
|-------------------------------------|--------------|-----------------|-------------|---------------------|-------------|-----------------|-------------|---------------------|-------------|
|                                     |              | Prison Sentence |             | Non-Prison Sentence |             | Prison Sentence |             | Non-Prison Sentence |             |
|                                     |              | Number          | Percent     | Number              | Percent     | Number          | Percent     | Number              | Percent     |
| <b>TOTAL</b>                        | <b>3,394</b> | <b>1,913</b>    | <b>56.4</b> | <b>1,481</b>        | <b>43.6</b> | <b>326</b>      | <b>53.7</b> | <b>281</b>          | <b>46.3</b> |
| <b>Fraud</b>                        | <b>659</b>   | 247             | 37.5        | 412                 | 62.5        | 56              | 40.9        | 81                  | 59.1        |
| <b>Larceny</b>                      | <b>310</b>   | 61              | 19.7        | 249                 | 80.3        | 21              | 28.4        | 53                  | 71.6        |
| <b>Immigration</b>                  | <b>1,301</b> | 1,194           | 91.8        | 107                 | 8.2         | 139             | 92.7        | 11                  | 7.3         |
| <b>Embezzlement</b>                 | <b>108</b>   | 31              | 28.7        | 77                  | 71.3        | 4               | 16.0        | 21                  | 84.0        |
| <b>Drugs - Trafficking</b>          | <b>153</b>   | 78              | 51.0        | 75                  | 49.0        | 21              | 67.7        | 10                  | 32.3        |
| <b>Drugs - Simple Possession</b>    | <b>141</b>   | 54              | 38.3        | 87                  | 61.7        | 12              | 60.0        | 8                   | 40.0        |
| <b>Firearms</b>                     | <b>99</b>    | 52              | 52.5        | 47                  | 47.5        | 8               | 66.7        | 4                   | 33.3        |
| <b>Forgery/Counterfeiting</b>       | <b>98</b>    | 41              | 41.8        | 57                  | 58.2        | 8               | 44.4        | 10                  | 55.6        |
| <b>Other Miscellaneous Offenses</b> | <b>525</b>   | 155             | 29.5        | 370                 | 70.5        | 57              | 40.7        | 83                  | 59.3        |

Of the 18,788 guideline cases, 15,394 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (15,384), missing sentencing information (71), or missing primary offense category (30).

Of the 4,004 guideline cases from the Ninth Circuit, 3,397 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (3,392), missing sentencing information (20), or missing primary offense category (10).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Pre-Booker Only Cases (October 1, 2004, through January 11, 2005).

**Table 7**

**AVERAGE LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2005, Pre-Booker (October 1, 2004, through January 11, 2005)**

| PRIMARY OFFENSE                           | National       |                  |               | Ninth Circuit  |                  |              |
|---|----------------|------------------|---------------|----------------|------------------|--------------|
|   | Mean<br>Months | Median<br>Months | Number        | Mean<br>Months | Median<br>Months | Number       |
| <b>TOTAL</b>                              | <b>53.4</b>    | <b>30.0</b>      | <b>16,054</b> | <b>34.7</b>    | <b>24.0</b>      | <b>3,494</b> |
| <b>Murder</b>                             | 189.3          | 120.0            | 28            | 124.0          | 110.0            | 8            |
| <b>Manslaughter</b>                       | 25.9           | 24.0             | 9             | 14.3           | 12.0             | 3            |
| <b>Kidnapping/Hostage Taking</b>          | 149.3          | 114.0            | 18            | 90.6           | 92.0             | 10           |
| <b>Sexual Abuse</b>                       | 79.1           | 60.0             | 93            | 61.5           | 53.5             | 36           |
| <b>Assault</b>                            | 37.1           | 30.0             | 106           | 29.5           | 30.0             | 32           |
| <b>Robbery</b>                            | 85.8           | 70.0             | 322           | 59.3           | 51.0             | 67           |
| <b>Arson</b>                              | 67.3           | 60.0             | 11            | 40.8           | 60.0             | 5            |
| <b>Drugs - Trafficking</b>                | 79.3           | 57.0             | 5,733         | 53.6           | 37.0             | 863          |
| <b>Drugs - Communication Facility</b>     | 42.3           | 48.0             | 70            | 47.3           | 48.0             | 26           |
| <b>Drugs - Simple Possession</b>          | 8.0            | 6.0              | 168           | 5.7            | 6.0              | 106          |
| <b>Firearms</b>                           | 76.1           | 51.0             | 2,112         | 60.3           | 40.0             | 243          |
| <b>Burglary/B&amp;E</b>                   | 16.1           | 17.5             | 8             | 17.0           | 17.5             | 4            |
| <b>Auto Theft</b>                         | 28.9           | 30.0             | 19            | --             | --               | 1            |
| <b>Larceny</b>                            | 16.0           | 12.0             | 174           | 13.4           | 10.0             | 51           |
| <b>Fraud</b>                              | 21.3           | 14.0             | 1,123         | 13.7           | 8.5              | 250          |
| <b>Embezzlement</b>                       | 11.0           | 6.0              | 77            | 9.9            | 7.0              | 9            |
| <b>Forgery/Counterfeiting</b>             | 18.1           | 15.0             | 211           | 13.4           | 11.0             | 42           |
| <b>Bribery</b>                            | 21.2           | 19.5             | 24            | 16.3           | 7.0              | 8            |
| <b>Tax</b>                                | 17.0           | 15.0             | 77            | 15.0           | 13.5             | 8            |
| <b>Money Laundering</b>                   | 35.3           | 27.0             | 166           | 16.7           | 18.0             | 31           |
| <b>Racketeering/Extortion</b>             | 86.0           | 60.0             | 164           | 57.8           | 41.0             | 11           |
| <b>Gambling/Lottery</b>                   | 16.3           | 14.0             | 4             | --             | --               | 0            |
| <b>Civil Rights</b>                       | 22.9           | 18.5             | 12            | --             | --               | 2            |
| <b>Immigration</b>                        | 22.8           | 18.0             | 4,561         | 25.3           | 24.0             | 1,523        |
| <b>Pornography/Prostitution</b>           | 76.5           | 57.0             | 291           | 56.8           | 41.0             | 59           |
| <b>Prison Offenses</b>                    | 20.4           | 15.0             | 83            | 16.4           | 6.0              | 13           |
| <b>Administration of Justice Offenses</b> | 22.9           | 16.0             | 165           | 13.4           | 11.0             | 35           |
| <b>Environmental/Wildlife</b>             | 13.5           | 9.0              | 8             | 4.2            | 4.8              | 3            |
| <b>National Defense</b>                   | 23.2           | 21.0             | 6             | --             | --               | 2            |
| <b>Antitrust</b>                          | 5.3            | 5.5              | 4             | 5.3            | 5.5              | 4            |
| <b>Food &amp; Drug</b>                    | 28.9           | 14.0             | 8             | --             | --               | 2            |
| <b>Other Miscellaneous Offenses</b>       | 17.8           | 8.0              | 199           | 8.5            | 5.0              | 37           |

Of the 18,788 guideline cases, 2,734 cases were excluded for one or more of the following reasons: zero months prison ordered (2,492), missing primary offense category (30), or missing or indeterminable sentencing information (239).

Of the 4,004 guideline cases from the Ninth Circuit, 510 cases were excluded due to one or more of the following reasons: zero prison months ordered (465), missing primary offense category (10), or missing or indeterminable sentencing information (45).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Pre-Booker Only Cases (October 1, 2004, through January 11, 2005).

**Table 8**

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT  
Fiscal Year 2005, Pre-Booker (October 1, 2004, through January 11, 2005)**

| CIRCUIT<br>District   | TOTAL         | SENTENCED<br>WITHIN<br>GUIDELINE RANGE |             | SUBSTANTIAL<br>ASSISTANCE<br>DEPARTURE |             | GOVERNMENT<br>INITIATED<br>DEPARTURE |            | OTHER<br>DOWNWARD<br>DEPARTURE |             | UPWARD<br>DEPARTURE |            |
|-----------------------|---------------|--|-------------|--|-------------|--------------------------------------|------------|--------------------------------|-------------|---------------------|------------|
|                       |               | n                                      | %           | n                                      | %           | n                                    | %          | n                              | %           | n                   | %          |
| <b>TOTAL</b>          | <b>17,504</b> | <b>12,406</b>                          | <b>70.9</b> | <b>2,575</b>                           | <b>14.7</b> | <b>1,643</b>                         | <b>9.4</b> | <b>752</b>                     | <b>4.3</b>  | <b>128</b>          | <b>0.7</b> |
| <b>D.C. CIRCUIT</b>   | <b>141</b>    | <b>101</b>                             | <b>71.6</b> | <b>35</b>                              | <b>24.8</b> | <b>4</b>                             | <b>2.8</b> | <b>1</b>                       | <b>0.7</b>  | <b>0</b>            | <b>0.0</b> |
| District of Columbia  | 141           | 101                                    | 71.6        | 35                                     | 24.8        | 4                                    | 2.8        | 1                              | 0.7         | 0                   | 0.0        |
| <b>FIRST CIRCUIT</b>  | <b>390</b>    | <b>315</b>                             | <b>80.8</b> | <b>55</b>                              | <b>14.1</b> | <b>2</b>                             | <b>0.5</b> | <b>15</b>                      | <b>3.8</b>  | <b>3</b>            | <b>0.8</b> |
| Maine                 | 69            | 50                                     | 72.5        | 18                                     | 26.1        | 0                                    | 0.0        | 1                              | 1.4         | 0                   | 0.0        |
| Massachusetts         | 103           | 74                                     | 71.8        | 15                                     | 14.6        | 2                                    | 1.9        | 12                             | 11.7        | 0                   | 0.0        |
| New Hampshire         | 34            | 18                                     | 52.9        | 15                                     | 44.1        | 0                                    | 0.0        | 1                              | 2.9         | 0                   | 0.0        |
| Puerto Rico           | 162           | 157                                    | 96.9        | 4                                      | 2.5         | 0                                    | 0.0        | 0                              | 0.0         | 1                   | 0.6        |
| Rhode Island          | 22            | 16                                     | 72.7        | 3                                      | 13.6        | 0                                    | 0.0        | 1                              | 4.5         | 2                   | 9.1        |
| <b>SECOND CIRCUIT</b> | <b>1,037</b>  | <b>620</b>                             | <b>59.8</b> | <b>253</b>                             | <b>24.4</b> | <b>25</b>                            | <b>2.4</b> | <b>136</b>                     | <b>13.1</b> | <b>3</b>            | <b>0.3</b> |
| Connecticut           | 93            | 60                                     | 64.5        | 21                                     | 22.6        | 1                                    | 1.1        | 10                             | 10.8        | 1                   | 1.1        |
| New York              |               |  |             |  |             |                                      |            |                                |             |                     |            |
| Eastern               | 312           | 153                                    | 49.0        | 77                                     | 24.7        | 16                                   | 5.1        | 65                             | 20.8        | 1                   | 0.3        |
| Northern              | 136           | 76                                     | 55.9        | 40                                     | 29.4        | 5                                    | 3.7        | 15                             | 11.0        | 0                   | 0.0        |
| Southern              | 273           | 201                                    | 73.6        | 51                                     | 18.7        | 0                                    | 0.0        | 21                             | 7.7         | 0                   | 0.0        |
| Western               | 168           | 106                                    | 63.1        | 45                                     | 26.8        | 3                                    | 1.8        | 13                             | 7.7         | 1                   | 0.6        |
| Vermont               | 55            | 24                                     | 43.6        | 19                                     | 34.5        | 0                                    | 0.0        | 12                             | 21.8        | 0                   | 0.0        |
| <b>THIRD CIRCUIT</b>  | <b>713</b>    | <b>481</b>                             | <b>67.5</b> | <b>192</b>                             | <b>26.9</b> | <b>11</b>                            | <b>1.5</b> | <b>26</b>                      | <b>3.6</b>  | <b>3</b>            | <b>0.4</b> |
| Delaware              | 13            | 9                                      | 69.2        | 2                                      | 15.4        | 0                                    | 0.0        | 2                              | 15.4        | 0                   | 0.0        |
| New Jersey            | 260           | 188                                    | 72.3        | 67                                     | 25.8        | 0                                    | 0.0        | 4                              | 1.5         | 1                   | 0.4        |
| Pennsylvania          |               |  |             |  |             |                                      |            |                                |             |                     |            |
| Eastern               | 212           | 110                                    | 51.9        | 77                                     | 36.3        | 9                                    | 4.2        | 16                             | 7.5         | 0                   | 0.0        |
| Middle                | 141           | 106                                    | 75.2        | 30                                     | 21.3        | 2                                    | 1.4        | 2                              | 1.4         | 1                   | 0.7        |
| Western               | 71            | 56                                     | 78.9        | 13                                     | 18.3        | 0                                    | 0.0        | 1                              | 1.4         | 1                   | 1.4        |
| Virgin Islands        | 16            | 12                                     | 75.0        | 3                                      | 18.8        | 0                                    | 0.0        | 1                              | 6.3         | 0                   | 0.0        |
| <b>FOURTH CIRCUIT</b> | <b>1,489</b>  | <b>1,148</b>                           | <b>77.1</b> | <b>279</b>                             | <b>18.7</b> | <b>9</b>                             | <b>0.6</b> | <b>43</b>                      | <b>2.9</b>  | <b>10</b>           | <b>0.7</b> |
| Maryland              | 153           | 91                                     | 59.5        | 47                                     | 30.7        | 2                                    | 1.3        | 12                             | 7.8         | 1                   | 0.7        |
| North Carolina        |               |  |             |  |             |                                      |            |                                |             |                     |            |
| Eastern               | 190           | 104                                    | 54.7        | 78                                     | 41.1        | 1                                    | 0.5        | 7                              | 3.7         | 0                   | 0.0        |
| Middle                | 71            | 61                                     | 85.9        | 9                                      | 12.7        | 0                                    | 0.0        | 1                              | 1.4         | 0                   | 0.0        |
| Western               | 175           | 117                                    | 66.9        | 50                                     | 28.6        | 4                                    | 2.3        | 4                              | 2.3         | 0                   | 0.0        |
| South Carolina        | 224           | 182                                    | 81.3        | 33                                     | 14.7        | 0                                    | 0.0        | 8                              | 3.6         | 1                   | 0.4        |
| Virginia              |               |  |             |  |             |                                      |            |                                |             |                     |            |
| Eastern               | 417           | 389                                    | 93.3        | 15                                     | 3.6         | 1                                    | 0.2        | 7                              | 1.7         | 5                   | 1.2        |
| Western               | 131           | 91                                     | 69.5        | 36                                     | 27.5        | 1                                    | 0.8        | 2                              | 1.5         | 1                   | 0.8        |
| West Virginia         |               |  |             |  |             |                                      |            |                                |             |                     |            |
| Northern              | 70            | 60                                     | 85.7        | 9                                      | 12.9        | 0                                    | 0.0        | 0                              | 0.0         | 1                   | 1.4        |
| Southern              | 58            | 53                                     | 91.4        | 2                                      | 3.4         | 0                                    | 0.0        | 2                              | 3.4         | 1                   | 1.7        |

| CIRCUIT<br>District    | TOTAL        | SENTENCED<br>WITHIN<br>GUIDELINE RANGE |             | SUBSTANTIAL<br>ASSISTANCE<br>DEPARTURE |             | GOVERNMENT<br>INITIATED<br>DEPARTURE |             | OTHER<br>DOWNWARD<br>DEPARTURE |            | UPWARD<br>DEPARTURE |            |
|------------------------|--------------|--|-------------|--|-------------|--------------------------------------|-------------|--------------------------------|------------|---------------------|------------|
|                        |              | n                                      | %           | n                                      | %           | n                                    | %           | n                              | %          | n                   | %          |
| <b>FIFTH CIRCUIT</b>   | <b>4,052</b> | <b>3,127</b>                           | <b>77.2</b> | <b>337</b>                             | <b>8.3</b>  | <b>450</b>                           | <b>11.1</b> | <b>102</b>                     | <b>2.5</b> | <b>36</b>           | <b>0.9</b> |
| <b>Louisiana</b>       |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                | 103          | 77                                     | 74.8        | 18                                     | 17.5        | 6                                    | 5.8         | 1                              | 1.0        | 1                   | 1.0        |
| Middle                 | 25           | 20                                     | 80.0        | 4                                      | 16.0        | 0                                    | 0.0         | 1                              | 4.0        | 0                   | 0.0        |
| Western                | 102          | 82                                     | 80.4        | 16                                     | 15.7        | 0                                    | 0.0         | 1                              | 1.0        | 3                   | 2.9        |
| <b>Mississippi</b>     |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Northern               | 46           | 28                                     | 60.9        | 13                                     | 28.3        | 2                                    | 4.3         | 2                              | 4.3        | 1                   | 2.2        |
| Southern               | 149          | 123                                    | 82.6        | 21                                     | 14.1        | 0                                    | 0.0         | 4                              | 2.7        | 1                   | 0.7        |
| <b>Texas</b>           |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                | 162          | 149                                    | 92.0        | 10                                     | 6.2         | 1                                    | 0.6         | 2                              | 1.2        | 0                   | 0.0        |
| Northern               | 249          | 212                                    | 85.1        | 24                                     | 9.6         | 3                                    | 1.2         | 6                              | 2.4        | 4                   | 1.6        |
| Southern               | 1,607        | 1,099                                  | 68.4        | 100                                    | 6.2         | 336                                  | 20.9        | 57                             | 3.5        | 15                  | 0.9        |
| Western                | 1,609        | 1,337                                  | 83.1        | 131                                    | 8.1         | 102                                  | 6.3         | 28                             | 1.7        | 11                  | 0.7        |
| <b>SIXTH CIRCUIT</b>   | <b>1,302</b> | <b>908</b>                             | <b>69.7</b> | <b>315</b>                             | <b>24.2</b> | <b>8</b>                             | <b>0.6</b>  | <b>65</b>                      | <b>5.0</b> | <b>6</b>            | <b>0.5</b> |
| <b>Kentucky</b>        |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                | 131          | 68                                     | 51.9        | 62                                     | 47.3        | 0                                    | 0.0         | 1                              | 0.8        | 0                   | 0.0        |
| Western                | 86           | 67                                     | 77.9        | 12                                     | 14.0        | 2                                    | 2.3         | 4                              | 4.7        | 1                   | 1.2        |
| <b>Michigan</b>        |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                | 204          | 140                                    | 68.6        | 55                                     | 27.0        | 1                                    | 0.5         | 8                              | 3.9        | 0                   | 0.0        |
| Western                | 104          | 80                                     | 76.9        | 17                                     | 16.3        | 0                                    | 0.0         | 7                              | 6.7        | 0                   | 0.0        |
| <b>Ohio</b>            |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Northern               | 250          | 187                                    | 74.8        | 46                                     | 18.4        | 0                                    | 0.0         | 15                             | 6.0        | 2                   | 0.8        |
| Southern               | 133          | 90                                     | 67.7        | 28                                     | 21.1        | 0                                    | 0.0         | 15                             | 11.3       | 0                   | 0.0        |
| <b>Tennessee</b>       |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                | 154          | 103                                    | 66.9        | 42                                     | 27.3        | 2                                    | 1.3         | 5                              | 3.2        | 2                   | 1.3        |
| Middle                 | 75           | 57                                     | 76.0        | 14                                     | 18.7        | 0                                    | 0.0         | 3                              | 4.0        | 1                   | 1.3        |
| Western                | 165          | 116                                    | 70.3        | 39                                     | 23.6        | 3                                    | 1.8         | 7                              | 4.2        | 0                   | 0.0        |
| <b>SEVENTH CIRCUIT</b> | <b>480</b>   | <b>359</b>                             | <b>74.8</b> | <b>90</b>                              | <b>18.8</b> | <b>6</b>                             | <b>1.3</b>  | <b>20</b>                      | <b>4.2</b> | <b>5</b>            | <b>1.0</b> |
| <b>Illinois</b>        |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Central                | 40           | 30                                     | 75.0        | 9                                      | 22.5        | 1                                    | 2.5         | 0                              | 0.0        | 0                   | 0.0        |
| Northern               | 156          | 106                                    | 67.9        | 38                                     | 24.4        | 4                                    | 2.6         | 6                              | 3.8        | 2                   | 1.3        |
| Southern               | 55           | 48                                     | 87.3        | 4                                      | 7.3         | 0                                    | 0.0         | 3                              | 5.5        | 0                   | 0.0        |
| <b>Indiana</b>         |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Northern               | 69           | 53                                     | 76.8        | 14                                     | 20.3        | 1                                    | 1.4         | 0                              | 0.0        | 1                   | 1.4        |
| Southern               | 75           | 47                                     | 62.7        | 22                                     | 29.3        | 0                                    | 0.0         | 5                              | 6.7        | 1                   | 1.3        |
| <b>Wisconsin</b>       |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                | 29           | 22                                     | 75.9        | 2                                      | 6.9         | 0                                    | 0.0         | 5                              | 17.2       | 0                   | 0.0        |
| Western                | 56           | 53                                     | 94.6        | 1                                      | 1.8         | 0                                    | 0.0         | 1                              | 1.8        | 1                   | 1.8        |
| <b>EIGHTH CIRCUIT</b>  | <b>1,214</b> | <b>902</b>                             | <b>74.3</b> | <b>197</b>                             | <b>16.2</b> | <b>45</b>                            | <b>3.7</b>  | <b>64</b>                      | <b>5.3</b> | <b>6</b>            | <b>0.5</b> |
| <b>Arkansas</b>        |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                | 51           | 41                                     | 80.4        | 7                                      | 13.7        | 1                                    | 2.0         | 1                              | 2.0        | 1                   | 2.0        |
| Western                | 62           | 48                                     | 77.4        | 14                                     | 22.6        | 0                                    | 0.0         | 0                              | 0.0        | 0                   | 0.0        |
| <b>Iowa</b>            |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Northern               | 122          | 102                                    | 83.6        | 16                                     | 13.1        | 3                                    | 2.5         | 0                              | 0.0        | 1                   | 0.8        |
| Southern               | 95           | 65                                     | 68.4        | 22                                     | 23.2        | 0                                    | 0.0         | 7                              | 7.4        | 1                   | 1.1        |
| Minnesota              | 139          | 92                                     | 66.2        | 21                                     | 15.1        | 4                                    | 2.9         | 22                             | 15.8       | 0                   | 0.0        |
| <b>Missouri</b>        |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                | 220          | 167                                    | 75.9        | 45                                     | 20.5        | 1                                    | 0.5         | 6                              | 2.7        | 1                   | 0.5        |
| Western                | 188          | 142                                    | 75.5        | 40                                     | 21.3        | 1                                    | 0.5         | 5                              | 2.7        | 0                   | 0.0        |
| Nebraska               | 197          | 142                                    | 72.1        | 9                                      | 4.6         | 29                                   | 14.7        | 17                             | 8.6        | 0                   | 0.0        |
| North Dakota           | 81           | 54                                     | 66.7        | 16                                     | 19.8        | 6                                    | 7.4         | 5                              | 6.2        | 0                   | 0.0        |
| South Dakota           | 59           | 49                                     | 83.1        | 7                                      | 11.9        | 0                                    | 0.0         | 1                              | 1.7        | 2                   | 3.4        |



| CIRCUIT<br>District      | TOTAL        | SENTENCED<br>WITHIN<br>GUIDELINE RANGE |             | SUBSTANTIAL<br>ASSISTANCE<br>DEPARTURE |             | GOVERNMENT<br>INITIATED<br>DEPARTURE |             | OTHER<br>DOWNWARD<br>DEPARTURE |            | UPWARD<br>DEPARTURE |            |
|--------------------------|--------------|--|-------------|--|-------------|--------------------------------------|-------------|--------------------------------|------------|---------------------|------------|
|                          |              | n                                      | %           | n                                      | %           | n                                    | %           | n                              | %          | n                   | %          |
| <b>NINTH CIRCUIT</b>     | <b>3,463</b> | <b>2,036</b>                           | <b>58.8</b> | <b>359</b>                             | <b>10.4</b> | <b>863</b>                           | <b>24.9</b> | <b>172</b>                     | <b>5.0</b> | <b>33</b>           | <b>1.0</b> |
| Alaska                   | 34           | 22                                     | 64.7        | 5                                      | 14.7        | 2                                    | 5.9         | 3                              | 8.8        | 2                   | 5.9        |
| Arizona                  | 1,094        | 340                                    | 31.1        | 77                                     | 7.0         | 627                                  | 57.3        | 28                             | 2.6        | 22                  | 2.0        |
| California               |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Central                  | 325          | 284                                    | 87.4        | 25                                     | 7.7         | 4                                    | 1.2         | 12                             | 3.7        | 0                   | 0.0        |
| Eastern                  | 234          | 148                                    | 63.2        | 30                                     | 12.8        | 42                                   | 17.9        | 13                             | 5.6        | 1                   | 0.4        |
| Northern                 | 215          | 154                                    | 71.6        | 36                                     | 16.7        | 11                                   | 5.1         | 14                             | 6.5        | 0                   | 0.0        |
| Southern                 | 697          | 502                                    | 72.0        | 36                                     | 5.2         | 117                                  | 16.8        | 41                             | 5.9        | 1                   | 0.1        |
| Guam                     | 15           | 11                                     | 73.3        | 4                                      | 26.7        | 0                                    | 0.0         | 0                              | 0.0        | 0                   | 0.0        |
| Hawaii                   | 46           | 32                                     | 69.6        | 12                                     | 26.1        | 0                                    | 0.0         | 1                              | 2.2        | 1                   | 2.2        |
| Idaho                    | 68           | 31                                     | 45.6        | 15                                     | 22.1        | 17                                   | 25.0        | 4                              | 5.9        | 1                   | 1.5        |
| Montana                  | 127          | 112                                    | 88.2        | 14                                     | 11.0        | 0                                    | 0.0         | 0                              | 0.0        | 1                   | 0.8        |
| Nevada                   | 126          | 107                                    | 84.9        | 10                                     | 7.9         | 3                                    | 2.4         | 6                              | 4.8        | 0                   | 0.0        |
| Northern Mariana Islands | 5            | 5                                      | 100.0       | 0                                      | 0.0         | 0                                    | 0.0         | 0                              | 0.0        | 0                   | 0.0        |
| Oregon                   | 159          | 95                                     | 59.7        | 36                                     | 22.6        | 2                                    | 1.3         | 24                             | 15.1       | 2                   | 1.3        |
| Washington               |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                  | 103          | 77                                     | 74.8        | 18                                     | 17.5        | 1                                    | 1.0         | 7                              | 6.8        | 0                   | 0.0        |
| Western                  | 215          | 116                                    | 54.0        | 41                                     | 19.1        | 37                                   | 17.2        | 19                             | 8.8        | 2                   | 0.9        |
| <b>TENTH CIRCUIT</b>     | <b>1,462</b> | <b>1,037</b>                           | <b>70.9</b> | <b>154</b>                             | <b>10.5</b> | <b>214</b>                           | <b>14.6</b> | <b>47</b>                      | <b>3.2</b> | <b>10</b>           | <b>0.7</b> |
| Colorado                 | 177          | 116                                    | 65.5        | 47                                     | 26.6        | 4                                    | 2.3         | 10                             | 5.6        | 0                   | 0.0        |
| Kansas                   | 201          | 161                                    | 80.1        | 32                                     | 15.9        | 3                                    | 1.5         | 3                              | 1.5        | 2                   | 1.0        |
| New Mexico               | 657          | 410                                    | 62.4        | 19                                     | 2.9         | 206                                  | 31.4        | 20                             | 3.0        | 2                   | 0.3        |
| Oklahoma                 |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Eastern                  | 30           | 26                                     | 86.7        | 3                                      | 10.0        | 0                                    | 0.0         | 0                              | 0.0        | 1                   | 3.3        |
| Northern                 | 52           | 41                                     | 78.8        | 10                                     | 19.2        | 0                                    | 0.0         | 1                              | 1.9        | 0                   | 0.0        |
| Western                  | 75           | 57                                     | 76.0        | 15                                     | 20.0        | 0                                    | 0.0         | 1                              | 1.3        | 2                   | 2.7        |
| Utah                     | 211          | 187                                    | 88.6        | 14                                     | 6.6         | 0                                    | 0.0         | 8                              | 3.8        | 2                   | 0.9        |
| Wyoming                  | 59           | 39                                     | 66.1        | 14                                     | 23.7        | 1                                    | 1.7         | 4                              | 6.8        | 1                   | 1.7        |
| <b>ELEVENTH CIRCUIT</b>  | <b>1,761</b> | <b>1,372</b>                           | <b>77.9</b> | <b>309</b>                             | <b>17.5</b> | <b>6</b>                             | <b>0.3</b>  | <b>61</b>                      | <b>3.5</b> | <b>13</b>           | <b>0.7</b> |
| Alabama                  |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Middle                   | 48           | 34                                     | 70.8        | 12                                     | 25.0        | 1                                    | 2.1         | 1                              | 2.1        | 0                   | 0.0        |
| Northern                 | 124          | 83                                     | 66.9        | 39                                     | 31.5        | 0                                    | 0.0         | 2                              | 1.6        | 0                   | 0.0        |
| Southern                 | 84           | 55                                     | 65.5        | 19                                     | 22.6        | 0                                    | 0.0         | 9                              | 10.7       | 1                   | 1.2        |
| Florida                  |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Middle                   | 399          | 270                                    | 67.7        | 110                                    | 27.6        | 1                                    | 0.3         | 16                             | 4.0        | 2                   | 0.5        |
| Northern                 | 95           | 73                                     | 76.8        | 20                                     | 21.1        | 0                                    | 0.0         | 1                              | 1.1        | 1                   | 1.1        |
| Southern                 | 651          | 572                                    | 87.9        | 55                                     | 8.4         | 3                                    | 0.5         | 19                             | 2.9        | 2                   | 0.3        |
| Georgia                  |              |  |             |  |             |                                      |             |                                |            |                     |            |
| Middle                   | 91           | 67                                     | 73.6        | 23                                     | 25.3        | 0                                    | 0.0         | 0                              | 0.0        | 1                   | 1.1        |
| Northern                 | 152          | 128                                    | 84.2        | 12                                     | 7.9         | 1                                    | 0.7         | 8                              | 5.3        | 3                   | 2.0        |
| Southern                 | 117          | 90                                     | 76.9        | 19                                     | 16.2        | 0                                    | 0.0         | 5                              | 4.3        | 3                   | 2.6        |

Of the 18,788 guideline cases, 91 cases with no analogous guidelines were excluded from the table. Of the remaining 18,697 cases, 1,193 were excluded due to missing departure information. Districts for which departure information is missing in five percent or more of the cases received included: South Dakota (56.0%), Eastern Wisconsin (50.0%), Eastern Arkansas (45.7%), Central California (32.6%), Middle Georgia (23.5%), New Hampshire (22.7%), Eastern Virginia (20.7%), Western Wisconsin (20.0%), Arizona (19.3%), Northern Mariana Islands (16.7%), Southern Georgia (16.4%), Western Oklahoma (15.7%), Northern Iowa (14.1%), Southern Indiana (12.8%), Oregon (9.1%), Western Washington (8.9%), Delaware (7.1%), Eastern Pennsylvania (7.0%), Southern California (6.9%), Northern New York (6.8%), Southern West Virginia (6.5%), Southern Florida (6.2%), Virgin Islands (5.9%), Utah (5.8%), Western Louisiana (5.6%), Alaska (5.6%), Massachusetts (5.5%), Western Kentucky (5.5%), and Western Pennsylvania (5.3%).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Pre-Booker Only Cases (October 1, 2004, through January 11, 2005).

**Table 9**

**GUIDELINE DEPARTURE RATE BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2005, Pre-Booker (October 1, 2004, through January 11, 2005)**

**National**

| PRIMARY OFFENSE              | TOTAL         | SENTENCED WITHIN GUIDELINE RANGE |             | SUBSTANTIAL ASSISTANCE DEPARTURE |             | GOVERNMENT INITIATED DEPARTURE |            | OTHER DOWNWARD DEPARTURE |            | UPWARD DEPARTURE |            |
|------------------------------|---------------|----------------------------------|-------------|----------------------------------|-------------|--------------------------------|------------|--------------------------|------------|------------------|------------|
|                              |               | n                                | %           | n                                | %           | n                              | %          | n                        | %          | n                | %          |
| <b>TOTAL</b>                 | <b>17,484</b> | <b>12,396</b>                    | <b>70.9</b> | <b>2,569</b>                     | <b>14.7</b> | <b>1,639</b>                   | <b>9.4</b> | <b>752</b>               | <b>4.3</b> | <b>128</b>       | <b>0.7</b> |
| Robbery                      | 332           | 258                              | 77.7        | 50                               | 15.1        | 4                              | 1.2        | 18                       | 5.4        | 2                | 0.6        |
| Drugs - Trafficking          | 5,796         | 3,695                            | 63.8        | 1,504                            | 25.9        | 350                            | 6.0        | 234                      | 4.0        | 13               | 0.2        |
| Drugs - Simple Possession    | 151           | 138                              | 91.4        | 3                                | 2.0         | 0                              | 0.0        | 2                        | 1.3        | 8                | 5.3        |
| Firearms                     | 2,201         | 1,719                            | 78.1        | 309                              | 14.0        | 36                             | 1.6        | 116                      | 5.3        | 21               | 1.0        |
| Larceny                      | 437           | 381                              | 87.2        | 29                               | 6.6         | 0                              | 0.0        | 23                       | 5.3        | 4                | 0.9        |
| Fraud                        | 1,595         | 1,207                            | 75.7        | 273                              | 17.1        | 18                             | 1.1        | 86                       | 5.4        | 11               | 0.7        |
| Embezzlement                 | 159           | 142                              | 89.3        | 8                                | 5.0         | 1                              | 0.6        | 8                        | 5.0        | 0                | 0.0        |
| Forgery/Counterfeiting       | 265           | 206                              | 77.7        | 32                               | 12.1        | 6                              | 2.3        | 17                       | 6.4        | 4                | 1.5        |
| Immigration                  | 4,598         | 3,167                            | 68.9        | 103                              | 2.2         | 1,155                          | 25.1       | 138                      | 3.0        | 35               | 0.8        |
| Other Miscellaneous Offenses | 1,950         | 1,483                            | 76.1        | 258                              | 13.2        | 69                             | 3.5        | 110                      | 5.6        | 30               | 1.5        |

**Ninth Circuit**

| PRIMARY OFFENSE              | TOTAL        | SENTENCED WITHIN GUIDELINE RANGE |             | SUBSTANTIAL ASSISTANCE DEPARTURE |             | GOVERNMENT INITIATED DEPARTURE |             | OTHER DOWNWARD DEPARTURE |            | UPWARD DEPARTURE |            |
|------------------------------|--------------|----------------------------------|-------------|----------------------------------|-------------|--------------------------------|-------------|--------------------------|------------|------------------|------------|
|                              |              | n                                | %           | n                                | %           | n                              | %           | n                        | %          | n                | %          |
| <b>TOTAL</b>                 | <b>3,458</b> | <b>2,032</b>                     | <b>58.8</b> | <b>359</b>                       | <b>10.4</b> | <b>862</b>                     | <b>24.9</b> | <b>172</b>               | <b>5.0</b> | <b>33</b>        | <b>1.0</b> |
| Robbery                      | 67           | 52                               | 77.6        | 7                                | 10.4        | 1                              | 1.5         | 7                        | 10.4       | 0                | 0.0        |
| Drugs - Trafficking          | 862          | 392                              | 45.5        | 187                              | 21.7        | 231                            | 26.8        | 48                       | 5.6        | 4                | 0.5        |
| Drugs - Simple Possession    | 19           | 18                               | 94.7        | 0                                | 0.0         | 0                              | 0.0         | 0                        | 0.0        | 1                | 5.3        |
| Firearms                     | 248          | 182                              | 73.4        | 30                               | 12.1        | 12                             | 4.8         | 20                       | 8.1        | 4                | 1.6        |
| Larceny                      | 103          | 90                               | 87.4        | 5                                | 4.9         | 0                              | 0.0         | 7                        | 6.8        | 1                | 1.0        |
| Fraud                        | 298          | 228                              | 76.5        | 47                               | 15.8        | 8                              | 2.7         | 14                       | 4.7        | 1                | 0.3        |
| Embezzlement                 | 30           | 29                               | 96.7        | 0                                | 0.0         | 1                              | 3.3         | 0                        | 0.0        | 0                | 0.0        |
| Forgery/Counterfeiting       | 43           | 30                               | 69.8        | 3                                | 7.0         | 3                              | 7.0         | 7                        | 16.3       | 0                | 0.0        |
| Immigration                  | 1,372        | 713                              | 52.0        | 29                               | 2.1         | 573                            | 41.8        | 44                       | 3.2        | 13               | 0.9        |
| Other Miscellaneous Offenses | 416          | 298                              | 71.6        | 51                               | 12.3        | 33                             | 7.9         | 25                       | 6.0        | 9                | 2.2        |

Of the 18,788 guideline cases, 1,304 cases were excluded due to one or more of the following reasons: no analogous guidelines (91), missing or indeterminable departure information (1,193), or missing primary offense category (30).

Of the 4,004 guideline cases from the Ninth Circuit, 546 cases were excluded due to one or more of the following reasons: no analogous guidelines (17), missing or indeterminable departure information (524), or missing primary offense category (10)

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Pre-Booker Only Cases (October 1, 2004, through January 11, 2005).

**SECTION THREE: *Post-Booker***  
***(January 12, 2005, through September 30, 2005)***

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Table 2

**MODE OF CONVICTION BY CIRCUIT AND DISTRICT**  
**Fiscal Year 2005, Post-Booker (January 12, 2005, through September 30, 2005)**

| CIRCUIT<br>District   | TOTAL         | PLEA          |             | TRIAL        |             |
|-----------------------|---------------|---------------|-------------|--------------|-------------|
|                       |               | Number        | Percent     | Number       | Percent     |
| <b>TOTAL</b>          | <b>53,630</b> | <b>50,655</b> | <b>94.5</b> | <b>2,975</b> | <b>5.5</b>  |
| <b>D.C. CIRCUIT</b>   | <b>385</b>    | <b>334</b>    | <b>86.8</b> | <b>51</b>    | <b>13.2</b> |
| District of Columbia  | 385           | 334           | 86.8        | 51           | 13.2        |
| <b>FIRST CIRCUIT</b>  | <b>1,165</b>  | <b>1,058</b>  | <b>90.8</b> | <b>107</b>   | <b>9.2</b>  |
| Maine                 | 160           | 146           | 91.3        | 14           | 8.8         |
| Massachusetts         | 357           | 316           | 88.5        | 41           | 11.5        |
| New Hampshire         | 132           | 127           | 96.2        | 5            | 3.8         |
| Puerto Rico           | 413           | 374           | 90.6        | 39           | 9.4         |
| Rhode Island          | 103           | 95            | 92.2        | 8            | 7.8         |
| <b>SECOND CIRCUIT</b> | <b>3,639</b>  | <b>3,418</b>  | <b>93.9</b> | <b>221</b>   | <b>6.1</b>  |
| Connecticut           | 317           | 301           | 95.0        | 16           | 5.0         |
| New York              |               |               |             |              |             |
| Eastern               | 973           | 913           | 93.8        | 60           | 6.2         |
| Northern              | 348           | 335           | 96.3        | 13           | 3.7         |
| Southern              | 1,361         | 1,252         | 92.0        | 109          | 8.0         |
| Western               | 490           | 468           | 95.5        | 22           | 4.5         |
| Vermont               | 150           | 149           | 99.3        | 1            | 0.7         |
| <b>THIRD CIRCUIT</b>  | <b>2,477</b>  | <b>2,273</b>  | <b>91.8</b> | <b>204</b>   | <b>8.2</b>  |
| Delaware              | 131           | 112           | 85.5        | 19           | 14.5        |
| New Jersey            | 740           | 700           | 94.6        | 40           | 5.4         |
| Pennsylvania          |               |               |             |              |             |
| Eastern               | 745           | 646           | 86.7        | 99           | 13.3        |
| Middle                | 466           | 453           | 97.2        | 13           | 2.8         |
| Western               | 315           | 292           | 92.7        | 23           | 7.3         |
| Virgin Islands        | 80            | 70            | 87.5        | 10           | 12.5        |
| <b>FOURTH CIRCUIT</b> | <b>4,928</b>  | <b>4,627</b>  | <b>93.9</b> | <b>301</b>   | <b>6.1</b>  |
| Maryland              | 562           | 511           | 90.9        | 51           | 9.1         |
| North Carolina        |               |               |             |              |             |
| Eastern               | 529           | 501           | 94.7        | 28           | 5.3         |
| Middle                | 394           | 373           | 94.7        | 21           | 5.3         |
| Western               | 429           | 399           | 93.0        | 30           | 7.0         |
| South Carolina        | 773           | 741           | 95.9        | 32           | 4.1         |
| Virginia              |               |               |             |              |             |
| Eastern               | 1,293         | 1,201         | 92.9        | 92           | 7.1         |
| Western               | 467           | 447           | 95.7        | 20           | 4.3         |
| West Virginia         |               |               |             |              |             |
| Northern              | 217           | 208           | 95.9        | 9            | 4.1         |
| Southern              | 264           | 246           | 93.2        | 18           | 6.8         |

| CIRCUIT<br>District    | TOTAL         | PLEA          |             | TRIAL      |            |
|------------------------|---------------|---------------|-------------|------------|------------|
|                        |               | Number        | Percent     | Number     | Percent    |
| <b>FIFTH CIRCUIT</b>   | <b>11,327</b> | <b>10,908</b> | <b>96.3</b> | <b>419</b> | <b>3.7</b> |
| Louisiana              |               |               |             |            |            |
| Eastern                | 289           | 277           | 95.8        | 12         | 4.2        |
| Middle                 | 135           | 132           | 97.8        | 3          | 2.2        |
| Western                | 301           | 264           | 87.7        | 37         | 12.3       |
| Mississippi            |               |               |             |            |            |
| Northern               | 150           | 138           | 92.0        | 12         | 8.0        |
| Southern               | 255           | 241           | 94.5        | 14         | 5.5        |
| Texas                  |               |               |             |            |            |
| Eastern                | 546           | 512           | 93.8        | 34         | 6.2        |
| Northern               | 654           | 602           | 92.0        | 52         | 8.0        |
| Southern               | 4,797         | 4,634         | 96.6        | 163        | 3.4        |
| Western                | 4,200         | 4,108         | 97.8        | 92         | 2.2        |
| <b>SIXTH CIRCUIT</b>   | <b>4,017</b>  | <b>3,748</b>  | <b>93.3</b> | <b>269</b> | <b>6.7</b> |
| Kentucky               |               |               |             |            |            |
| Eastern                | 361           | 347           | 96.1        | 14         | 3.9        |
| Western                | 309           | 295           | 95.5        | 14         | 4.5        |
| Michigan               |               |               |             |            |            |
| Eastern                | 541           | 495           | 91.5        | 46         | 8.5        |
| Western                | 282           | 270           | 95.7        | 12         | 4.3        |
| Ohio                   |               |               |             |            |            |
| Northern               | 776           | 736           | 94.8        | 40         | 5.2        |
| Southern               | 478           | 449           | 93.9        | 29         | 6.1        |
| Tennessee              |               |               |             |            |            |
| Eastern                | 494           | 440           | 89.1        | 54         | 10.9       |
| Middle                 | 302           | 280           | 92.7        | 22         | 7.3        |
| Western                | 474           | 436           | 92.0        | 38         | 8.0        |
| <b>SEVENTH CIRCUIT</b> | <b>2,290</b>  | <b>2,098</b>  | <b>91.6</b> | <b>192</b> | <b>8.4</b> |
| Illinois               |               |               |             |            |            |
| Central                | 273           | 253           | 92.7        | 20         | 7.3        |
| Northern               | 858           | 777           | 90.6        | 81         | 9.4        |
| Southern               | 215           | 205           | 95.3        | 10         | 4.7        |
| Indiana                |               |               |             |            |            |
| Northern               | 306           | 275           | 89.9        | 31         | 10.1       |
| Southern               | 215           | 191           | 88.8        | 24         | 11.2       |
| Wisconsin              |               |               |             |            |            |
| Eastern                | 287           | 265           | 92.3        | 22         | 7.7        |
| Western                | 136           | 132           | 97.1        | 4          | 2.9        |
| <b>EIGHTH CIRCUIT</b>  | <b>3,597</b>  | <b>3,388</b>  | <b>94.2</b> | <b>209</b> | <b>5.8</b> |
| Arkansas               |               |               |             |            |            |
| Eastern                | 214           | 206           | 96.3        | 8          | 3.7        |
| Western                | 138           | 136           | 98.6        | 2          | 1.4        |
| Iowa                   |               |               |             |            |            |
| Northern               | 244           | 222           | 91.0        | 22         | 9.0        |
| Southern               | 275           | 258           | 93.8        | 17         | 6.2        |
| Minnesota              | 379           | 349           | 92.1        | 30         | 7.9        |
| Missouri               |               |               |             |            |            |
| Eastern                | 728           | 698           | 95.9        | 30         | 4.1        |
| Western                | 557           | 523           | 93.9        | 34         | 6.1        |
| Nebraska               | 586           | 560           | 95.6        | 26         | 4.4        |
| North Dakota           | 164           | 150           | 91.5        | 14         | 8.5        |
| South Dakota           | 312           | 286           | 91.7        | 26         | 8.3        |

| CIRCUIT<br>District      | TOTAL         | PLEA         |             | TRIAL      |            |
|--------------------------|---------------|--------------|-------------|------------|------------|
|                          |               | Number       | Percent     | Number     | Percent    |
| <b>NINTH CIRCUIT</b>     | <b>10,463</b> | <b>9,972</b> | <b>95.3</b> | <b>491</b> | <b>4.7</b> |
| Alaska                   | 173           | 164          | 94.8        | 9          | 5.2        |
| Arizona                  | 3,160         | 3,106        | 98.3        | 54         | 1.7        |
| California               |               |              |             |            |            |
| Central                  | 1,390         | 1,290        | 92.8        | 100        | 7.2        |
| Eastern                  | 677           | 649          | 95.9        | 28         | 4.1        |
| Northern                 | 549           | 523          | 95.3        | 26         | 4.7        |
| Southern                 | 1,788         | 1,681        | 94.0        | 107        | 6.0        |
| Guam                     | 91            | 87           | 95.6        | 4          | 4.4        |
| Hawaii                   | 356           | 333          | 93.5        | 23         | 6.5        |
| Idaho                    | 152           | 146          | 96.1        | 6          | 3.9        |
| Montana                  | 271           | 233          | 86.0        | 38         | 14.0       |
| Nevada                   | 443           | 424          | 95.7        | 19         | 4.3        |
| Northern Mariana Islands | 24            | 19           | 79.2        | 5          | 20.8       |
| Oregon                   | 447           | 439          | 98.2        | 8          | 1.8        |
| Washington               |               |              |             |            |            |
| Eastern                  | 311           | 287          | 92.3        | 24         | 7.7        |
| Western                  | 631           | 591          | 93.7        | 40         | 6.3        |
| <b>TENTH CIRCUIT</b>     | <b>4,225</b>  | <b>4,064</b> | <b>96.2</b> | <b>161</b> | <b>3.8</b> |
| Colorado                 | 445           | 423          | 95.1        | 22         | 4.9        |
| Kansas                   | 468           | 439          | 93.8        | 29         | 6.2        |
| New Mexico               | 1,904         | 1,873        | 98.4        | 31         | 1.6        |
| Oklahoma                 |               |              |             |            |            |
| Eastern                  | 69            | 61           | 88.4        | 8          | 11.6       |
| Northern                 | 149           | 133          | 89.3        | 16         | 10.7       |
| Western                  | 256           | 243          | 94.9        | 13         | 5.1        |
| Utah                     | 715           | 683          | 95.5        | 32         | 4.5        |
| Wyoming                  | 219           | 209          | 95.4        | 10         | 4.6        |
| <b>ELEVENTH CIRCUIT</b>  | <b>5,117</b>  | <b>4,767</b> | <b>93.2</b> | <b>350</b> | <b>6.8</b> |
| Alabama                  |               |              |             |            |            |
| Middle                   | 163           | 155          | 95.1        | 8          | 4.9        |
| Northern                 | 347           | 334          | 96.3        | 13         | 3.7        |
| Southern                 | 245           | 236          | 96.3        | 9          | 3.7        |
| Florida                  |               |              |             |            |            |
| Middle                   | 1,302         | 1,232        | 94.6        | 70         | 5.4        |
| Northern                 | 239           | 209          | 87.4        | 30         | 12.6       |
| Southern                 | 1,667         | 1,533        | 92.0        | 134        | 8.0        |
| Georgia                  |               |              |             |            |            |
| Middle                   | 319           | 294          | 92.2        | 25         | 7.8        |
| Northern                 | 544           | 490          | 90.1        | 54         | 9.9        |
| Southern                 | 291           | 284          | 97.6        | 7          | 2.4        |

Of the 53,674 guideline cases, 44 cases were excluded due to missing information on mode of conviction.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Post-Booker Only Cases (January 12, 2005, through September 30, 2005).

**Table 3**

**MODE OF CONVICTION BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2005, Post-Booker (January 12, 2005, through September 30, 2005)**

| PRIMARY OFFENSE                           | TOTAL         | National      |             |              |            | Ninth Circuit |             |            |            |
|---|---------------|---------------|-------------|--------------|------------|---------------|-------------|------------|------------|
|   |               | PLEA          |             | TRIAL        |            | PLEA          |             | TRIAL      |            |
|   |               | n             | %           | n            | %          | n             | %           | n          | %          |
| <b>TOTAL</b>                              | <b>53,624</b> | <b>50,649</b> | <b>94.5</b> | <b>2,975</b> | <b>5.5</b> | <b>9,970</b>  | <b>95.3</b> | <b>491</b> | <b>4.7</b> |
| <b>Murder</b>                             | <b>63</b>     | 42            | 66.7        | 21           | 33.3       | 15            | 75.0        | 5          | 25.0       |
| <b>Manslaughter</b>                       | <b>42</b>     | 37            | 88.1        | 5            | 11.9       | 18            | 90.0        | 2          | 10.0       |
| <b>Kidnapping/Hostage Taking</b>          | <b>24</b>     | 13            | 54.2        | 11           | 45.8       | 2             | 100.0       | 0          | 0.0        |
| <b>Sexual Abuse</b>                       | <b>237</b>    | 209           | 88.2        | 28           | 11.8       | 78            | 90.7        | 8          | 9.3        |
| <b>Assault</b>                            | <b>456</b>    | 405           | 88.8        | 51           | 11.2       | 131           | 92.9        | 10         | 7.1        |
| <b>Robbery</b>                            | <b>1,021</b>  | 955           | 93.5        | 66           | 6.5        | 179           | 95.7        | 8          | 4.3        |
| <b>Arson</b>                              | <b>40</b>     | 31            | 77.5        | 9            | 22.5       | 3             | 100.0       | 0          | 0.0        |
| <b>Drugs - Trafficking</b>                | <b>18,356</b> | 17,230        | 93.9        | 1,126        | 6.1        | 2,677         | 94.3        | 163        | 5.7        |
| <b>Drugs - Communication Facility</b>     | <b>309</b>    | 306           | 99.0        | 3            | 1.0        | 60            | 100.0       | 0          | 0.0        |
| <b>Drugs - Simple Possession</b>          | <b>721</b>    | 704           | 97.6        | 17           | 2.4        | 293           | 100.0       | 0          | 0.0        |
| <b>Firearms</b>                           | <b>6,384</b>  | 5,801         | 90.9        | 583          | 9.1        | 731           | 93.8        | 48         | 6.2        |
| <b>Burglary/B&amp;E</b>                   | <b>29</b>     | 27            | 93.1        | 2            | 6.9        | 10            | 83.3        | 2          | 16.7       |
| <b>Auto Theft</b>                         | <b>47</b>     | 42            | 89.4        | 5            | 10.6       | 1             | 100.0       | 0          | 0.0        |
| <b>Larceny</b>                            | <b>1,424</b>  | 1,378         | 96.8        | 46           | 3.2        | 290           | 97.6        | 7          | 2.4        |
| <b>Fraud</b>                              | <b>5,075</b>  | 4,734         | 93.3        | 341          | 6.7        | 810           | 92.9        | 62         | 7.1        |
| <b>Embezzlement</b>                       | <b>413</b>    | 402           | 97.3        | 11           | 2.7        | 64            | 100.0       | 0          | 0.0        |
| <b>Forgery/Counterfeiting</b>             | <b>795</b>    | 773           | 97.2        | 22           | 2.8        | 111           | 97.4        | 3          | 2.6        |
| <b>Bribery</b>                            | <b>157</b>    | 147           | 93.6        | 10           | 6.4        | 22            | 95.7        | 1          | 4.3        |
| <b>Tax</b>                                | <b>461</b>    | 412           | 89.4        | 49           | 10.6       | 88            | 85.4        | 15         | 14.6       |
| <b>Money Laundering</b>                   | <b>717</b>    | 626           | 87.3        | 91           | 12.7       | 135           | 88.2        | 18         | 11.8       |
| <b>Racketeering/Extortion</b>             | <b>523</b>    | 458           | 87.6        | 65           | 12.4       | 61            | 85.9        | 10         | 14.1       |
| <b>Gambling/Lottery</b>                   | <b>82</b>     | 81            | 98.8        | 1            | 1.2        | 13            | 100.0       | 0          | 0.0        |
| <b>Civil Rights</b>                       | <b>46</b>     | 34            | 73.9        | 12           | 26.1       | 4             | 80.0        | 1          | 20.0       |
| <b>Immigration</b>                        | <b>12,862</b> | 12,627        | 98.2        | 235          | 1.8        | 3,521         | 97.1        | 105        | 2.9        |
| <b>Pornography/Prostitution</b>           | <b>900</b>    | 860           | 95.6        | 40           | 4.4        | 147           | 93.0        | 11         | 7.0        |
| <b>Prison Offenses</b>                    | <b>278</b>    | 271           | 97.5        | 7            | 2.5        | 80            | 98.8        | 1          | 1.2        |
| <b>Administration of Justice Offenses</b> | <b>779</b>    | 724           | 92.9        | 55           | 7.1        | 183           | 97.3        | 5          | 2.7        |
| <b>Environmental/Wildlife</b>             | <b>133</b>    | 131           | 98.5        | 2            | 1.5        | 41            | 100.0       | 0          | 0.0        |
| <b>National Defense</b>                   | <b>19</b>     | 17            | 89.5        | 2            | 10.5       | 5             | 100.0       | 0          | 0.0        |
| <b>Antitrust</b>                          | <b>12</b>     | 11            | 91.7        | 1            | 8.3        | 2             | 100.0       | 0          | 0.0        |
| <b>Food &amp; Drug</b>                    | <b>57</b>     | 54            | 94.7        | 3            | 5.3        | 5             | 100.0       | 0          | 0.0        |
| <b>Other Miscellaneous Offenses</b>       | <b>1,162</b>  | 1,107         | 95.3        | 55           | 4.7        | 190           | 96.9        | 6          | 3.1        |

Of the 53,674 guideline cases, 50 cases were excluded due to one or both of the following reasons: missing primary offense category (24) or missing mode of conviction (44).

Of the 10,472 guideline cases from the Ninth Circuit, 11 cases were excluded due to one or both of the following reasons: missing primary offense category (9) or missing mode of conviction (9).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, PostBooker Only Cases (January 12, 2005, through September 30, 2005).

Table 4

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2005, Post-Booker (January 12, 2005, through September 30, 2005)**

**National**

| PRIMARY OFFENSE                    | TOTAL         | Prison        |             | Prison/Community Split Sentence |            | Probation and Confinement |            | Probation Only |            |
|------------------------------------|---------------|---------------|-------------|---------------------------------|------------|---------------------------|------------|----------------|------------|
|                                    |               | Number        | Percent     | Number                          | Percent    | Number                    | Percent    | Number         | Percent    |
| <b>TOTAL</b>                       | <b>53,241</b> | <b>45,238</b> | <b>85.0</b> | <b>1,678</b>                    | <b>3.2</b> | <b>2,108</b>              | <b>4.0</b> | <b>4,217</b>   | <b>7.9</b> |
| Murder                             | 63            | 63            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Manslaughter                       | 42            | 42            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Kidnapping/Hostage Taking          | 24            | 24            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Sexual Abuse                       | 237           | 221           | 93.2        | 1                               | 0.4        | 6                         | 2.5        | 9              | 3.8        |
| Assault                            | 454           | 371           | 81.7        | 11                              | 2.4        | 21                        | 4.6        | 51             | 11.2       |
| Robbery                            | 1,011         | 982           | 97.1        | 16                              | 1.6        | 5                         | 0.5        | 8              | 0.8        |
| Arson                              | 40            | 39            | 97.5        | 1                               | 2.5        | 0                         | 0.0        | 0              | 0.0        |
| Drugs - Trafficking                | 18,336        | 17,312        | 94.4        | 418                             | 2.3        | 262                       | 1.4        | 344            | 1.9        |
| Drugs - Communication Facility     | 307           | 244           | 79.5        | 16                              | 5.2        | 26                        | 8.5        | 21             | 6.8        |
| Drugs - Simple Possession          | 688           | 411           | 59.7        | 5                               | 0.7        | 14                        | 2.0        | 258            | 37.5       |
| Firearms                           | 6,369         | 5,763         | 90.5        | 181                             | 2.8        | 205                       | 3.2        | 220            | 3.5        |
| Burglary/B&E                       | 29            | 21            | 72.4        | 3                               | 10.3       | 1                         | 3.4        | 4              | 13.8       |
| Auto Theft                         | 47            | 42            | 89.4        | 2                               | 4.3        | 1                         | 2.1        | 2              | 4.3        |
| Larceny                            | 1,348         | 538           | 39.9        | 90                              | 6.7        | 188                       | 13.9       | 532            | 39.5       |
| Fraud                              | 5,036         | 3,086         | 61.3        | 407                             | 8.1        | 569                       | 11.3       | 974            | 19.3       |
| Embezzlement                       | 398           | 139           | 34.9        | 56                              | 14.1       | 57                        | 14.3       | 146            | 36.7       |
| Forgery/Counterfeiting             | 791           | 483           | 61.1        | 52                              | 6.6        | 92                        | 11.6       | 164            | 20.7       |
| Bribery                            | 157           | 67            | 42.7        | 22                              | 14.0       | 25                        | 15.9       | 43             | 27.4       |
| Tax                                | 456           | 206           | 45.2        | 61                              | 13.4       | 95                        | 20.8       | 94             | 20.6       |
| Money Laundering                   | 716           | 526           | 73.5        | 35                              | 4.9        | 64                        | 8.9        | 91             | 12.7       |
| Racketeering/Extortion             | 522           | 460           | 88.1        | 12                              | 2.3        | 15                        | 2.9        | 35             | 6.7        |
| Gambling/Lottery                   | 82            | 17            | 20.7        | 5                               | 6.1        | 26                        | 31.7       | 34             | 41.5       |
| Civil Rights                       | 45            | 28            | 62.2        | 2                               | 4.4        | 8                         | 17.8       | 7              | 15.6       |
| Immigration                        | 12,849        | 12,203        | 95.0        | 151                             | 1.2        | 136                       | 1.1        | 359            | 2.8        |
| Pornography/Prostitution           | 900           | 836           | 92.9        | 17                              | 1.9        | 28                        | 3.1        | 19             | 2.1        |
| Prison Offenses                    | 278           | 248           | 89.2        | 9                               | 3.2        | 7                         | 2.5        | 14             | 5.0        |
| Administration of Justice Offenses | 766           | 455           | 59.4        | 41                              | 5.4        | 102                       | 13.3       | 168            | 21.9       |
| Environmental/Wildlife             | 123           | 27            | 22.0        | 8                               | 6.5        | 20                        | 16.3       | 68             | 55.3       |
| National Defense                   | 18            | 14            | 77.8        | 1                               | 5.6        | 1                         | 5.6        | 2              | 11.1       |
| Antitrust                          | 12            | 6             | 50.0        | 3                               | 25.0       | 1                         | 8.3        | 2              | 16.7       |
| Food & Drug                        | 52            | 10            | 19.2        | 3                               | 5.8        | 10                        | 19.2       | 29             | 55.8       |
| Other Miscellaneous Offenses       | 1,045         | 354           | 33.9        | 49                              | 4.7        | 123                       | 11.8       | 519            | 49.7       |

Of the 53,674 guideline cases, 433 cases were excluded due to one or more of the following reasons: missing sentencing information (102), missing primary offense category (24), or cases in which the defendant received no imprisonment or probation (325).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, PostBooker Only Cases (January 12, 2005, through September 30, 2005).



Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2005, Post-Booker (January 12, 2005, through September 30, 2005)**

**Ninth Circuit**

| PRIMARY OFFENSE                    | TOTAL         | Prison       |             | Prison/Community Split Sentence |            | Probation and Confinement |            | Probation Only |            |
|------------------------------------|---------------|--------------|-------------|---------------------------------|------------|---------------------------|------------|----------------|------------|
|                                    |               | Number       | Percent     | Number                          | Percent    | Number                    | Percent    | Number         | Percent    |
| <b>TOTAL</b>                       | <b>10,379</b> | <b>8,937</b> | <b>86.1</b> | <b>360</b>                      | <b>3.5</b> | <b>379</b>                | <b>3.7</b> | <b>703</b>     | <b>6.8</b> |
| Murder                             | 20            | 20           | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Manslaughter                       | 20            | 20           | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Kidnapping/Hostage Taking          | 2             | 2            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Sexual Abuse                       | 86            | 80           | 93.0        | 1                               | 1.2        | 2                         | 2.3        | 3              | 3.5        |
| Assault                            | 141           | 114          | 80.9        | 4                               | 2.8        | 5                         | 3.5        | 18             | 12.8       |
| Robbery                            | 185           | 176          | 95.1        | 5                               | 2.7        | 2                         | 1.1        | 2              | 1.1        |
| Arson                              | 3             | 3            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Drugs - Trafficking                | 2,836         | 2,675        | 94.3        | 83                              | 2.9        | 26                        | 0.9        | 52             | 1.8        |
| Drugs - Communication Facility     | 60            | 48           | 80.0        | 4                               | 6.7        | 6                         | 10.0       | 2              | 3.3        |
| Drugs - Simple Possession          | 289           | 241          | 83.4        | 1                               | 0.3        | 2                         | 0.7        | 45             | 15.6       |
| Firearms                           | 775           | 673          | 86.8        | 31                              | 4.0        | 41                        | 5.3        | 30             | 3.9        |
| Burglary/B&E                       | 12            | 10           | 83.3        | 1                               | 8.3        | 0                         | 0.0        | 1              | 8.3        |
| Auto Theft                         | 1             | 1            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Larceny                            | 285           | 124          | 43.5        | 22                              | 7.7        | 34                        | 11.9       | 105            | 36.8       |
| Fraud                              | 862           | 544          | 63.1        | 69                              | 8.0        | 94                        | 10.9       | 155            | 18.0       |
| Embezzlement                       | 63            | 17           | 27.0        | 7                               | 11.1       | 12                        | 19.0       | 27             | 42.9       |
| Forgery/Counterfeiting             | 112           | 60           | 53.6        | 14                              | 12.5       | 19                        | 17.0       | 19             | 17.0       |
| Bribery                            | 23            | 9            | 39.1        | 4                               | 17.4       | 2                         | 8.7        | 8              | 34.8       |
| Tax                                | 101           | 37           | 36.6        | 19                              | 18.8       | 20                        | 19.8       | 25             | 24.8       |
| Money Laundering                   | 153           | 100          | 65.4        | 14                              | 9.2        | 12                        | 7.8        | 27             | 17.6       |
| Racketeering/Extortion             | 71            | 65           | 91.5        | 1                               | 1.4        | 2                         | 2.8        | 3              | 4.2        |
| Gambling/Lottery                   | 13            | 0            | 0.0         | 0                               | 0.0        | 1                         | 7.7        | 12             | 92.3       |
| Civil Rights                       | 5             | 3            | 60.0        | 0                               | 0.0        | 2                         | 40.0       | 0              | 0.0        |
| Immigration                        | 3,621         | 3,485        | 96.2        | 44                              | 1.2        | 32                        | 0.9        | 60             | 1.7        |
| Pornography/Prostitution           | 158           | 140          | 88.6        | 9                               | 5.7        | 7                         | 4.4        | 2              | 1.3        |
| Prison Offenses                    | 81            | 75           | 92.6        | 2                               | 2.5        | 2                         | 2.5        | 2              | 2.5        |
| Administration of Justice Offenses | 184           | 117          | 63.6        | 7                               | 3.8        | 26                        | 14.1       | 34             | 18.5       |
| Environmental/Wildlife             | 41            | 9            | 22.0        | 4                               | 9.8        | 8                         | 19.5       | 20             | 48.8       |
| National Defense                   | 4             | 4            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Antitrust                          | 2             | 2            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Food & Drug                        | 5             | 1            | 20.0        | 0                               | 0.0        | 0                         | 0.0        | 4              | 80.0       |
| Other Miscellaneous Offenses       | 165           | 82           | 49.7        | 14                              | 8.5        | 22                        | 13.3       | 47             | 28.5       |

Of the 10,472 guideline cases from the Ninth Circuit, 93 cases were excluded due to one or more of the following reasons: missing sentencing information (26), missing primary offense category (9), or cases in which the defendant received no imprisonment or probation (64).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Post-Booker Only Cases (January 12, 2005, through September 30, 2005).

**Table 6**

**INCARCERATION RATE OF DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2005, Post-Booker (January 12, 2005, through September 30, 2005)**

| PRIMARY OFFENSE                     | TOTAL        | National        |             |                     |             | Ninth Circuit   |             |                     |             |
|-------------------------------------|--------------|-----------------|-------------|---------------------|-------------|-----------------|-------------|---------------------|-------------|
|                                     |              | Prison Sentence |             | Non-Prison Sentence |             | Prison Sentence |             | Non-Prison Sentence |             |
|                                     |              | Number          | Percent     | Number              | Percent     | Number          | Percent     | Number              | Percent     |
| <b>TOTAL</b>                        | <b>8,969</b> | <b>5,106</b>    | <b>56.9</b> | <b>3,863</b>        | <b>43.1</b> | <b>679</b>      | <b>51.7</b> | <b>635</b>          | <b>48.3</b> |
| <b>Fraud</b>                        | <b>1,764</b> | 759             | 43.0        | 1,005               | 57.0        | 134             | 47.2        | 150                 | 52.8        |
| <b>Larceny</b>                      | <b>787</b>   | 164             | 20.8        | 623                 | 79.2        | 44              | 29.9        | 103                 | 70.1        |
| <b>Immigration</b>                  | <b>3,589</b> | 3,209           | 89.4        | 380                 | 10.6        | 302             | 83.4        | 60                  | 16.6        |
| <b>Embezzlement</b>                 | <b>222</b>   | 48              | 21.6        | 174                 | 78.4        | 4               | 11.1        | 32                  | 88.9        |
| <b>Drugs - Trafficking</b>          | <b>388</b>   | 192             | 49.5        | 196                 | 50.5        | 39              | 69.6        | 17                  | 30.4        |
| <b>Drugs - Simple Possession</b>    | <b>352</b>   | 135             | 38.4        | 217                 | 61.6        | 26              | 50.0        | 26                  | 50.0        |
| <b>Firearms</b>                     | <b>275</b>   | 132             | 48.0        | 143                 | 52.0        | 20              | 43.5        | 26                  | 56.5        |
| <b>Forgery/Counterfeiting</b>       | <b>311</b>   | 120             | 38.6        | 191                 | 61.4        | 15              | 37.5        | 25                  | 62.5        |
| <b>Other Miscellaneous Offenses</b> | <b>1,281</b> | 347             | 27.1        | 934                 | 72.9        | 95              | 32.6        | 196                 | 67.4        |

Of the 53,674 guideline cases, 44,705 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (44,698), missing sentencing information (102), or missing primary offense category (24).

Of the 10,472 guideline cases from the Ninth Circuit, 9,158 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (9,156), missing sentencing information (26), or missing primary offense category (9).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Post-Booker Only Cases (January 12, 2005, through September 30, 2005).

**Table 7**

**AVERAGE LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2005, Post-Booker (January 12, 2005, through September 30, 2005)**

| PRIMARY OFFENSE                           | National       |                  |               | Ninth Circuit  |                  |              |
|---|----------------|------------------|---------------|----------------|------------------|--------------|
|   | Mean<br>Months | Median<br>Months | Number        | Mean<br>Months | Median<br>Months | Number       |
| <b>TOTAL</b>                              | <b>58.5</b>    | <b>36.0</b>      | <b>46,459</b> | <b>42.7</b>    | <b>28.0</b>      | <b>9,229</b> |
| <b>Murder</b>                             | 228.4          | 180.0            | 63            | 212.4          | 147.5            | 20           |
| <b>Manslaughter</b>                       | 45.9           | 36.0             | 42            | 47.1           | 31.0             | 20           |
| <b>Kidnapping/Hostage Taking</b>          | 224.6          | 199.0            | 24            | --             | --               | 2            |
| <b>Sexual Abuse</b>                       | 95.9           | 60.0             | 222           | 76.4           | 52.0             | 81           |
| <b>Assault</b>                            | 44.0           | 35.5             | 376           | 40.1           | 33.0             | 115          |
| <b>Robbery</b>                            | 95.4           | 74.5             | 996           | 80.2           | 63.0             | 181          |
| <b>Arson</b>                              | 75.2           | 60.0             | 40            | 39.0           | 37.0             | 3            |
| <b>Drugs - Trafficking</b>                | 84.4           | 60.0             | 17,698        | 61.7           | 46.0             | 2,751        |
| <b>Drugs - Communication Facility</b>     | 41.4           | 41.0             | 253           | 54.1           | 48.0             | 51           |
| <b>Drugs - Simple Possession</b>          | 12.7           | 6.0              | 391           | 6.3            | 6.0              | 232          |
| <b>Firearms</b>                           | 81.4           | 51.0             | 5,935         | 63.0           | 37.0             | 702          |
| <b>Burglary/B&amp;E</b>                   | 19.1           | 19.5             | 24            | 21.0           | 21.0             | 11           |
| <b>Auto Theft</b>                         | 61.6           | 26.0             | 44            | --             | --               | 1            |
| <b>Larceny</b>                            | 19.9           | 12.0             | 625           | 15.2           | 10.2             | 145          |
| <b>Fraud</b>                              | 23.6           | 15.0             | 3,440         | 22.8           | 15.0             | 600          |
| <b>Embezzlement</b>                       | 13.0           | 9.0              | 194           | 12.8           | 11.5             | 24           |
| <b>Forgery/Counterfeiting</b>             | 19.8           | 15.0             | 528           | 19.8           | 14.5             | 74           |
| <b>Bribery</b>                            | 21.2           | 15.0             | 89            | 19.8           | 15.0             | 13           |
| <b>Tax</b>                                | 19.7           | 12.0             | 267           | 21.2           | 12.0             | 56           |
| <b>Money Laundering</b>                   | 46.0           | 30.0             | 557           | 41.7           | 24.0             | 113          |
| <b>Racketeering/Extortion</b>             | 86.2           | 59.5             | 470           | 90.2           | 51.0             | 65           |
| <b>Gambling/Lottery</b>                   | 11.1           | 12.0             | 22            | --             | --               | 0            |
| <b>Civil Rights</b>                       | 80.1           | 21.5             | 30            | 165.8          | 12.0             | 3            |
| <b>Immigration</b>                        | 23.5           | 18.0             | 12,065        | 28.6           | 24.0             | 3,508        |
| <b>Pornography/Prostitution</b>           | 82.4           | 60.0             | 853           | 67.9           | 46.0             | 149          |
| <b>Prison Offenses</b>                    | 18.3           | 14.0             | 257           | 16.4           | 12.0             | 77           |
| <b>Administration of Justice Offenses</b> | 24.0           | 15.0             | 485           | 17.1           | 12.0             | 120          |
| <b>Environmental/Wildlife</b>             | 10.5           | 5.9              | 34            | 13.6           | 6.0              | 12           |
| <b>National Defense</b>                   | 126.7          | 27.0             | 15            | 21.8           | 21.0             | 4            |
| <b>Antitrust</b>                          | 10.3           | 8.0              | 9             | --             | --               | 2            |
| <b>Food &amp; Drug</b>                    | 18.4           | 16.0             | 13            | --             | --               | 1            |
| <b>Other Miscellaneous Offenses</b>       | 18.4           | 6.2              | 398           | 10.3           | 3.0              | 93           |

Of the 53,674 guideline cases, 7,215 excluded for one or more of the following reasons: zero months prison ordered (6,776), missing primary offense category (24), or missing or indeterminable sentencing information (435).

Of the 10,472 guideline cases from the Ninth Circuit, 1,243 cases were excluded due to one or more of the following reasons: zero prison months ordered (1,151), missing primary offense category (9), or missing or indeterminable sentencing information (89).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Post-Booker Only Cases (January 12, 2005, through September 30, 2005).

**Table 8**

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT**  
**Fiscal Year 2005, Post-Booker (January 12, 2005, through September 30, 2005)**

| CIRCUIT<br>District   | TOTAL         | SENTENCED<br>WITHIN<br>GUIDELINE RANGE |             | ABOVE<br>RANGE<br>DEPARTURE |            | ABOVE RANGE<br>DEPARTURE<br>W/BOOKER |            | ABOVE<br>RANGE<br>W/BOOKER |            | REMAINING<br>ABOVE<br>RANGE |            |
|-----------------------|---------------|--|-------------|-----------------------------|------------|--------------------------------------|------------|----------------------------|------------|-----------------------------|------------|
|                       |               | n                                      | %           | n                           | %          | n                                    | %          | n                          | %          | n                           | %          |
| <b>TOTAL</b>          | <b>51,346</b> | <b>31,623</b>                          | <b>61.6</b> | <b>100</b>                  | <b>0.2</b> | <b>36</b>                            | <b>0.1</b> | <b>343</b>                 | <b>0.7</b> | <b>342</b>                  | <b>0.7</b> |
| <b>D.C. CIRCUIT</b>   | <b>378</b>    | <b>200</b>                             | <b>52.9</b> | <b>0</b>                    | <b>0.0</b> | <b>0</b>                             | <b>0.0</b> | <b>3</b>                   | <b>0.8</b> | <b>4</b>                    | <b>1.1</b> |
| District of Columbia  | 378           | 200                                    | 52.9        | 0                           | 0.0        | 0                                    | 0.0        | 3                          | 0.8        | 4                           | 1.1        |
| <b>FIRST CIRCUIT</b>  | <b>1,132</b>  | <b>717</b>                             | <b>63.3</b> | <b>1</b>                    | <b>0.1</b> | <b>1</b>                             | <b>0.1</b> | <b>21</b>                  | <b>1.9</b> | <b>8</b>                    | <b>0.7</b> |
| Maine                 | 160           | 116                                    | 72.5        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 1                           | 0.6        |
| Massachusetts         | 336           | 169                                    | 50.3        | 1                           | 0.3        | 0                                    | 0.0        | 1                          | 0.3        | 2                           | 0.6        |
| New Hampshire         | 132           | 73                                     | 55.3        | 0                           | 0.0        | 0                                    | 0.0        | 4                          | 3.0        | 1                           | 0.8        |
| Puerto Rico           | 404           | 292                                    | 72.3        | 0                           | 0.0        | 0                                    | 0.0        | 15                         | 3.7        | 2                           | 0.5        |
| Rhode Island          | 100           | 67                                     | 67.0        | 0                           | 0.0        | 1                                    | 1.0        | 1                          | 1.0        | 2                           | 2.0        |
| <b>SECOND CIRCUIT</b> | <b>3,536</b>  | <b>1,789</b>                           | <b>50.6</b> | <b>2</b>                    | <b>0.1</b> | <b>1</b>                             | <b>0.0</b> | <b>15</b>                  | <b>0.4</b> | <b>21</b>                   | <b>0.6</b> |
| Connecticut           | 312           | 144                                    | 46.2        | 1                           | 0.3        | 0                                    | 0.0        | 0                          | 0.0        | 3                           | 1.0        |
| New York              |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern               | 968           | 333                                    | 34.4        | 1                           | 0.1        | 0                                    | 0.0        | 12                         | 1.2        | 8                           | 0.8        |
| Northern              | 327           | 189                                    | 57.8        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 2                           | 0.6        |
| Southern              | 1,299         | 778                                    | 59.9        | 0                           | 0.0        | 1                                    | 0.1        | 3                          | 0.2        | 6                           | 0.5        |
| Western               | 480           | 267                                    | 55.6        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 2                           | 0.4        |
| Vermont               | 150           | 78                                     | 52.0        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 0                           | 0.0        |
| <b>THIRD CIRCUIT</b>  | <b>2,449</b>  | <b>1,250</b>                           | <b>51.0</b> | <b>4</b>                    | <b>0.2</b> | <b>2</b>                             | <b>0.1</b> | <b>15</b>                  | <b>0.6</b> | <b>13</b>                   | <b>0.5</b> |
| Delaware              | 131           | 85                                     | 64.9        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 0                           | 0.0        |
| New Jersey            | 729           | 365                                    | 50.1        | 1                           | 0.1        | 0                                    | 0.0        | 4                          | 0.5        | 5                           | 0.7        |
| Pennsylvania          |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern               | 731           | 303                                    | 41.5        | 1                           | 0.1        | 2                                    | 0.3        | 5                          | 0.7        | 4                           | 0.5        |
| Middle                | 465           | 214                                    | 46.0        | 2                           | 0.4        | 0                                    | 0.0        | 3                          | 0.6        | 3                           | 0.6        |
| Western               | 314           | 215                                    | 68.5        | 0                           | 0.0        | 0                                    | 0.0        | 3                          | 1.0        | 1                           | 0.3        |
| Virgin Islands        | 79            | 68                                     | 86.1        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 0                           | 0.0        |
| <b>FOURTH CIRCUIT</b> | <b>4,599</b>  | <b>3,045</b>                           | <b>66.2</b> | <b>11</b>                   | <b>0.2</b> | <b>4</b>                             | <b>0.1</b> | <b>28</b>                  | <b>0.6</b> | <b>23</b>                   | <b>0.5</b> |
| Maryland              | 526           | 254                                    | 48.3        | 2                           | 0.4        | 0                                    | 0.0        | 2                          | 0.4        | 4                           | 0.8        |
| North Carolina        |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern               | 518           | 276                                    | 53.3        | 2                           | 0.4        | 0                                    | 0.0        | 0                          | 0.0        | 4                           | 0.8        |
| Middle                | 393           | 296                                    | 75.3        | 1                           | 0.3        | 0                                    | 0.0        | 3                          | 0.8        | 1                           | 0.3        |
| Western               | 423           | 254                                    | 60.0        | 0                           | 0.0        | 0                                    | 0.0        | 3                          | 0.7        | 1                           | 0.2        |
| South Carolina        | 761           | 527                                    | 69.3        | 3                           | 0.4        | 0                                    | 0.0        | 1                          | 0.1        | 2                           | 0.3        |
| Virginia              |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern               | 1,042         | 800                                    | 76.8        | 0                           | 0.0        | 3                                    | 0.3        | 15                         | 1.4        | 4                           | 0.4        |
| Western               | 467           | 277                                    | 59.3        | 2                           | 0.4        | 0                                    | 0.0        | 2                          | 0.4        | 5                           | 1.1        |
| West Virginia         |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Northern              | 213           | 165                                    | 77.5        | 0                           | 0.0        | 0                                    | 0.0        | 1                          | 0.5        | 1                           | 0.5        |
| Southern              | 256           | 196                                    | 76.6        | 1                           | 0.4        | 1                                    | 0.4        | 1                          | 0.4        | 1                           | 0.4        |

Table 8 (cont.)

| CIRCUIT<br>District   | §5K1.1<br>SUBSTANTIAL<br>ASSISTANCE |             | §5K3.1<br>EARLY<br>DISPOSITION |            | OTHER<br>GOV'T<br>SPONSORED |            | BELOW<br>RANGE<br>DEPARTURE |            | BELOW RANGE<br>DEPARTURE<br>W/BOOKER |            | BELOW<br>RANGE<br>DEPARTURE<br>W/BOOKER |             | REMAINING<br>BELOW<br>RANGE |            |
|-----------------------|-------------------------------------|-------------|--------------------------------|------------|-----------------------------|------------|-----------------------------|------------|--------------------------------------|------------|---|-------------|-----------------------------|------------|
|                       | n                                   | %           | n                              | %          | n                           | %          | n                           | %          | n                                    | %          | n                                       | %           | n                           | %          |
| <b>TOTAL</b>          | <b>7,524</b>                        | <b>14.7</b> | <b>3,208</b>                   | <b>6.2</b> | <b>1,481</b>                | <b>2.9</b> | <b>1,197</b>                | <b>2.3</b> | <b>487</b>                           | <b>0.9</b> | <b>3,199</b>                            | <b>6.2</b>  | <b>1,806</b>                | <b>3.5</b> |
| <b>D.C. CIRCUIT</b>   | <b>103</b>                          | <b>27.2</b> | <b>0</b>                       | <b>0.0</b> | <b>23</b>                   | <b>6.1</b> | <b>4</b>                    | <b>1.1</b> | <b>6</b>                             | <b>1.6</b> | <b>19</b>                               | <b>5.0</b>  | <b>16</b>                   | <b>4.2</b> |
| District of Columbia  | 103                                 | 27.2        | 0                              | 0.0        | 23                          | 6.1        | 4                           | 1.1        | 6                                    | 1.6        | 19                                      | 5.0         | 16                          | 4.2        |
| <b>FIRST CIRCUIT</b>  | <b>130</b>                          | <b>11.5</b> | <b>0</b>                       | <b>0.0</b> | <b>27</b>                   | <b>2.4</b> | <b>31</b>                   | <b>2.7</b> | <b>15</b>                            | <b>1.3</b> | <b>106</b>                              | <b>9.4</b>  | <b>75</b>                   | <b>6.6</b> |
| Maine                 | 32                                  | 20.0        | 0                              | 0.0        | 0                           | 0.0        | 3                           | 1.9        | 0                                    | 0.0        | 5                                       | 3.1         | 3                           | 1.9        |
| Massachusetts         | 32                                  | 9.5         | 0                              | 0.0        | 7                           | 2.1        | 21                          | 6.3        | 9                                    | 2.7        | 52                                      | 15.5        | 42                          | 12.5       |
| New Hampshire         | 34                                  | 25.8        | 0                              | 0.0        | 8                           | 6.1        | 3                           | 2.3        | 1                                    | 0.8        | 6                                       | 4.5         | 2                           | 1.5        |
| Puerto Rico           | 29                                  | 7.2         | 0                              | 0.0        | 9                           | 2.2        | 4                           | 1.0        | 2                                    | 0.5        | 34                                      | 8.4         | 17                          | 4.2        |
| Rhode Island          | 3                                   | 3.0         | 0                              | 0.0        | 3                           | 3.0        | 0                           | 0.0        | 3                                    | 3.0        | 9                                       | 9.0         | 11                          | 11.0       |
| <b>SECOND CIRCUIT</b> | <b>758</b>                          | <b>21.4</b> | <b>0</b>                       | <b>0.0</b> | <b>109</b>                  | <b>3.1</b> | <b>155</b>                  | <b>4.4</b> | <b>66</b>                            | <b>1.9</b> | <b>369</b>                              | <b>10.4</b> | <b>251</b>                  | <b>7.1</b> |
| Connecticut           | 77                                  | 24.7        | 0                              | 0.0        | 1                           | 0.3        | 31                          | 9.9        | 13                                   | 4.2        | 22                                      | 7.1         | 20                          | 6.4        |
| New York              |                                     |             |                                |            |                             |            |                             |            |                                      |            |   |             |                             |            |
| Eastern               | 219                                 | 22.6        | 0                              | 0.0        | 73                          | 7.5        | 66                          | 6.8        | 28                                   | 2.9        | 139                                     | 14.4        | 89                          | 9.2        |
| Northern              | 86                                  | 26.3        | 0                              | 0.0        | 2                           | 0.6        | 13                          | 4.0        | 3                                    | 0.9        | 13                                      | 4.0         | 19                          | 5.8        |
| Southern              | 177                                 | 13.6        | 0                              | 0.0        | 19                          | 1.5        | 37                          | 2.8        | 18                                   | 1.4        | 162                                     | 12.5        | 98                          | 7.5        |
| Western               | 152                                 | 31.7        | 0                              | 0.0        | 9                           | 1.9        | 3                           | 0.6        | 1                                    | 0.2        | 25                                      | 5.2         | 21                          | 4.4        |
| Vermont               | 47                                  | 31.3        | 0                              | 0.0        | 5                           | 3.3        | 5                           | 3.3        | 3                                    | 2.0        | 8                                       | 5.3         | 4                           | 2.7        |
| <b>THIRD CIRCUIT</b>  | <b>678</b>                          | <b>27.7</b> | <b>0</b>                       | <b>0.0</b> | <b>44</b>                   | <b>1.8</b> | <b>65</b>                   | <b>2.7</b> | <b>21</b>                            | <b>0.9</b> | <b>241</b>                              | <b>9.8</b>  | <b>116</b>                  | <b>4.7</b> |
| Delaware              | 6                                   | 4.6         | 0                              | 0.0        | 5                           | 3.8        | 9                           | 6.9        | 2                                    | 1.5        | 18                                      | 13.7        | 6                           | 4.6        |
| New Jersey            | 225                                 | 30.9        | 0                              | 0.0        | 7                           | 1.0        | 19                          | 2.6        | 8                                    | 1.1        | 71                                      | 9.7         | 24                          | 3.3        |
| Pennsylvania          |                                     |             |                                |            |                             |            |                             |            |                                      |            |   |             |                             |            |
| Eastern               | 232                                 | 31.7        | 0                              | 0.0        | 20                          | 2.7        | 12                          | 1.6        | 7                                    | 1.0        | 89                                      | 12.2        | 56                          | 7.7        |
| Middle                | 174                                 | 37.4        | 0                              | 0.0        | 10                          | 2.2        | 13                          | 2.8        | 2                                    | 0.4        | 38                                      | 8.2         | 6                           | 1.3        |
| Western               | 39                                  | 12.4        | 0                              | 0.0        | 2                           | 0.6        | 12                          | 3.8        | 2                                    | 0.6        | 23                                      | 7.3         | 17                          | 5.4        |
| Virgin Islands        | 2                                   | 2.5         | 0                              | 0.0        | 0                           | 0.0        | 0                           | 0.0        | 0                                    | 0.0        | 2                                       | 2.5         | 7                           | 8.9        |
| <b>FOURTH CIRCUIT</b> | <b>847</b>                          | <b>18.4</b> | <b>2</b>                       | <b>0.0</b> | <b>67</b>                   | <b>1.5</b> | <b>73</b>                   | <b>1.6</b> | <b>40</b>                            | <b>0.9</b> | <b>309</b>                              | <b>6.7</b>  | <b>150</b>                  | <b>3.3</b> |
| Maryland              | 141                                 | 26.8        | 0                              | 0.0        | 22                          | 4.2        | 19                          | 3.6        | 6                                    | 1.1        | 30                                      | 5.7         | 46                          | 8.7        |
| North Carolina        |                                     |             |                                |            |                             |            |                             |            |                                      |            |   |             |                             |            |
| Eastern               | 184                                 | 35.5        | 0                              | 0.0        | 6                           | 1.2        | 7                           | 1.4        | 5                                    | 1.0        | 19                                      | 3.7         | 15                          | 2.9        |
| Middle                | 45                                  | 11.5        | 0                              | 0.0        | 3                           | 0.8        | 4                           | 1.0        | 3                                    | 0.8        | 21                                      | 5.3         | 16                          | 4.1        |
| Western               | 111                                 | 26.2        | 0                              | 0.0        | 11                          | 2.6        | 7                           | 1.7        | 7                                    | 1.7        | 25                                      | 5.9         | 4                           | 0.9        |
| South Carolina        | 132                                 | 17.3        | 2                              | 0.3        | 8                           | 1.1        | 13                          | 1.7        | 3                                    | 0.4        | 58                                      | 7.6         | 12                          | 1.6        |
| Virginia              |                                     |             |                                |            |                             |            |                             |            |                                      |            |   |             |                             |            |
| Eastern               | 59                                  | 5.7         | 0                              | 0.0        | 9                           | 0.9        | 11                          | 1.1        | 4                                    | 0.4        | 101                                     | 9.7         | 36                          | 3.5        |
| Western               | 123                                 | 26.3        | 0                              | 0.0        | 6                           | 1.3        | 5                           | 1.1        | 4                                    | 0.9        | 30                                      | 6.4         | 13                          | 2.8        |
| West Virginia         |                                     |             |                                |            |                             |            |                             |            |                                      |            |   |             |                             |            |
| Northern              | 22                                  | 10.3        | 0                              | 0.0        | 1                           | 0.5        | 4                           | 1.9        | 3                                    | 1.4        | 13                                      | 6.1         | 3                           | 1.4        |
| Southern              | 30                                  | 11.7        | 0                              | 0.0        | 1                           | 0.4        | 3                           | 1.2        | 5                                    | 2.0        | 12                                      | 4.7         | 5                           | 2.0        |

| CIRCUIT<br>District    | TOTAL         | SENTENCED<br>WITHIN<br>GUIDELINE RANGE |             | ABOVE<br>RANGE<br>DEPARTURE |            | ABOVE RANGE<br>DEPARTURE<br>W/BOOKER |            | ABOVE<br>RANGE<br>W/BOOKER |            | REMAINING<br>ABOVE<br>RANGE |            |
|------------------------|---------------|--|-------------|-----------------------------|------------|--------------------------------------|------------|----------------------------|------------|-----------------------------|------------|
|                        |               | n                                      | %           | n                           | %          | n                                    | %          | n                          | %          | n                           | %          |
| <b>FIFTH CIRCUIT</b>   | <b>11,250</b> | <b>8,039</b>                           | <b>71.5</b> | <b>19</b>                   | <b>0.2</b> | <b>11</b>                            | <b>0.1</b> | <b>96</b>                  | <b>0.9</b> | <b>78</b>                   | <b>0.7</b> |
| <b>Louisiana</b>       |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                | 291           | 213                                    | 73.2        | 3                           | 1.0        | 2                                    | 0.7        | 2                          | 0.7        | 5                           | 1.7        |
| Middle                 | 135           | 80                                     | 59.3        | 0                           | 0.0        | 1                                    | 0.7        | 1                          | 0.7        | 8                           | 5.9        |
| Western                | 296           | 204                                    | 68.9        | 1                           | 0.3        | 0                                    | 0.0        | 9                          | 3.0        | 9                           | 3.0        |
| <b>Mississippi</b>     |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Northern               | 151           | 95                                     | 62.9        | 0                           | 0.0        | 1                                    | 0.7        | 4                          | 2.6        | 2                           | 1.3        |
| Southern               | 249           | 197                                    | 79.1        | 0                           | 0.0        | 0                                    | 0.0        | 3                          | 1.2        | 2                           | 0.8        |
| <b>Texas</b>           |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                | 545           | 428                                    | 78.5        | 0                           | 0.0        | 1                                    | 0.2        | 6                          | 1.1        | 4                           | 0.7        |
| Northern               | 652           | 477                                    | 73.2        | 1                           | 0.2        | 1                                    | 0.2        | 19                         | 2.9        | 12                          | 1.8        |
| Southern               | 4,783         | 3,099                                  | 64.8        | 11                          | 0.2        | 3                                    | 0.1        | 17                         | 0.4        | 17                          | 0.4        |
| Western                | 4,148         | 3,246                                  | 78.3        | 3                           | 0.1        | 2                                    | 0.0        | 35                         | 0.8        | 19                          | 0.5        |
| <b>SIXTH CIRCUIT</b>   | <b>3,903</b>  | <b>2,252</b>                           | <b>57.7</b> | <b>6</b>                    | <b>0.2</b> | <b>1</b>                             | <b>0.0</b> | <b>29</b>                  | <b>0.7</b> | <b>19</b>                   | <b>0.5</b> |
| <b>Kentucky</b>        |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                | 360           | 180                                    | 50.0        | 0                           | 0.0        | 0                                    | 0.0        | 6                          | 1.7        | 4                           | 1.1        |
| Western                | 288           | 205                                    | 71.2        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 0                           | 0.0        |
| <b>Michigan</b>        |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                | 537           | 291                                    | 54.2        | 0                           | 0.0        | 1                                    | 0.2        | 2                          | 0.4        | 4                           | 0.7        |
| Western                | 281           | 192                                    | 68.3        | 1                           | 0.4        | 0                                    | 0.0        | 2                          | 0.7        | 3                           | 1.1        |
| <b>Ohio</b>            |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Northern               | 763           | 438                                    | 57.4        | 1                           | 0.1        | 0                                    | 0.0        | 3                          | 0.4        | 1                           | 0.1        |
| Southern               | 463           | 221                                    | 47.7        | 0                           | 0.0        | 0                                    | 0.0        | 5                          | 1.1        | 1                           | 0.2        |
| <b>Tennessee</b>       |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                | 479           | 311                                    | 64.9        | 0                           | 0.0        | 0                                    | 0.0        | 6                          | 1.3        | 1                           | 0.2        |
| Middle                 | 275           | 159                                    | 57.8        | 1                           | 0.4        | 0                                    | 0.0        | 2                          | 0.7        | 1                           | 0.4        |
| Western                | 457           | 255                                    | 55.8        | 3                           | 0.7        | 0                                    | 0.0        | 3                          | 0.7        | 4                           | 0.9        |
| <b>SEVENTH CIRCUIT</b> | <b>2,260</b>  | <b>1,403</b>                           | <b>62.1</b> | <b>5</b>                    | <b>0.2</b> | <b>3</b>                             | <b>0.1</b> | <b>9</b>                   | <b>0.4</b> | <b>18</b>                   | <b>0.8</b> |
| <b>Illinois</b>        |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Central                | 268           | 143                                    | 53.4        | 1                           | 0.4        | 0                                    | 0.0        | 1                          | 0.4        | 1                           | 0.4        |
| Northern               | 845           | 492                                    | 58.2        | 1                           | 0.1        | 0                                    | 0.0        | 2                          | 0.2        | 4                           | 0.5        |
| Southern               | 213           | 173                                    | 81.2        | 1                           | 0.5        | 1                                    | 0.5        | 2                          | 0.9        | 1                           | 0.5        |
| <b>Indiana</b>         |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Northern               | 300           | 200                                    | 66.7        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 2                           | 0.7        |
| Southern               | 213           | 132                                    | 62.0        | 2                           | 0.9        | 0                                    | 0.0        | 1                          | 0.5        | 5                           | 2.3        |
| <b>Wisconsin</b>       |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                | 287           | 152                                    | 53.0        | 0                           | 0.0        | 2                                    | 0.7        | 2                          | 0.7        | 4                           | 1.4        |
| Western                | 134           | 111                                    | 82.8        | 0                           | 0.0        | 0                                    | 0.0        | 1                          | 0.7        | 1                           | 0.7        |
| <b>EIGHTH CIRCUIT</b>  | <b>3,564</b>  | <b>2,283</b>                           | <b>64.1</b> | <b>2</b>                    | <b>0.1</b> | <b>4</b>                             | <b>0.1</b> | <b>31</b>                  | <b>0.9</b> | <b>28</b>                   | <b>0.8</b> |
| <b>Arkansas</b>        |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                | 200           | 132                                    | 66.0        | 1                           | 0.5        | 0                                    | 0.0        | 2                          | 1.0        | 0                           | 0.0        |
| Western                | 137           | 96                                     | 70.1        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 0                           | 0.0        |
| <b>Iowa</b>            |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Northern               | 243           | 173                                    | 71.2        | 0                           | 0.0        | 0                                    | 0.0        | 7                          | 2.9        | 2                           | 0.8        |
| Southern               | 275           | 128                                    | 46.5        | 0                           | 0.0        | 0                                    | 0.0        | 2                          | 0.7        | 2                           | 0.7        |
| Minnesota              | 375           | 197                                    | 52.5        | 0                           | 0.0        | 0                                    | 0.0        | 1                          | 0.3        | 1                           | 0.3        |
| <b>Missouri</b>        |               |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                | 723           | 473                                    | 65.4        | 1                           | 0.1        | 0                                    | 0.0        | 5                          | 0.7        | 5                           | 0.7        |
| Western                | 552           | 363                                    | 65.8        | 0                           | 0.0        | 0                                    | 0.0        | 4                          | 0.7        | 8                           | 1.4        |
| Nebraska               | 583           | 371                                    | 63.6        | 0                           | 0.0        | 0                                    | 0.0        | 3                          | 0.5        | 2                           | 0.3        |
| North Dakota           | 164           | 116                                    | 70.7        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 0                           | 0.0        |
| South Dakota           | 312           | 234                                    | 75.0        | 0                           | 0.0        | 4                                    | 1.3        | 7                          | 2.2        | 8                           | 2.6        |

| CIRCUIT<br>District    | §5K1.1<br>SUBSTANTIAL<br>ASSISTANCE |             | §5K3.1<br>EARLY<br>DISPOSITION |            | OTHER<br>GOV'T<br>SPONSORED |            | BELOW<br>RANGE<br>DEPARTURE |            | BELOW RANGE<br>DEPARTURE<br>W/BOOKER |            | BELOW RANGE<br>DEPARTURE<br>W/BOOKER |            | REMAINING<br>BELOW<br>RANGE |            |
|------------------------|-------------------------------------|-------------|--------------------------------|------------|-----------------------------|------------|-----------------------------|------------|--------------------------------------|------------|--------------------------------------|------------|-----------------------------|------------|
|                        | n                                   | %           | n                              | %          | n                           | %          | n                           | %          | n                                    | %          | n                                    | %          | n                           | %          |
| <b>FIFTH CIRCUIT</b>   | <b>922</b>                          | <b>8.2</b>  | <b>870</b>                     | <b>7.7</b> | <b>215</b>                  | <b>1.9</b> | <b>200</b>                  | <b>1.8</b> | <b>83</b>                            | <b>0.7</b> | <b>481</b>                           | <b>4.3</b> | <b>236</b>                  | <b>2.1</b> |
| <b>Louisiana</b>       |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Eastern                | 38                                  | 13.1        | 0                              | 0.0        | 7                           | 2.4        | 5                           | 1.7        | 2                                    | 0.7        | 6                                    | 2.1        | 8                           | 2.7        |
| Middle                 | 34                                  | 25.2        | 0                              | 0.0        | 2                           | 1.5        | 1                           | 0.7        | 0                                    | 0.0        | 6                                    | 4.4        | 2                           | 1.5        |
| Western                | 29                                  | 9.8         | 0                              | 0.0        | 1                           | 0.3        | 6                           | 2.0        | 1                                    | 0.3        | 18                                   | 6.1        | 18                          | 6.1        |
| <b>Mississippi</b>     |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Northern               | 25                                  | 16.6        | 0                              | 0.0        | 19                          | 12.6       | 0                           | 0.0        | 0                                    | 0.0        | 3                                    | 2.0        | 2                           | 1.3        |
| Southern               | 27                                  | 10.8        | 0                              | 0.0        | 1                           | 0.4        | 5                           | 2.0        | 2                                    | 0.8        | 2                                    | 0.8        | 10                          | 4.0        |
| <b>Texas</b>           |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Eastern                | 60                                  | 11.0        | 0                              | 0.0        | 10                          | 1.8        | 7                           | 1.3        | 5                                    | 0.9        | 13                                   | 2.4        | 11                          | 2.0        |
| Northern               | 74                                  | 11.3        | 0                              | 0.0        | 6                           | 0.9        | 7                           | 1.1        | 5                                    | 0.8        | 38                                   | 5.8        | 12                          | 1.8        |
| Southern               | 318                                 | 6.6         | 712                            | 14.9       | 125                         | 2.6        | 121                         | 2.5        | 41                                   | 0.9        | 237                                  | 5.0        | 82                          | 1.7        |
| Western                | 317                                 | 7.6         | 158                            | 3.8        | 44                          | 1.1        | 48                          | 1.2        | 27                                   | 0.7        | 158                                  | 3.8        | 91                          | 2.2        |
| <b>SIXTH CIRCUIT</b>   | <b>974</b>                          | <b>25.0</b> | <b>0</b>                       | <b>0.0</b> | <b>74</b>                   | <b>1.9</b> | <b>76</b>                   | <b>1.9</b> | <b>44</b>                            | <b>1.1</b> | <b>285</b>                           | <b>7.3</b> | <b>143</b>                  | <b>3.7</b> |
| <b>Kentucky</b>        |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Eastern                | 137                                 | 38.1        | 0                              | 0.0        | 4                           | 1.1        | 1                           | 0.3        | 1                                    | 0.3        | 20                                   | 5.6        | 7                           | 1.9        |
| Western                | 59                                  | 20.5        | 0                              | 0.0        | 2                           | 0.7        | 3                           | 1.0        | 1                                    | 0.3        | 12                                   | 4.2        | 6                           | 2.1        |
| <b>Michigan</b>        |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Eastern                | 140                                 | 26.1        | 0                              | 0.0        | 15                          | 2.8        | 11                          | 2.0        | 10                                   | 1.9        | 45                                   | 8.4        | 18                          | 3.4        |
| Western                | 46                                  | 16.4        | 0                              | 0.0        | 3                           | 1.1        | 4                           | 1.4        | 4                                    | 1.4        | 17                                   | 6.0        | 9                           | 3.2        |
| <b>Ohio</b>            |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Northern               | 172                                 | 22.5        | 0                              | 0.0        | 10                          | 1.3        | 31                          | 4.1        | 7                                    | 0.9        | 69                                   | 9.0        | 31                          | 4.1        |
| Southern               | 148                                 | 32.0        | 0                              | 0.0        | 3                           | 0.6        | 13                          | 2.8        | 6                                    | 1.3        | 46                                   | 9.9        | 20                          | 4.3        |
| <b>Tennessee</b>       |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Eastern                | 112                                 | 23.4        | 0                              | 0.0        | 5                           | 1.0        | 0                           | 0.0        | 3                                    | 0.6        | 31                                   | 6.5        | 10                          | 2.1        |
| Middle                 | 54                                  | 19.6        | 0                              | 0.0        | 9                           | 3.3        | 6                           | 2.2        | 8                                    | 2.9        | 13                                   | 4.7        | 22                          | 8.0        |
| Western                | 106                                 | 23.2        | 0                              | 0.0        | 23                          | 5.0        | 7                           | 1.5        | 4                                    | 0.9        | 32                                   | 7.0        | 20                          | 4.4        |
| <b>SEVENTH CIRCUIT</b> | <b>395</b>                          | <b>17.5</b> | <b>1</b>                       | <b>0.0</b> | <b>54</b>                   | <b>2.4</b> | <b>54</b>                   | <b>2.4</b> | <b>31</b>                            | <b>1.4</b> | <b>192</b>                           | <b>8.5</b> | <b>95</b>                   | <b>4.2</b> |
| <b>Illinois</b>        |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Central                | 58                                  | 21.6        | 0                              | 0.0        | 2                           | 0.7        | 9                           | 3.4        | 2                                    | 0.7        | 42                                   | 15.7       | 9                           | 3.4        |
| Northern               | 169                                 | 20.0        | 0                              | 0.0        | 26                          | 3.1        | 27                          | 3.2        | 16                                   | 1.9        | 60                                   | 7.1        | 48                          | 5.7        |
| Southern               | 11                                  | 5.2         | 0                              | 0.0        | 2                           | 0.9        | 1                           | 0.5        | 4                                    | 1.9        | 13                                   | 6.1        | 4                           | 1.9        |
| <b>Indiana</b>         |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Northern               | 69                                  | 23.0        | 0                              | 0.0        | 7                           | 2.3        | 8                           | 2.7        | 1                                    | 0.3        | 6                                    | 2.0        | 7                           | 2.3        |
| Southern               | 46                                  | 21.6        | 0                              | 0.0        | 9                           | 4.2        | 4                           | 1.9        | 0                                    | 0.0        | 11                                   | 5.2        | 3                           | 1.4        |
| <b>Wisconsin</b>       |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Eastern                | 36                                  | 12.5        | 1                              | 0.3        | 7                           | 2.4        | 4                           | 1.4        | 6                                    | 2.1        | 52                                   | 18.1       | 21                          | 7.3        |
| Western                | 6                                   | 4.5         | 0                              | 0.0        | 1                           | 0.7        | 1                           | 0.7        | 2                                    | 1.5        | 8                                    | 6.0        | 3                           | 2.2        |
| <b>EIGHTH CIRCUIT</b>  | <b>512</b>                          | <b>14.4</b> | <b>26</b>                      | <b>0.7</b> | <b>125</b>                  | <b>3.5</b> | <b>83</b>                   | <b>2.3</b> | <b>38</b>                            | <b>1.1</b> | <b>285</b>                           | <b>8.0</b> | <b>147</b>                  | <b>4.1</b> |
| <b>Arkansas</b>        |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Eastern                | 28                                  | 14.0        | 0                              | 0.0        | 3                           | 1.5        | 6                           | 3.0        | 0                                    | 0.0        | 13                                   | 6.5        | 15                          | 7.5        |
| Western                | 25                                  | 18.2        | 0                              | 0.0        | 2                           | 1.5        | 1                           | 0.7        | 1                                    | 0.7        | 9                                    | 6.6        | 3                           | 2.2        |
| <b>Iowa</b>            |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Northern               | 31                                  | 12.8        | 0                              | 0.0        | 5                           | 2.1        | 1                           | 0.4        | 0                                    | 0.0        | 24                                   | 9.9        | 0                           | 0.0        |
| Southern               | 60                                  | 21.8        | 0                              | 0.0        | 2                           | 0.7        | 3                           | 1.1        | 5                                    | 1.8        | 58                                   | 21.1       | 15                          | 5.5        |
| <b>Minnesota</b>       |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
|                        | 72                                  | 19.2        | 0                              | 0.0        | 8                           | 2.1        | 17                          | 4.5        | 7                                    | 1.9        | 33                                   | 8.8        | 39                          | 10.4       |
| <b>Missouri</b>        |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
| Eastern                | 139                                 | 19.2        | 0                              | 0.0        | 6                           | 0.8        | 21                          | 2.9        | 8                                    | 1.1        | 45                                   | 6.2        | 20                          | 2.8        |
| Western                | 101                                 | 18.3        | 0                              | 0.0        | 4                           | 0.7        | 3                           | 0.5        | 1                                    | 0.2        | 36                                   | 6.5        | 32                          | 5.8        |
| <b>Nebraska</b>        |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
|                        | 23                                  | 3.9         | 17                             | 2.9        | 87                          | 14.9       | 22                          | 3.8        | 11                                   | 1.9        | 36                                   | 6.2        | 11                          | 1.9        |
| <b>North Dakota</b>    |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
|                        | 22                                  | 13.4        | 9                              | 5.5        | 2                           | 1.2        | 3                           | 1.8        | 2                                    | 1.2        | 5                                    | 3.0        | 5                           | 3.0        |
| <b>South Dakota</b>    |                                     |             |                                |            |                             |            |                             |            |                                      |            |                                      |            |                             |            |
|                        | 11                                  | 3.5         | 0                              | 0.0        | 6                           | 1.9        | 6                           | 1.9        | 3                                    | 1.0        | 26                                   | 8.3        | 7                           | 2.2        |

| CIRCUIT<br>District      | TOTAL        | SENTENCED<br>WITHIN<br>GUIDELINE RANGE |             | ABOVE<br>RANGE<br>DEPARTURE |            | ABOVE RANGE<br>DEPARTURE<br>W/BOOKER |            | ABOVE<br>RANGE<br>W/BOOKER |            | REMAINING<br>ABOVE<br>RANGE |            |
|--------------------------|--------------|--|-------------|-----------------------------|------------|--------------------------------------|------------|----------------------------|------------|-----------------------------|------------|
|                          |              | n                                      | %           | n                           | %          | n                                    | %          | n                          | %          | n                           | %          |
| <b>NINTH CIRCUIT</b>     | <b>9,370</b> | <b>4,659</b>                           | <b>49.7</b> | <b>33</b>                   | <b>0.4</b> | <b>1</b>                             | <b>0.0</b> | <b>35</b>                  | <b>0.4</b> | <b>86</b>                   | <b>0.9</b> |
| Alaska                   | 168          | 97                                     | 57.7        | 0                           | 0.0        | 0                                    | 0.0        | 2                          | 1.2        | 2                           | 1.2        |
| Arizona                  | 2,827        | 823                                    | 29.1        | 24                          | 0.8        | 0                                    | 0.0        | 3                          | 0.1        | 35                          | 1.2        |
| California               |              |  |             |                             |            |                                      |            |                            |            |                             |            |
| Central                  | 900          | 662                                    | 73.6        | 0                           | 0.0        | 0                                    | 0.0        | 3                          | 0.3        | 1                           | 0.1        |
| Eastern                  | 673          | 353                                    | 52.5        | 1                           | 0.1        | 0                                    | 0.0        | 2                          | 0.3        | 3                           | 0.4        |
| Northern                 | 535          | 334                                    | 62.4        | 0                           | 0.0        | 0                                    | 0.0        | 2                          | 0.4        | 6                           | 1.1        |
| Southern                 | 1,685        | 966                                    | 57.3        | 2                           | 0.1        | 0                                    | 0.0        | 3                          | 0.2        | 7                           | 0.4        |
| Guam                     | 89           | 44                                     | 49.4        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 0                           | 0.0        |
| Hawaii                   | 352          | 167                                    | 47.4        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 6                           | 1.7        |
| Idaho                    | 145          | 58                                     | 40.0        | 0                           | 0.0        | 1                                    | 0.7        | 1                          | 0.7        | 1                           | 0.7        |
| Montana                  | 269          | 207                                    | 77.0        | 2                           | 0.7        | 0                                    | 0.0        | 6                          | 2.2        | 3                           | 1.1        |
| Nevada                   | 428          | 306                                    | 71.5        | 1                           | 0.2        | 0                                    | 0.0        | 5                          | 1.2        | 4                           | 0.9        |
| Northern Mariana Islands | 24           | 19                                     | 79.2        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 1                           | 4.2        |
| Oregon                   | 423          | 227                                    | 53.7        | 1                           | 0.2        | 0                                    | 0.0        | 4                          | 0.9        | 2                           | 0.5        |
| Washington               |              |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                  | 309          | 190                                    | 61.5        | 1                           | 0.3        | 0                                    | 0.0        | 4                          | 1.3        | 5                           | 1.6        |
| Western                  | 543          | 206                                    | 37.9        | 1                           | 0.2        | 0                                    | 0.0        | 0                          | 0.0        | 10                          | 1.8        |
| <b>TENTH CIRCUIT</b>     | <b>4,069</b> | <b>2,692</b>                           | <b>66.2</b> | <b>5</b>                    | <b>0.1</b> | <b>1</b>                             | <b>0.0</b> | <b>20</b>                  | <b>0.5</b> | <b>14</b>                   | <b>0.3</b> |
| Colorado                 | 422          | 218                                    | 51.7        | 2                           | 0.5        | 0                                    | 0.0        | 5                          | 1.2        | 1                           | 0.2        |
| Kansas                   | 467          | 309                                    | 66.2        | 1                           | 0.2        | 1                                    | 0.2        | 2                          | 0.4        | 2                           | 0.4        |
| New Mexico               | 1,892        | 1,232                                  | 65.1        | 1                           | 0.1        | 0                                    | 0.0        | 2                          | 0.1        | 6                           | 0.3        |
| Oklahoma                 |              |  |             |                             |            |                                      |            |                            |            |                             |            |
| Eastern                  | 69           | 63                                     | 91.3        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 0                           | 0.0        |
| Northern                 | 149          | 119                                    | 79.9        | 1                           | 0.7        | 0                                    | 0.0        | 4                          | 2.7        | 0                           | 0.0        |
| Western                  | 168          | 124                                    | 73.8        | 0                           | 0.0        | 0                                    | 0.0        | 5                          | 3.0        | 1                           | 0.6        |
| Utah                     | 684          | 489                                    | 71.5        | 0                           | 0.0        | 0                                    | 0.0        | 2                          | 0.3        | 1                           | 0.1        |
| Wyoming                  | 218          | 138                                    | 63.3        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 3                           | 1.4        |
| <b>ELEVENTH CIRCUIT</b>  | <b>4,836</b> | <b>3,294</b>                           | <b>68.1</b> | <b>12</b>                   | <b>0.2</b> | <b>7</b>                             | <b>0.1</b> | <b>41</b>                  | <b>0.8</b> | <b>30</b>                   | <b>0.6</b> |
| Alabama                  |              |  |             |                             |            |                                      |            |                            |            |                             |            |
| Middle                   | 160          | 93                                     | 58.1        | 1                           | 0.6        | 0                                    | 0.0        | 1                          | 0.6        | 0                           | 0.0        |
| Northern                 | 319          | 189                                    | 59.2        | 2                           | 0.6        | 0                                    | 0.0        | 10                         | 3.1        | 0                           | 0.0        |
| Southern                 | 244          | 158                                    | 64.8        | 0                           | 0.0        | 0                                    | 0.0        | 3                          | 1.2        | 2                           | 0.8        |
| Florida                  |              |  |             |                             |            |                                      |            |                            |            |                             |            |
| Middle                   | 1,296        | 835                                    | 64.4        | 0                           | 0.0        | 2                                    | 0.2        | 12                         | 0.9        | 3                           | 0.2        |
| Northern                 | 232          | 162                                    | 69.8        | 0                           | 0.0        | 3                                    | 1.3        | 2                          | 0.9        | 4                           | 1.7        |
| Southern                 | 1,573        | 1,185                                  | 75.3        | 4                           | 0.3        | 1                                    | 0.1        | 9                          | 0.6        | 4                           | 0.3        |
| Georgia                  |              |  |             |                             |            |                                      |            |                            |            |                             |            |
| Middle                   | 271          | 183                                    | 67.5        | 1                           | 0.4        | 0                                    | 0.0        | 1                          | 0.4        | 5                           | 1.8        |
| Northern                 | 536          | 348                                    | 64.9        | 1                           | 0.2        | 0                                    | 0.0        | 1                          | 0.2        | 5                           | 0.9        |
| Southern                 | 205          | 141                                    | 68.8        | 3                           | 1.5        | 1                                    | 0.5        | 2                          | 1.0        | 7                           | 3.4        |



| CIRCUIT<br>District      | \$5K1.1<br>SUBSTANTIAL<br>ASSISTANCE |             | \$5K3.1<br>EARLY<br>DISPOSITION |             | OTHER<br>GOV'T<br>SPONSORED |            | BELOW<br>RANGE<br>DEPARTURE |            | BELOW RANGE<br>DEPARTURE<br>W/BOOKER |            | BELOW<br>RANGE<br>W/BOOKER |            | REMAINING<br>BELOW<br>RANGE |            |
|--------------------------|--------------------------------------|-------------|---------------------------------|-------------|-----------------------------|------------|-----------------------------|------------|--------------------------------------|------------|----------------------------|------------|-----------------------------|------------|
|                          | n                                    | %           | n                               | %           | n                           | %          | n                           | %          | n                                    | %          | n                          | %          | n                           | %          |
| <b>NINTH CIRCUIT</b>     | <b>970</b>                           | <b>10.4</b> | <b>2,016</b>                    | <b>21.5</b> | <b>413</b>                  | <b>4.4</b> | <b>277</b>                  | <b>3.0</b> | <b>67</b>                            | <b>0.7</b> | <b>468</b>                 | <b>5.0</b> | <b>345</b>                  | <b>3.7</b> |
| Alaska                   | 26                                   | 15.5        | 0                               | 0.0         | 4                           | 2.4        | 2                           | 1.2        | 0                                    | 0.0        | 24                         | 14.3       | 11                          | 6.5        |
| Arizona                  | 179                                  | 6.3         | 1,480                           | 52.4        | 102                         | 3.6        | 79                          | 2.8        | 8                                    | 0.3        | 51                         | 1.8        | 43                          | 1.5        |
| California               |                                      |             |                                 |             |                             |            |                             |            |                                      |            |                            |            |                             |            |
| Central                  | 60                                   | 6.7         | 5                               | 0.6         | 13                          | 1.4        | 28                          | 3.1        | 15                                   | 1.7        | 64                         | 7.1        | 49                          | 5.4        |
| Eastern                  | 107                                  | 15.9        | 126                             | 18.7        | 11                          | 1.6        | 14                          | 2.1        | 3                                    | 0.4        | 24                         | 3.6        | 29                          | 4.3        |
| Northern                 | 71                                   | 13.3        | 6                               | 1.1         | 36                          | 6.7        | 14                          | 2.6        | 4                                    | 0.7        | 36                         | 6.7        | 26                          | 4.9        |
| Southern                 | 98                                   | 5.8         | 366                             | 21.7        | 48                          | 2.8        | 75                          | 4.5        | 11                                   | 0.7        | 60                         | 3.6        | 49                          | 2.9        |
| Guam                     | 35                                   | 39.3        | 0                               | 0.0         | 0                           | 0.0        | 5                           | 5.6        | 0                                    | 0.0        | 2                          | 2.2        | 3                           | 3.4        |
| Hawaii                   | 104                                  | 29.5        | 0                               | 0.0         | 5                           | 1.4        | 12                          | 3.4        | 3                                    | 0.9        | 19                         | 5.4        | 36                          | 10.2       |
| Idaho                    | 44                                   | 30.3        | 14                              | 9.7         | 4                           | 2.8        | 4                           | 2.8        | 1                                    | 0.7        | 12                         | 8.3        | 5                           | 3.4        |
| Montana                  | 27                                   | 10.0        | 0                               | 0.0         | 1                           | 0.4        | 7                           | 2.6        | 2                                    | 0.7        | 10                         | 3.7        | 4                           | 1.5        |
| Nevada                   | 30                                   | 7.0         | 1                               | 0.2         | 27                          | 6.3        | 7                           | 1.6        | 3                                    | 0.7        | 27                         | 6.3        | 17                          | 4.0        |
| Northern Mariana Islands | 3                                    | 12.5        | 0                               | 0.0         | 1                           | 4.2        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 0                           | 0.0        |
| Oregon                   | 76                                   | 18.0        | 9                               | 2.1         | 7                           | 1.7        | 12                          | 2.8        | 5                                    | 1.2        | 57                         | 13.5       | 23                          | 5.4        |
| Washington               |                                      |             |                                 |             |                             |            |                             |            |                                      |            |                            |            |                             |            |
| Eastern                  | 37                                   | 12.0        | 0                               | 0.0         | 22                          | 7.1        | 7                           | 2.3        | 2                                    | 0.6        | 28                         | 9.1        | 13                          | 4.2        |
| Western                  | 73                                   | 13.4        | 9                               | 1.7         | 132                         | 24.3       | 11                          | 2.0        | 10                                   | 1.8        | 54                         | 9.9        | 37                          | 6.8        |
| <b>TENTH CIRCUIT</b>     | <b>387</b>                           | <b>9.5</b>  | <b>291</b>                      | <b>7.2</b>  | <b>272</b>                  | <b>6.7</b> | <b>79</b>                   | <b>1.9</b> | <b>33</b>                            | <b>0.8</b> | <b>178</b>                 | <b>4.4</b> | <b>97</b>                   | <b>2.4</b> |
| Colorado                 | 108                                  | 25.6        | 0                               | 0.0         | 11                          | 2.6        | 16                          | 3.8        | 4                                    | 0.9        | 42                         | 10.0       | 15                          | 3.6        |
| Kansas                   | 76                                   | 16.3        | 0                               | 0.0         | 21                          | 4.5        | 7                           | 1.5        | 3                                    | 0.6        | 38                         | 8.1        | 7                           | 1.5        |
| New Mexico               | 65                                   | 3.4         | 291                             | 15.4        | 194                         | 10.3       | 28                          | 1.5        | 10                                   | 0.5        | 38                         | 2.0        | 25                          | 1.3        |
| Oklahoma                 |                                      |             |                                 |             |                             |            |                             |            |                                      |            |                            |            |                             |            |
| Eastern                  | 5                                    | 7.2         | 0                               | 0.0         | 0                           | 0.0        | 0                           | 0.0        | 1                                    | 1.4        | 0                          | 0.0        | 0                           | 0.0        |
| Northern                 | 17                                   | 11.4        | 0                               | 0.0         | 2                           | 1.3        | 0                           | 0.0        | 0                                    | 0.0        | 4                          | 2.7        | 2                           | 1.3        |
| Western                  | 16                                   | 9.5         | 0                               | 0.0         | 2                           | 1.2        | 4                           | 2.4        | 2                                    | 1.2        | 10                         | 6.0        | 4                           | 2.4        |
| Utah                     | 66                                   | 9.6         | 0                               | 0.0         | 18                          | 2.6        | 20                          | 2.9        | 12                                   | 1.8        | 37                         | 5.4        | 39                          | 5.7        |
| Wyoming                  | 34                                   | 15.6        | 0                               | 0.0         | 24                          | 11.0       | 4                           | 1.8        | 1                                    | 0.5        | 9                          | 4.1        | 5                           | 2.3        |
| <b>ELEVENTH CIRCUIT</b>  | <b>848</b>                           | <b>17.5</b> | <b>2</b>                        | <b>0.0</b>  | <b>58</b>                   | <b>1.2</b> | <b>100</b>                  | <b>2.1</b> | <b>43</b>                            | <b>0.9</b> | <b>266</b>                 | <b>5.5</b> | <b>135</b>                  | <b>2.8</b> |
| Alabama                  |                                      |             |                                 |             |                             |            |                             |            |                                      |            |                            |            |                             |            |
| Middle                   | 55                                   | 34.4        | 0                               | 0.0         | 3                           | 1.9        | 1                           | 0.6        | 1                                    | 0.6        | 2                          | 1.3        | 3                           | 1.9        |
| Northern                 | 83                                   | 26.0        | 0                               | 0.0         | 0                           | 0.0        | 2                           | 0.6        | 3                                    | 0.9        | 24                         | 7.5        | 6                           | 1.9        |
| Southern                 | 58                                   | 23.8        | 0                               | 0.0         | 3                           | 1.2        | 5                           | 2.0        | 1                                    | 0.4        | 12                         | 4.9        | 2                           | 0.8        |
| Florida                  |                                      |             |                                 |             |                             |            |                             |            |                                      |            |                            |            |                             |            |
| Middle                   | 294                                  | 22.7        | 1                               | 0.1         | 6                           | 0.5        | 34                          | 2.6        | 12                                   | 0.9        | 86                         | 6.6        | 11                          | 0.8        |
| Northern                 | 43                                   | 18.5        | 0                               | 0.0         | 3                           | 1.3        | 2                           | 0.9        | 2                                    | 0.9        | 4                          | 1.7        | 7                           | 3.0        |
| Southern                 | 149                                  | 9.5         | 0                               | 0.0         | 20                          | 1.3        | 30                          | 1.9        | 12                                   | 0.8        | 92                         | 5.8        | 67                          | 4.3        |
| Georgia                  |                                      |             |                                 |             |                             |            |                             |            |                                      |            |                            |            |                             |            |
| Middle                   | 61                                   | 22.5        | 0                               | 0.0         | 2                           | 0.7        | 1                           | 0.4        | 0                                    | 0.0        | 8                          | 3.0        | 9                           | 3.3        |
| Northern                 | 75                                   | 14.0        | 1                               | 0.2         | 19                          | 3.5        | 16                          | 3.0        | 11                                   | 2.1        | 31                         | 5.8        | 28                          | 5.2        |
| Southern                 | 30                                   | 14.6        | 0                               | 0.0         | 2                           | 1.0        | 9                           | 4.4        | 1                                    | 0.5        | 7                          | 3.4        | 2                           | 1.0        |

Of the 53,674 guideline cases, 2,328 were excluded due to missing information needed to determine the relationship between the sentence imposed 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: Central California (35.7%), Western Oklahoma (34.4%), Southern Georgia (29.6%), Eastern Virginia (19.5%), Middle Georgia (15.0%), Western Washington (13.9%), Arizona (10.5%), Middle Tennessee (9.2%), Northern Alabama (8.1%), Western Kentucky (7.1%), Maryland (6.6%), Eastern Arkansas (6.5%), Northern New York (6.0%), Southern Florida (6.0%), Massachusetts (5.9%), Southern California (5.8%), Oregon (5.4%), and Colorado (5.2%).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Post-Booker Only Cases (January 12, 2005, through September 30, 2005).

**Table 9**

**GUIDELINE DEPARTURE RATE BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2005, Post-Booker (January 12, 2005, through September 30, 2005)**

**National**

| PRIMARY OFFENSE              | TOTAL         | WITHIN<br>GUIDELINE<br>RANGE |             | ABOVE<br>RANGE<br>DEPARTURE <sup>2</sup> |            | ABOVE RANGE<br>DEPARTURE<br>W/BOOKER <sup>2</sup> |            | ABOVE<br>RANGE<br>W/BOOKER <sup>2</sup> |            | REMAINING<br>ABOVE<br>RANGE |            |
|------------------------------|---------------|------------------------------|-------------|--|------------|---|------------|---|------------|-----------------------------|------------|
|                              |               | n                            | %           | n  | %          | n   | %          | n                                       | %          | n                           | %          |
| <b>TOTAL</b>                 | <b>51,329</b> | <b>31,610</b>                | <b>61.6</b> | <b>100</b>                               | <b>0.2</b> | <b>36</b>   | <b>0.1</b> | <b>343</b>                              | <b>0.7</b> | <b>342</b>                  | <b>0.7</b> |
| Robbery                      | 1,001         | 678                          | 67.7        | 3  | 0.3        | 0   | 0.0        | 8                                       | 0.8        | 11                          | 1.1        |
| Drugs - Trafficking          | 18,030        | 9,583                        | 53.2        | 14                                       | 0.1        | 3   | 0.0        | 50                                      | 0.3        | 52                          | 0.3        |
| Drugs - Simple Possession    | 397           | 353                          | 88.9        | 0  | 0.0        | 0   | 0.0        | 6                                       | 1.5        | 9                           | 2.3        |
| Firearms                     | 6,308         | 4,353                        | 69.0        | 23                                       | 0.4        | 7   | 0.1        | 55                                      | 0.9        | 64                          | 1.0        |
| Larceny                      | 1,307         | 979                          | 74.9        | 1  | 0.1        | 0   | 0.0        | 13                                      | 1.0        | 16                          | 1.2        |
| Fraud                        | 4,877         | 3,122                        | 64.0        | 11                                       | 0.2        | 9   | 0.2        | 57                                      | 1.2        | 51                          | 1.0        |
| Embezzlement                 | 380           | 286                          | 75.3        | 0  | 0.0        | 0   | 0.0        | 1                                       | 0.3        | 0                           | 0.0        |
| Forgery/Counterfeiting       | 766           | 570                          | 74.4        | 4  | 0.5        | 0   | 0.0        | 7                                       | 0.9        | 5                           | 0.7        |
| Immigration                  | 12,473        | 8,106                        | 65.0        | 25                                       | 0.2        | 5   | 0.0        | 61                                      | 0.5        | 61                          | 0.5        |
| Other Miscellaneous Offenses | 5,790         | 3,580                        | 61.8        | 19                                       | 0.3        | 12  | 0.2        | 85                                      | 1.5        | 73                          | 1.3        |

**Ninth Circuit**

| PRIMARY OFFENSE              | TOTAL        | WITHIN<br>GUIDELINE<br>RANGE |             | ABOVE<br>RANGE<br>DEPARTURE <sup>2</sup> |            | ABOVE RANGE<br>DEPARTURE<br>W/BOOKER <sup>2</sup> |            | ABOVE<br>RANGE<br>W/BOOKER <sup>2</sup> |            | REMAINING<br>ABOVE<br>RANGE |            |
|------------------------------|--------------|------------------------------|-------------|--|------------|---|------------|---|------------|-----------------------------|------------|
|                              |              | n                            | %           | n  | %          | n   | %          | n                                       | %          | n                           | %          |
| <b>TOTAL</b>                 | <b>9,364</b> | <b>4,656</b>                 | <b>49.7</b> | <b>33</b>                                | <b>0.4</b> | <b>1</b>  | <b>0.0</b> | <b>35</b>                               | <b>0.4</b> | <b>86</b>                   | <b>0.9</b> |
| Robbery                      | 170          | 105                          | 61.8        | 0  | 0.0        | 0   | 0.0        | 2                                       | 1.2        | 1                           | 0.6        |
| Drugs - Trafficking          | 2,677        | 947                          | 35.4        | 4  | 0.1        | 0   | 0.0        | 3                                       | 0.1        | 15                          | 0.6        |
| Drugs - Simple Possession    | 41           | 38                           | 92.7        | 0  | 0.0        | 0   | 0.0        | 0                                       | 0.0        | 2                           | 4.9        |
| Firearms                     | 750          | 492                          | 65.6        | 3  | 0.4        | 0   | 0.0        | 6                                       | 0.8        | 7                           | 0.9        |
| Larceny                      | 254          | 175                          | 68.9        | 0  | 0.0        | 0   | 0.0        | 1                                       | 0.4        | 0                           | 0.0        |
| Fraud                        | 748          | 475                          | 63.5        | 2  | 0.3        | 0   | 0.0        | 7                                       | 0.9        | 11                          | 1.5        |
| Embezzlement                 | 55           | 42                           | 76.4        | 0  | 0.0        | 0   | 0.0        | 0                                       | 0.0        | 0                           | 0.0        |
| Forgery/Counterfeiting       | 94           | 65                           | 69.1        | 0  | 0.0        | 0   | 0.0        | 0                                       | 0.0        | 1                           | 1.1        |
| Immigration                  | 3,380        | 1,592                        | 47.1        | 15                                       | 0.4        | 0   | 0.0        | 6                                       | 0.2        | 28                          | 0.8        |
| Other Miscellaneous Offenses | 1,195        | 725                          | 60.7        | 9  | 0.8        | 1   | 0.1        | 10                                      | 0.8        | 21                          | 1.8        |

**Table 9 (cont.)**

**National**

| PRIMARY OFFENSE              | §5K1.1<br>SUBSTANTIAL<br>ASSISTANCE |             | §5K3.1<br>EARLY<br>DISPOSITION |            | OTHER<br>GOV'T<br>SPONSORED |            | BELOW<br>RANGE<br>DEPARTURE |            | BELOW RANGE<br>DEPARTURE<br>W/BOOKER |            | BELOW<br>RANGE<br>W/BOOKER |            | REMAINING<br>BELOW<br>RANGE |            |
|------------------------------|-------------------------------------|-------------|--------------------------------|------------|-----------------------------|------------|-----------------------------|------------|--------------------------------------|------------|----------------------------|------------|-----------------------------|------------|
|                              | n                                   | %           | n                              | %          | n                           | %          | n                           | %          | n                                    | %          | n                          | %          | n                           | %          |
| <b>TOTAL</b>                 | <b>7,523</b>                        | <b>14.7</b> | <b>3,208</b>                   | <b>6.2</b> | <b>1,481</b>                | <b>2.9</b> | <b>1,197</b>                | <b>2.3</b> | <b>486</b>                           | <b>0.9</b> | <b>3,198</b>               | <b>6.2</b> | <b>1,805</b>                | <b>3.5</b> |
| Robbery                      | 123                                 | 12.3        | 0                              | 0.0        | 24                          | 2.4        | 32                          | 3.2        | 18                                   | 1.8        | 62                         | 6.2        | 42                          | 4.2        |
| Drugs - Trafficking          | 4,713                               | 26.1        | 721                            | 4.0        | 544                         | 3.0        | 387                         | 2.1        | 164                                  | 0.9        | 1,210                      | 6.7        | 589                         | 3.3        |
| Drugs - Simple Possession    | 13                                  | 3.3         | 0                              | 0.0        | 0                           | 0.0        | 1                           | 0.3        | 2                                    | 0.5        | 5                          | 1.3        | 8                           | 2.0        |
| Firearms                     | 704                                 | 11.2        | 23                             | 0.4        | 157                         | 2.5        | 153                         | 2.4        | 74                                   | 1.2        | 466                        | 7.4        | 229                         | 3.6        |
| Larceny                      | 101                                 | 7.7         | 5                              | 0.4        | 24                          | 1.8        | 27                          | 2.1        | 6                                    | 0.5        | 81                         | 6.2        | 54                          | 4.1        |
| Fraud                        | 765                                 | 15.7        | 2                              | 0.0        | 105                         | 2.2        | 124                         | 2.5        | 53                                   | 1.1        | 336                        | 6.9        | 242                         | 5.0        |
| Embezzlement                 | 14                                  | 3.7         | 0                              | 0.0        | 7                           | 1.8        | 9                           | 2.4        | 3                                    | 0.8        | 33                         | 8.7        | 27                          | 7.1        |
| Forgery/Counterfeiting       | 66                                  | 8.6         | 1                              | 0.1        | 15                          | 2.0        | 9                           | 1.2        | 11                                   | 1.4        | 53                         | 6.9        | 25                          | 3.3        |
| Immigration                  | 249                                 | 2.0         | 2,437                          | 19.5       | 380                         | 3.0        | 270                         | 2.2        | 85                                   | 0.7        | 501                        | 4.0        | 293                         | 2.3        |
| Other Miscellaneous Offenses | 775                                 | 13.4        | 19                             | 0.3        | 225                         | 3.9        | 185                         | 3.2        | 70                                   | 1.2        | 451                        | 7.8        | 296                         | 5.1        |

**Ninth Circuit**

| PRIMARY OFFENSE              | §5K1.1<br>SUBSTANTIAL<br>ASSISTANCE |             | §5K3.1<br>EARLY<br>DISPOSITION |             | OTHER<br>GOV'T<br>SPONSORED |            | BELOW<br>RANGE<br>DEPARTURE |            | BELOW RANGE<br>DEPARTURE<br>W/BOOKER |            | BELOW<br>RANGE<br>W/BOOKER |            | REMAINING<br>BELOW<br>RANGE |            |
|------------------------------|-------------------------------------|-------------|--------------------------------|-------------|-----------------------------|------------|-----------------------------|------------|--------------------------------------|------------|----------------------------|------------|-----------------------------|------------|
|                              | n                                   | %           | n                              | %           | n                           | %          | n                           | %          | n                                    | %          | n                          | %          | n                           | %          |
| <b>TOTAL</b>                 | <b>970</b>                          | <b>10.4</b> | <b>2,016</b>                   | <b>21.5</b> | <b>413</b>                  | <b>4.4</b> | <b>277</b>                  | <b>3.0</b> | <b>66</b>                            | <b>0.7</b> | <b>467</b>                 | <b>5.0</b> | <b>344</b>                  | <b>3.7</b> |
| Robbery                      | 17                                  | 10.0        | 0                              | 0.0         | 14                          | 8.2        | 6                           | 3.5        | 2                                    | 1.2        | 11                         | 6.5        | 12                          | 7.1        |
| Drugs - Trafficking          | 575                                 | 21.5        | 659                            | 24.6        | 147                         | 5.5        | 84                          | 3.1        | 17                                   | 0.6        | 142                        | 5.3        | 84                          | 3.1        |
| Drugs - Simple Possession    | 0                                   | 0.0         | 0                              | 0.0         | 0                           | 0.0        | 0                           | 0.0        | 0                                    | 0.0        | 0                          | 0.0        | 1                           | 2.4        |
| Firearms                     | 56                                  | 7.5         | 21                             | 2.8         | 46                          | 6.1        | 24                          | 3.2        | 8                                    | 1.1        | 56                         | 7.5        | 31                          | 4.1        |
| Larceny                      | 18                                  | 7.1         | 5                              | 2.0         | 11                          | 4.3        | 10                          | 3.9        | 0                                    | 0.0        | 20                         | 7.9        | 14                          | 5.5        |
| Fraud                        | 115                                 | 15.4        | 2                              | 0.3         | 26                          | 3.5        | 20                          | 2.7        | 7                                    | 0.9        | 40                         | 5.3        | 43                          | 5.7        |
| Embezzlement                 | 3                                   | 5.5         | 0                              | 0.0         | 2                           | 3.6        | 1                           | 1.8        | 0                                    | 0.0        | 5                          | 9.1        | 2                           | 3.6        |
| Forgery/Counterfeiting       | 7                                   | 7.4         | 1                              | 1.1         | 2                           | 2.1        | 2                           | 2.1        | 4                                    | 4.3        | 9                          | 9.6        | 3                           | 3.2        |
| Immigration                  | 55                                  | 1.6         | 1,312                          | 38.8        | 97                          | 2.9        | 78                          | 2.3        | 16                                   | 0.5        | 100                        | 3.0        | 81                          | 2.4        |
| Other Miscellaneous Offenses | 124                                 | 10.4        | 16                             | 1.3         | 68                          | 5.7        | 52                          | 4.4        | 12                                   | 1.0        | 84                         | 7.0        | 73                          | 6.1        |

Of the 53,674 guideline cases, 2,345 cases were excluded due to one or both of the following reasons: missing information needed to determine the relationship between the sentence imposed and the guideline range (2,328), or missing primary offense (24).

Of the 10,472 guideline cases from the Ninth Circuit, 1,108 cases were excluded due to one or both of the following reasons: missing information needed to determine the relationship between the sentence imposed and the guideline range (1,102), or missing primary offense category (9).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2005 Datafile, OPAFY05, Post-Booker Only Cases (January 12, 2005, through September 30, 2005).