

# United States Sentencing Commission



## *Statistical Information Packet*

*Fiscal Year 2006*

*Second Circuit*

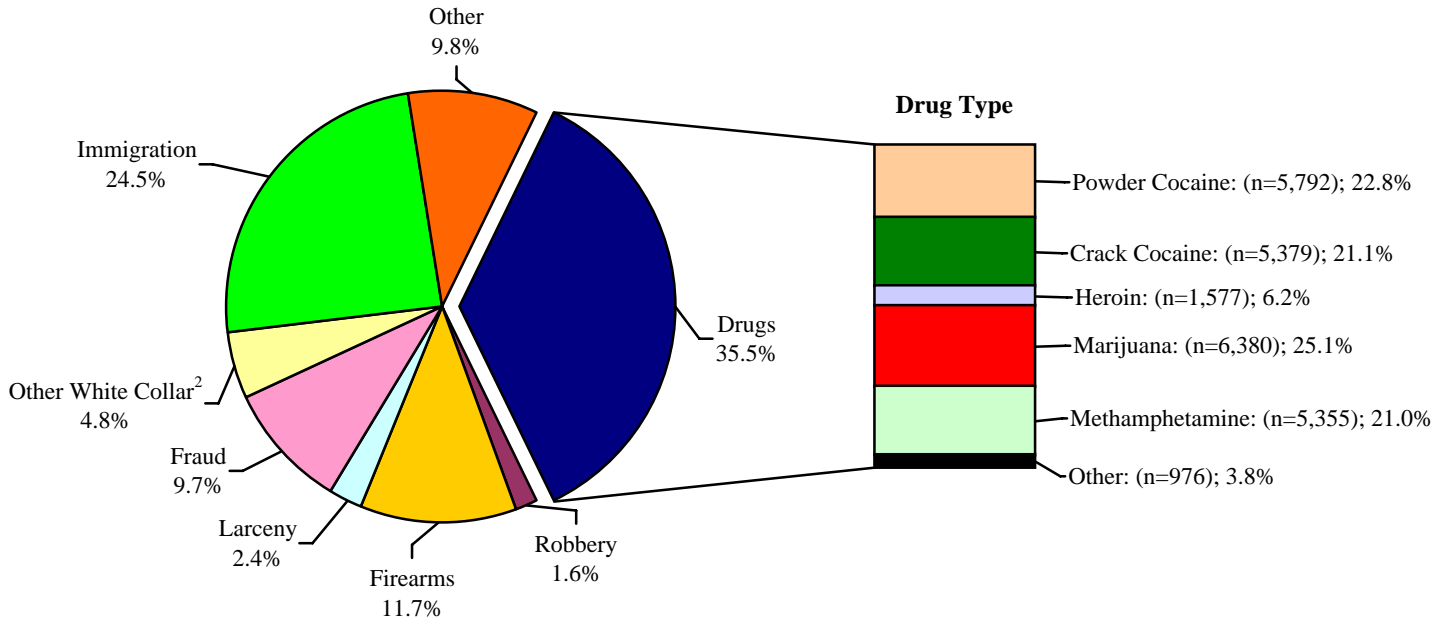
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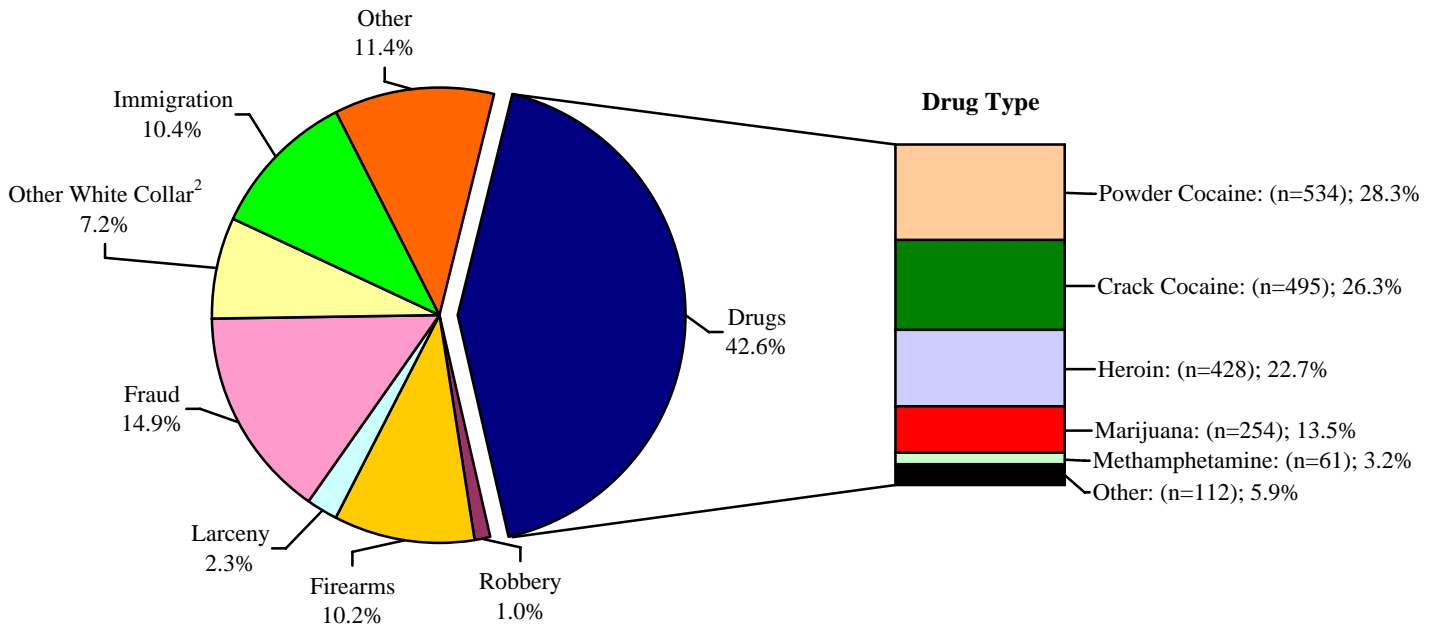
**Figure A**

**DISTRIBUTION OF SENTENCED GUIDELINE DEFENDANTS BY SELECT PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Fiscal Year 2006**

**National**



**Second Circuit**



<sup>1</sup>Of the 72,585 guideline cases, 875 cases were excluded due to one of the following reasons: missing primary offense category (67) or missing drug type (808). Of the 4,436 guideline cases from the Second Circuit, 16 cases were excluded due to one of the following reasons: missing primary offense category (1) or missing drug type (15).

<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 2006**

PRIMARY OFFENSE	National		Second Circuit	
	Number	Percent	Number	Percent
<b>TOTAL</b>	<b>72,518</b>	<b>100.0</b>	<b>4,435</b>	<b>100.0</b>
Murder	81	0.1	10	0.2
Manslaughter	60	0.1	3	0.1
Kidnapping/Hostage Taking	61	0.1	4	0.1
Sexual Abuse	265	0.4	7	0.2
Assault	620	0.9	11	0.2
Robbery	1,166	1.6	44	1.0
Arson	72	0.1	4	0.1
Drugs - Trafficking	25,086	34.6	1,782	40.2
Drugs - Communication Facility	412	0.6	61	1.4
Drugs - Simple Possession	769	1.1	56	1.3
Firearms	8,384	11.6	449	10.1
Burglary/B&E	48	0.1	0	0.0
Auto Theft	62	0.1	1	0.0
Larceny	1,714	2.4	102	2.3
Fraud	6,958	9.6	660	14.9
Embezzlement	584	0.8	42	0.9
Forgery/Counterfeiting	1,172	1.6	51	1.1
Bribery	184	0.3	23	0.5
Tax	608	0.8	54	1.2
Money Laundering	912	1.3	148	3.3
Racketeering/Extortion	622	0.9	143	3.2
Gambling/Lottery	116	0.2	55	1.2
Civil Rights	68	0.1	4	0.1
Immigration	17,574	24.2	461	10.4
Pornography/Prostitution	1,293	1.8	83	1.9
Prison Offenses	346	0.5	13	0.3
Administration of Justice Offenses	1,112	1.5	73	1.6
Environmental/Wildlife	177	0.2	9	0.2
National Defense	36	0.0	2	0.0
Antitrust	12	0.0	2	0.0
Food & Drug	64	0.1	3	0.1
Other Miscellaneous Offenses	1,880	2.6	75	1.7

Of the 72,585 guideline cases, 67 cases were excluded due to missing information on primary offense category.

Of the 4,436 guideline cases from the Second Circuit, one case was excluded due to missing information on primary offense category.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.

Table 2

**MODE OF CONVICTION BY CIRCUIT AND DISTRICT  
Fiscal Year 2006**

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
<b>TOTAL</b>	<b>72,510</b>	<b>69,403</b>	<b>95.7</b>	<b>3,107</b>	<b>4.3</b>
<b>D.C. CIRCUIT</b>	<b>459</b>	<b>402</b>	<b>87.6</b>	<b>57</b>	<b>12.4</b>
District of Columbia	459	402	87.6	57	12.4
<b>FIRST CIRCUIT</b>	<b>1,635</b>	<b>1,504</b>	<b>92.0</b>	<b>131</b>	<b>8.0</b>
Maine	205	195	95.1	10	4.9
Massachusetts	516	460	89.1	56	10.9
New Hampshire	219	212	96.8	7	3.2
Puerto Rico	569	521	91.6	48	8.4
Rhode Island	126	116	92.1	10	7.9
<b>SECOND CIRCUIT</b>	<b>4,435</b>	<b>4,224</b>	<b>95.2</b>	<b>211</b>	<b>4.8</b>
Connecticut	362	354	97.8	8	2.2
New York					
Eastern	1,104	1,041	94.3	63	5.7
Northern	409	398	97.3	11	2.7
Southern	1,762	1,663	94.4	99	5.6
Western	596	573	96.1	23	3.9
Vermont	202	195	96.5	7	3.5
<b>THIRD CIRCUIT</b>	<b>3,015</b>	<b>2,814</b>	<b>93.3</b>	<b>201</b>	<b>6.7</b>
Delaware	101	95	94.1	6	5.9
New Jersey	941	902	95.9	39	4.1
Pennsylvania					
Eastern	863	759	87.9	104	12.1
Middle	499	488	97.8	11	2.2
Western	494	466	94.3	28	5.7
Virgin Islands	117	104	88.9	13	11.1
<b>FOURTH CIRCUIT</b>	<b>6,698</b>	<b>6,342</b>	<b>94.7</b>	<b>356</b>	<b>5.3</b>
Maryland	670	608	90.7	62	9.3
North Carolina					
Eastern	674	651	96.6	23	3.4
Middle	416	399	95.9	17	4.1
Western	812	776	95.6	36	4.4
South Carolina	1,141	1,112	97.5	29	2.5
Virginia					
Eastern	1,740	1,634	93.9	106	6.1
Western	599	554	92.5	45	7.5
West Virginia					
Northern	377	355	94.2	22	5.8
Southern	269	253	94.1	16	5.9

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
<b>FIFTH CIRCUIT</b>	<b>15,749</b>	<b>15,334</b>	<b>97.4</b>	<b>415</b>	<b>2.6</b>
Louisiana					
Eastern	366	354	96.7	12	3.3
Middle	172	171	99.4	1	0.6
Western	493	464	94.1	29	5.9
Mississippi					
Northern	174	162	93.1	12	6.9
Southern	386	355	92.0	31	8.0
Texas					
Eastern	845	820	97.0	25	3.0
Northern	1,068	1,001	93.7	67	6.3
Southern	6,264	6,129	97.8	135	2.2
Western	5,981	5,878	98.3	103	1.7
<b>SIXTH CIRCUIT</b>	<b>5,220</b>	<b>4,950</b>	<b>94.8</b>	<b>270</b>	<b>5.2</b>
Kentucky					
Eastern	530	506	95.5	24	4.5
Western	445	425	95.5	20	4.5
Michigan					
Eastern	793	751	94.7	42	5.3
Western	435	408	93.8	27	6.2
Ohio					
Northern	976	939	96.2	37	3.8
Southern	709	681	96.1	28	3.9
Tennessee					
Eastern	528	492	93.2	36	6.8
Middle	296	274	92.6	22	7.4
Western	508	474	93.3	34	6.7
<b>SEVENTH CIRCUIT</b>	<b>3,078</b>	<b>2,852</b>	<b>92.7</b>	<b>226</b>	<b>7.3</b>
Illinois					
Central	332	319	96.1	13	3.9
Northern	1,104	1,003	90.9	101	9.1
Southern	374	354	94.7	20	5.3
Indiana					
Northern	405	374	92.3	31	7.7
Southern	315	290	92.1	25	7.9
Wisconsin					
Eastern	328	303	92.4	25	7.6
Western	220	209	95.0	11	5.0
<b>EIGHTH CIRCUIT</b>	<b>5,195</b>	<b>4,983</b>	<b>95.9</b>	<b>212</b>	<b>4.1</b>
Arkansas					
Eastern	380	362	95.3	18	4.7
Western	186	184	98.9	2	1.1
Iowa					
Northern	421	391	92.9	30	7.1
Southern	366	343	93.7	23	6.3
Minnesota	558	522	93.5	36	6.5
Missouri					
Eastern	987	968	98.1	19	1.9
Western	911	883	96.9	28	3.1
Nebraska	703	681	96.9	22	3.1
North Dakota	252	240	95.2	12	4.8
South Dakota	431	409	94.9	22	5.1

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
<b>NINTH CIRCUIT</b>	<b>13,746</b>	<b>13,310</b>	<b>96.8</b>	<b>436</b>	<b>3.2</b>
Alaska	146	133	91.1	13	8.9
Arizona	4,308	4,225	98.1	83	1.9
California					
Central	1,590	1,524	95.8	66	4.2
Eastern	1,043	1,024	98.2	19	1.8
Northern	662	630	95.2	32	4.8
Southern	2,637	2,559	97.0	78	3.0
Guam	82	77	93.9	5	6.1
Hawaii	452	440	97.3	12	2.7
Idaho	263	256	97.3	7	2.7
Montana	434	384	88.5	50	11.5
Nevada	392	371	94.6	21	5.4
Northern Mariana Islands	11	9	81.8	2	18.2
Oregon	526	514	97.7	12	2.3
Washington					
Eastern	363	352	97.0	11	3.0
Western	837	812	97.0	25	3.0
<b>TENTH CIRCUIT</b>	<b>6,182</b>	<b>5,993</b>	<b>96.9</b>	<b>189</b>	<b>3.1</b>
Colorado	682	663	97.2	19	2.8
Kansas	701	665	94.9	36	5.1
New Mexico	2,842	2,798	98.5	44	1.5
Oklahoma					
Eastern	80	67	83.8	13	16.3
Northern	202	186	92.1	16	7.9
Western	354	338	95.5	16	4.5
Utah	976	938	96.1	38	3.9
Wyoming	345	338	98.0	7	2.0
<b>ELEVENTH CIRCUIT</b>	<b>7,098</b>	<b>6,695</b>	<b>94.3</b>	<b>403</b>	<b>5.7</b>
Alabama					
Middle	252	242	96.0	10	4.0
Northern	517	495	95.7	22	4.3
Southern	394	369	93.7	25	6.3
Florida					
Middle	1,723	1,647	95.6	76	4.4
Northern	429	395	92.1	34	7.9
Southern	2,029	1,900	93.6	129	6.4
Georgia					
Middle	493	473	95.9	20	4.1
Northern	757	699	92.3	58	7.7
Southern	504	475	94.2	29	5.8

Of the 72,585 guideline cases, 75 cases were excluded due to missing information on mode of conviction.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.

**Table 3**

**MODE OF CONVICTION BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2006**

PRIMARY OFFENSE	TOTAL	National				Second Circuit			
		PLEA		TRIAL		PLEA		TRIAL	
		n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>72,506</b>	<b>69,399</b>	<b>95.7</b>	<b>3,107</b>	<b>4.3</b>	<b>4,224</b>	<b>95.2</b>	<b>211</b>	<b>4.8</b>
<b>Murder</b>	<b>81</b>	55	67.9	26	32.1	8	80.0	2	20.0
<b>Manslaughter</b>	<b>60</b>	55	91.7	5	8.3	3	100.0	0	0.0
<b>Kidnapping/Hostage Taking</b>	<b>61</b>	46	75.4	15	24.6	4	100.0	0	0.0
<b>Sexual Abuse</b>	<b>265</b>	237	89.4	28	10.6	7	100.0	0	0.0
<b>Assault</b>	<b>618</b>	556	90.0	62	10.0	10	90.9	1	9.1
<b>Robbery</b>	<b>1,166</b>	1,111	95.3	55	4.7	41	93.2	3	6.8
<b>Arson</b>	<b>72</b>	64	88.9	8	11.1	2	50.0	2	50.0
<b>Drugs - Trafficking</b>	<b>25,086</b>	23,958	95.5	1,128	4.5	1,702	95.5	80	4.5
<b>Drugs - Communication Facility</b>	<b>412</b>	410	99.5	2	0.5	61	100.0	0	0.0
<b>Drugs - Simple Possession</b>	<b>768</b>	736	95.8	32	4.2	55	98.2	1	1.8
<b>Firearms</b>	<b>8,384</b>	7,749	92.4	635	7.6	408	90.9	41	9.1
<b>Burglary/B&amp;E</b>	<b>48</b>	46	95.8	2	4.2	0	--	0	--
<b>Auto Theft</b>	<b>62</b>	57	91.9	5	8.1	0	0.0	1	100.0
<b>Larceny</b>	<b>1,714</b>	1,670	97.4	44	2.6	101	99.0	1	1.0
<b>Fraud</b>	<b>6,957</b>	6,602	94.9	355	5.1	629	95.3	31	4.7
<b>Embezzlement</b>	<b>583</b>	567	97.3	16	2.7	40	95.2	2	4.8
<b>Forgery/Counterfeiting</b>	<b>1,172</b>	1,150	98.1	22	1.9	49	96.1	2	3.9
<b>Bribery</b>	<b>184</b>	175	95.1	9	4.9	21	91.3	2	8.7
<b>Tax</b>	<b>608</b>	543	89.3	65	10.7	53	98.1	1	1.9
<b>Money Laundering</b>	<b>912</b>	835	91.6	77	8.4	142	95.9	6	4.1
<b>Racketeering/Extortion</b>	<b>622</b>	551	88.6	71	11.4	122	85.3	21	14.7
<b>Gambling/Lottery</b>	<b>116</b>	116	100.0	0	0.0	55	100.0	0	0.0
<b>Civil Rights</b>	<b>68</b>	56	82.4	12	17.6	4	100.0	0	0.0
<b>Immigration</b>	<b>17,570</b>	17,345	98.7	225	1.3	455	98.7	6	1.3
<b>Pornography/Prostitution</b>	<b>1,293</b>	1,240	95.9	53	4.1	82	98.8	1	1.2
<b>Prison Offenses</b>	<b>346</b>	337	97.4	9	2.6	13	100.0	0	0.0
<b>Administration of Justice Offenses</b>	<b>1,112</b>	1,072	96.4	40	3.6	70	95.9	3	4.1
<b>Environmental/Wildlife</b>	<b>177</b>	168	94.9	9	5.1	9	100.0	0	0.0
<b>National Defense</b>	<b>36</b>	29	80.6	7	19.4	2	100.0	0	0.0
<b>Antitrust</b>	<b>12</b>	12	100.0	0	0.0	2	100.0	0	0.0
<b>Food &amp; Drug</b>	<b>64</b>	61	95.3	3	4.7	3	100.0	0	0.0
<b>Other Miscellaneous Offenses</b>	<b>1,877</b>	1,790	95.4	87	4.6	71	94.7	4	5.3

Of the 72,585 guideline cases, 79 cases were excluded due to one or both of the following reasons: missing primary offense category (67) or missing mode of conviction (75).

Of the 4,436 guideline cases from the Second Circuit, one case was excluded due to one or both of the following reasons: missing primary offense category (1) or missing mode of conviction (1).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.



**Table 4**  
**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2006**

**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>71,865</b>	<b>61,561</b>	<b>85.7</b>	<b>2,094</b>	<b>2.9</b>	<b>2,836</b>	<b>3.9</b>	<b>5,374</b>	<b>7.5</b>
Murder	80	79	98.8	0	0.0	1	1.3	0	0.0
Manslaughter	60	58	96.7	1	1.7	0	0.0	1	1.7
Kidnapping/Hostage Taking	61	60	98.4	1	1.6	0	0.0	0	0.0
Sexual Abuse	264	254	96.2	4	1.5	1	0.4	5	1.9
Assault	611	485	79.4	26	4.3	34	5.6	66	10.8
Robbery	1,163	1,113	95.7	20	1.7	13	1.1	17	1.5
Arson	70	65	92.9	1	1.4	2	2.9	2	2.9
Drugs - Trafficking	25,055	23,840	95.2	480	1.9	321	1.3	414	1.7
Drugs - Communication Facility	411	345	83.9	10	2.4	20	4.9	36	8.8
Drugs - Simple Possession	684	308	45.0	12	1.8	21	3.1	343	50.1
Firearms	8,364	7,674	91.8	201	2.4	240	2.9	249	3.0
Burglary/B&E	48	37	77.1	4	8.3	2	4.2	5	10.4
Auto Theft	62	53	85.5	1	1.6	5	8.1	3	4.8
Larceny	1,598	643	40.2	92	5.8	241	15.1	622	38.9
Fraud	6,905	4,234	61.3	520	7.5	828	12.0	1,323	19.2
Embezzlement	578	229	39.6	70	12.1	80	13.8	199	34.4
Forgery/Counterfeiting	1,168	729	62.4	63	5.4	138	11.8	238	20.4
Bribery	183	91	49.7	18	9.8	41	22.4	33	18.0
Tax	601	282	46.9	82	13.6	95	15.8	142	23.6
Money Laundering	910	693	76.2	38	4.2	84	9.2	95	10.4
Racketeering/Extortion	620	562	90.6	15	2.4	18	2.9	25	4.0
Gambling/Lottery	116	28	24.1	12	10.3	43	37.1	33	28.4
Civil Rights	68	40	58.8	1	1.5	12	17.6	15	22.1
Immigration	17,527	16,767	95.7	239	1.4	193	1.1	328	1.9
Pornography/Prostitution	1,291	1,235	95.7	28	2.2	13	1.0	15	1.2
Prison Offenses	346	309	89.3	17	4.9	10	2.9	10	2.9
Administration of Justice Offenses	1,095	651	59.5	61	5.6	117	10.7	266	24.3
Environmental/Wildlife	167	40	24.0	3	1.8	35	21.0	89	53.3
National Defense	36	29	80.6	5	13.9	1	2.8	1	2.8
Antitrust	12	3	25.0	5	41.7	3	25.0	1	8.3
Food & Drug	61	15	24.6	2	3.3	7	11.5	37	60.7
Other Miscellaneous Offenses	1,650	610	37.0	62	3.8	217	13.2	761	46.1

Of the 72,585 guideline cases, 720 cases were excluded due to one or more of the following reasons: missing sentencing information (211), missing primary offense category (67), or cases in which the defendant received no imprisonment or probation (507).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.

**Table 5**  
**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2006**

**Second 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>4,403</b>	<b>3,478</b>	<b>79.0</b>	<b>162</b>	<b>3.7</b>	<b>265</b>	<b>6.0</b>	<b>498</b>	<b>11.3</b>
Murder	10	10	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	4	4	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	7	6	85.7	0	0.0	0	0.0	1	14.3
Assault	10	9	90.0	0	0.0	1	10.0	0	0.0
Robbery	44	41	93.2	0	0.0	0	0.0	3	6.8
Arson	4	4	100.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	1,781	1,627	91.4	46	2.6	43	2.4	65	3.6
Drugs - Communication Facility	61	41	67.2	1	1.6	5	8.2	14	23.0
Drugs - Simple Possession	55	19	34.5	3	5.5	2	3.6	31	56.4
Firearms	447	402	89.9	14	3.1	20	4.5	11	2.5
Burglary/B&E	0	0	--	0	--	0	--	0	--
Auto Theft	1	1	100.0	0	0.0	0	0.0	0	0.0
Larceny	101	33	32.7	8	7.9	18	17.8	42	41.6
Fraud	651	372	57.1	50	7.7	75	11.5	154	23.7
Embezzlement	42	12	28.6	2	4.8	6	14.3	22	52.4
Forgery/Counterfeiting	50	28	56.0	5	10.0	4	8.0	13	26.0
Bribery	22	7	31.8	2	9.1	8	36.4	5	22.7
Tax	51	20	39.2	2	3.9	7	13.7	22	43.1
Money Laundering	148	114	77.0	7	4.7	14	9.5	13	8.8
Racketeering/Extortion	142	126	88.7	2	1.4	5	3.5	9	6.3
Gambling/Lottery	55	16	29.1	8	14.5	26	47.3	5	9.1
Civil Rights	4	2	50.0	0	0.0	0	0.0	2	50.0
Immigration	460	417	90.7	3	0.7	13	2.8	27	5.9
Pornography/Prostitution	82	76	92.7	0	0.0	1	1.2	5	6.1
Prison Offenses	13	9	69.2	3	23.1	0	0.0	1	7.7
Administration of Justice Offenses	73	39	53.4	4	5.5	7	9.6	23	31.5
Environmental/Wildlife	9	6	66.7	0	0.0	0	0.0	3	33.3
National Defense	2	2	100.0	0	0.0	0	0.0	0	0.0
Antitrust	2	0	0.0	0	0.0	2	100.0	0	0.0
Food & Drug	3	0	0.0	0	0.0	0	0.0	3	100.0
Other Miscellaneous Offenses	66	32	48.5	2	3.0	8	12.1	24	36.4

Of the 4,436 guideline cases from the Second Circuit, 33 cases were excluded due to one or more of the following reasons: missing sentencing information (7), missing primary offense category (1), or cases in which the defendant received no imprisonment or probation (26).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.

**Table 6**

**INCARCERATION RATE OF DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2006**

PRIMARY OFFENSE	TOTAL	National				Second Circuit			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>TOTAL</b>	<b>11,628</b>	<b>6,485</b>	<b>55.8</b>	<b>5,143</b>	<b>44.2</b>	<b>266</b>	<b>37.4</b>	<b>445</b>	<b>62.6</b>
<b>Fraud</b>	<b>2,393</b>	923	38.6	1,470	61.4	61	30.0	142	70.0
<b>Larceny</b>	<b>987</b>	223	22.6	764	77.4	7	11.7	53	88.3
<b>Immigration</b>	<b>4,511</b>	4,101	90.9	410	9.1	119	76.8	36	23.2
<b>Embezzlement</b>	<b>313</b>	71	22.7	242	77.3	2	8.7	21	91.3
<b>Drugs - Trafficking</b>	<b>474</b>	209	44.1	265	55.9	13	34.2	25	65.8
<b>Drugs - Simple Possession</b>	<b>493</b>	180	36.5	313	63.5	17	34.0	33	66.0
<b>Firearms</b>	<b>326</b>	170	52.1	156	47.9	8	44.4	10	55.6
<b>Forgery/Counterfeiting</b>	<b>421</b>	141	33.5	280	66.5	1	8.3	11	91.7
<b>Other Miscellaneous Offenses</b>	<b>1,710</b>	467	27.3	1,243	72.7	38	25.0	114	75.0

Of the 72,585 guideline cases, 60,957 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (60,953), missing sentencing information (211) or missing primary offense category (67).

Of the 4,436 guideline cases from the Second Circuit, 3,725 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (3,725), missing sentencing information (7) or missing primary offense category (1).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.

**Table 7**

**AVERAGE LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2006**

PRIMARY OFFENSE	National			Second Circuit		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
<b>TOTAL</b>	<b>59.1</b>	<b>36.0</b>	<b>62,963</b>	<b>57.8</b>	<b>37.0</b>	<b>3,572</b>
<b>Murder</b>	253.1	240.0	77	173.3	114.0	10
<b>Manslaughter</b>	46.7	37.0	59	13.3	12.0	3
<b>Kidnapping/Hostage Taking</b>	216.5	204.0	61	81.5	84.0	4
<b>Sexual Abuse</b>	103.5	60.0	256	39.2	33.5	6
<b>Assault</b>	41.3	30.0	502	21.2	7.0	9
<b>Robbery</b>	91.5	70.0	1,131	89.4	60.0	41
<b>Arson</b>	82.7	60.0	66	112.5	132.0	4
<b>Drugs - Trafficking</b>	84.4	60.0	24,248	70.0	52.0	1,656
<b>Drugs - Communication Facility</b>	47.0	48.0	354	30.2	28.0	41
<b>Drugs - Simple Possession</b>	16.1	4.0	294	15.1	6.0	18
<b>Firearms</b>	82.1	56.0	7,851	73.4	46.0	415
<b>Burglary/B&amp;E</b>	19.7	16.0	41	--	--	0
<b>Auto Theft</b>	86.4	42.0	53	--	--	0
<b>Larceny</b>	18.3	12.0	728	16.0	13.0	40
<b>Fraud</b>	26.2	18.0	4,637	26.4	16.0	410
<b>Embezzlement</b>	15.1	12.0	294	16.9	12.0	13
<b>Forgery/Counterfeiting</b>	22.4	15.0	777	18.9	15.1	33
<b>Bribery</b>	20.9	15.0	108	18.4	18.0	9
<b>Tax</b>	22.4	15.0	361	19.4	13.5	22
<b>Money Laundering</b>	43.9	30.0	726	43.9	34.0	120
<b>Racketeering/Extortion</b>	95.6	60.0	576	105.5	63.0	128
<b>Gambling/Lottery</b>	12.7	8.5	39	13.9	7.3	23
<b>Civil Rights</b>	66.3	21.0	40	--	--	2
<b>Immigration</b>	23.5	18.0	16,653	26.0	24.0	394
<b>Pornography/Prostitution</b>	98.6	63.0	1,262	100.7	70.0	76
<b>Prison Offenses</b>	18.5	12.0	324	12.0	7.5	12
<b>Administration of Justice Offenses</b>	26.9	18.0	694	21.3	16.0	43
<b>Environmental/Wildlife</b>	15.1	13.5	42	20.7	25.5	6
<b>National Defense</b>	49.2	29.0	34	--	--	2
<b>Antitrust</b>	5.8	5.0	8	--	--	0
<b>Food &amp; Drug</b>	25.2	19.0	16	--	--	0
<b>Other Miscellaneous Offenses</b>	18.8	6.0	651	20.4	6.5	32

Of the 72,585 guideline cases, 9,622 cases were excluded for one or more of the following reasons: zero months prison ordered (8,871), missing primary offense category (67) or missing or indeterminable sentencing information (751).

Of the 4,436 guideline cases from the Second Circuit, 864 cases were excluded due to one or more of the following reasons: zero prison months ordered (830), missing primary offense category (1) or missing or indeterminable sentencing information (34).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.

**Table 8**

**COMPARISON OF SENTENCE IMPOSED AND POSITION  
RELATIVE TO THE GUIDELINE RANGE  
Fiscal Year 2006**

	National		Second Circuit	
	N	%	N	%
<b>TOTAL CASES<sup>1</sup></b>	<b>70,187</b>	<b>100.0</b>	<b>4,387</b>	<b>100.0</b>
<b>CASES SENTENCED WITHIN GUIDELINE RANGE</b>	<b>43,307</b>	<b>61.7</b>	<b>2,247</b>	<b>51.2</b>
<b>CASES SENTENCED ABOVE GUIDELINE RANGE</b>	<b>1,129</b>	<b>1.6</b>	<b>51</b>	<b>1.2</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>589</b>	<b>0.9</b>	<b>32</b>	<b>0.8</b>
Upward Departure From Guideline Range <sup>2</sup>	412	0.6	25	0.6
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	177	0.3	7	0.2
<b>OTHERWISE ABOVE GUIDELINE RANGE</b>	<b>540</b>	<b>0.7</b>	<b>19</b>	<b>0.4</b>
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	455	0.6	14	0.3
All Remaining Cases Above Guideline Range <sup>5</sup>	85	0.1	5	0.1
<b>GOVERNMENT SPONSORED BELOW RANGE<sup>6</sup></b>	<b>17,244</b>	<b>24.6</b>	<b>1,032</b>	<b>23.5</b>
§5K1.1 Substantial Assistance Departure	10,139	14.4	931	21.2
§5K3.1 Early Disposition Program Departure	5,166	7.4	0	0.0
Other Government Sponsored Below Range	1,939	2.8	101	2.3
<b>NON-GOVERNMENT SPONSORED BELOW RANGE</b>	<b>8,507</b>	<b>12.0</b>	<b>1,057</b>	<b>24.1</b>
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>3,335</b>	<b>4.7</b>	<b>470</b>	<b>10.7</b>
Downward Departure From Guideline Range <sup>2</sup>	1,903	2.7	236	5.4
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	1,432	2.0	234	5.3
<b>OTHERWISE BELOW GUIDELINE RANGE</b>	<b>5,172</b>	<b>7.3</b>	<b>587</b>	<b>13.4</b>
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	4,243	6.0	479	10.9
All Remaining Cases Below Guideline Range <sup>5</sup>	929	1.3	108	2.5

<sup>1</sup>Of the 72,585 guideline cases, 2,398 were excluded. Some excluded cases involved certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. In others, information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Note that for this table, total percentages may not add up to exactly 100 percent due to rounding. Of the 4,436 cases from the Second Circuit, 49 cases were excluded.

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

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

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

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

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

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.

**Table 9**

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT  
Fiscal Year 2006**

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>70,187</b>	<b>43,307</b>	<b>61.7</b>	<b>412</b>	<b>0.6</b>	<b>177</b>	<b>0.3</b>	<b>455</b>	<b>0.6</b>	<b>85</b>	<b>0.1</b>
<b>D.C. CIRCUIT</b>	<b>456</b>	<b>237</b>	<b>52.0</b>	<b>5</b>	<b>1.1</b>	<b>3</b>	<b>0.7</b>	<b>5</b>	<b>1.1</b>	<b>1</b>	<b>0.2</b>
District of Columbia	456	237	52.0	5	1.1	3	0.7	5	1.1	1	0.2
<b>FIRST CIRCUIT</b>	<b>1,620</b>	<b>1,096</b>	<b>67.7</b>	<b>6</b>	<b>0.4</b>	<b>3</b>	<b>0.2</b>	<b>13</b>	<b>0.8</b>	<b>2</b>	<b>0.1</b>
Maine	205	143	69.8	1	0.5	0	0.0	1	0.5	0	0.0
Massachusetts	509	291	57.2	2	0.4	0	0.0	4	0.8	0	0.0
New Hampshire	218	126	57.8	1	0.5	1	0.5	2	0.9	0	0.0
Puerto Rico	564	460	81.6	1	0.2	1	0.2	5	0.9	1	0.2
Rhode Island	124	76	61.3	1	0.8	1	0.8	1	0.8	1	0.8
<b>SECOND CIRCUIT</b>	<b>4,387</b>	<b>2,247</b>	<b>51.2</b>	<b>25</b>	<b>0.6</b>	<b>7</b>	<b>0.2</b>	<b>14</b>	<b>0.3</b>	<b>5</b>	<b>0.1</b>
Connecticut	360	172	47.8	6	1.7	0	0.0	0	0.0	1	0.3
New York											
Eastern	1,099	457	41.6	7	0.6	3	0.3	7	0.6	2	0.2
Northern	388	213	54.9	1	0.3	0	0.0	0	0.0	1	0.3
Southern	1,752	1,020	58.2	2	0.1	3	0.2	2	0.1	1	0.1
Western	586	306	52.2	6	1.0	1	0.2	5	0.9	0	0.0
Vermont	202	79	39.1	3	1.5	0	0.0	0	0.0	0	0.0
<b>THIRD CIRCUIT</b>	<b>2,972</b>	<b>1,596</b>	<b>53.7</b>	<b>6</b>	<b>0.2</b>	<b>9</b>	<b>0.3</b>	<b>22</b>	<b>0.7</b>	<b>3</b>	<b>0.1</b>
Delaware	101	66	65.3	0	0.0	0	0.0	0	0.0	0	0.0
New Jersey	924	468	50.6	0	0.0	0	0.0	3	0.3	2	0.2
Pennsylvania											
Eastern	840	354	42.1	1	0.1	6	0.7	5	0.6	0	0.0
Middle	497	258	51.9	4	0.8	1	0.2	5	1.0	0	0.0
Western	494	357	72.3	1	0.2	1	0.2	8	1.6	0	0.0
Virgin Islands	116	93	80.2	0	0.0	1	0.9	1	0.9	1	0.9
<b>FOURTH CIRCUIT</b>	<b>6,301</b>	<b>4,412</b>	<b>70.0</b>	<b>36</b>	<b>0.6</b>	<b>22</b>	<b>0.3</b>	<b>40</b>	<b>0.6</b>	<b>4</b>	<b>0.1</b>
Maryland	626	333	53.2	7	1.1	0	0.0	5	0.8	1	0.2
North Carolina											
Eastern	648	389	60.0	3	0.5	2	0.3	1	0.2	0	0.0
Middle	416	307	73.8	3	0.7	0	0.0	1	0.2	0	0.0
Western	807	515	63.8	2	0.2	0	0.0	5	0.6	0	0.0
South Carolina	1,139	806	70.8	6	0.5	0	0.0	7	0.6	3	0.3
Virginia											
Eastern	1,424	1,133	79.6	10	0.7	18	1.3	12	0.8	0	0.0
Western	595	388	65.2	5	0.8	1	0.2	3	0.5	0	0.0
West Virginia											
Northern	377	313	83.0	0	0.0	0	0.0	3	0.8	0	0.0
Southern	269	228	84.8	0	0.0	1	0.4	3	1.1	0	0.0

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>10,139</b>	<b>14.4</b>	<b>5,166</b>	<b>7.4</b>	<b>1,939</b>	<b>2.8</b>	<b>1,903</b>	<b>2.7</b>	<b>1,432</b>	<b>2.0</b>	<b>4,243</b>	<b>6.0</b>	<b>929</b>	<b>1.3</b>
<b>D.C. CIRCUIT</b>	<b>84</b>	<b>18.4</b>	<b>0</b>	<b>0.0</b>	<b>52</b>	<b>11.4</b>	<b>7</b>	<b>1.5</b>	<b>16</b>	<b>3.5</b>	<b>41</b>	<b>9.0</b>	<b>5</b>	<b>1.1</b>
District of Columbia	84	18.4	0	0.0	52	11.4	7	1.5	16	3.5	41	9.0	5	1.1
<b>FIRST CIRCUIT</b>	<b>220</b>	<b>13.6</b>	<b>0</b>	<b>0.0</b>	<b>46</b>	<b>2.8</b>	<b>51</b>	<b>3.1</b>	<b>27</b>	<b>1.7</b>	<b>131</b>	<b>8.1</b>	<b>25</b>	<b>1.5</b>
Maine	45	22.0	0	0.0	1	0.5	6	2.9	1	0.5	7	3.4	0	0.0
Massachusetts	70	13.8	0	0.0	16	3.1	32	6.3	17	3.3	66	13.0	11	2.2
New Hampshire	57	26.1	0	0.0	15	6.9	5	2.3	1	0.5	9	4.1	1	0.5
Puerto Rico	38	6.7	0	0.0	12	2.1	6	1.1	6	1.1	22	3.9	12	2.1
Rhode Island	10	8.1	0	0.0	2	1.6	2	1.6	2	1.6	27	21.8	1	0.8
<b>SECOND CIRCUIT</b>	<b>931</b>	<b>21.2</b>	<b>0</b>	<b>0.0</b>	<b>101</b>	<b>2.3</b>	<b>236</b>	<b>5.4</b>	<b>234</b>	<b>5.3</b>	<b>479</b>	<b>10.9</b>	<b>108</b>	<b>2.5</b>
Connecticut	70	19.4	0	0.0	1	0.3	47	13.1	23	6.4	33	9.2	7	1.9
New York														
Eastern	255	23.2	0	0.0	36	3.3	71	6.5	112	10.2	115	10.5	34	3.1
Northern	111	28.6	0	0.0	8	2.1	23	5.9	7	1.8	24	6.2	0	0.0
Southern	237	13.5	0	0.0	30	1.7	63	3.6	75	4.3	263	15.0	56	3.2
Western	184	31.4	0	0.0	22	3.8	7	1.2	3	0.5	41	7.0	11	1.9
Vermont	74	36.6	0	0.0	4	2.0	25	12.4	14	6.9	3	1.5	0	0.0
<b>THIRD CIRCUIT</b>	<b>815</b>	<b>27.4</b>	<b>0</b>	<b>0.0</b>	<b>55</b>	<b>1.9</b>	<b>86</b>	<b>2.9</b>	<b>65</b>	<b>2.2</b>	<b>273</b>	<b>9.2</b>	<b>42</b>	<b>1.4</b>
Delaware	9	8.9	0	0.0	0	0.0	6	5.9	4	4.0	13	12.9	3	3.0
New Jersey	301	32.6	0	0.0	15	1.6	36	3.9	8	0.9	79	8.5	12	1.3
Pennsylvania														
Eastern	282	33.6	0	0.0	17	2.0	14	1.7	30	3.6	112	13.3	19	2.3
Middle	159	32.0	0	0.0	18	3.6	9	1.8	9	1.8	31	6.2	3	0.6
Western	55	11.1	0	0.0	4	0.8	18	3.6	12	2.4	36	7.3	2	0.4
Virgin Islands	9	7.8	0	0.0	1	0.9	3	2.6	2	1.7	2	1.7	3	2.6
<b>FOURTH CIRCUIT</b>	<b>1,093</b>	<b>17.3</b>	<b>0</b>	<b>0.0</b>	<b>57</b>	<b>0.9</b>	<b>126</b>	<b>2.0</b>	<b>88</b>	<b>1.4</b>	<b>359</b>	<b>5.7</b>	<b>64</b>	<b>1.0</b>
Maryland	167	26.7	0	0.0	16	2.6	26	4.2	19	3.0	39	6.2	13	2.1
North Carolina														
Eastern	207	31.9	0	0.0	0	0.0	15	2.3	5	0.8	19	2.9	7	1.1
Middle	65	15.6	0	0.0	1	0.2	6	1.4	10	2.4	23	5.5	0	0.0
Western	213	26.4	0	0.0	8	1.0	6	0.7	6	0.7	49	6.1	3	0.4
South Carolina	181	15.9	0	0.0	9	0.8	41	3.6	9	0.8	60	5.3	17	1.5
Virginia														
Eastern	74	5.2	0	0.0	6	0.4	18	1.3	31	2.2	100	7.0	22	1.5
Western	143	24.0	0	0.0	9	1.5	6	1.0	3	0.5	35	5.9	2	0.3
West Virginia														
Northern	23	6.1	0	0.0	6	1.6	7	1.9	4	1.1	21	5.6	0	0.0
Southern	20	7.4	0	0.0	2	0.7	1	0.4	1	0.4	13	4.8	0	0.0

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
<b>FIFTH CIRCUIT</b>	<b>15,661</b>	<b>11,569</b>	<b>73.9</b>	<b>104</b>	<b>0.7</b>	<b>36</b>	<b>0.2</b>	<b>125</b>	<b>0.8</b>	<b>19</b>	<b>0.1</b>
<b>Louisiana</b>											
Eastern	368	285	77.4	1	0.3	3	0.8	4	1.1	0	0.0
Middle	172	135	78.5	7	4.1	1	0.6	2	1.2	0	0.0
Western	488	384	78.7	7	1.4	2	0.4	17	3.5	2	0.4
<b>Mississippi</b>											
Northern	173	93	53.8	1	0.6	3	1.7	3	1.7	0	0.0
Southern	376	316	84.0	0	0.0	0	0.0	5	1.3	1	0.3
<b>Texas</b>											
Eastern	842	676	80.3	5	0.6	2	0.2	6	0.7	2	0.2
Northern	1,065	818	76.8	15	1.4	8	0.8	21	2.0	2	0.2
Southern	6,260	4,188	66.9	30	0.5	7	0.1	24	0.4	3	0.0
Western	5,917	4,674	79.0	38	0.6	10	0.2	43	0.7	9	0.2
<b>SIXTH CIRCUIT</b>	<b>5,124</b>	<b>2,880</b>	<b>56.2</b>	<b>18</b>	<b>0.4</b>	<b>17</b>	<b>0.3</b>	<b>37</b>	<b>0.7</b>	<b>5</b>	<b>0.1</b>
<b>Kentucky</b>											
Eastern	523	262	50.1	1	0.2	1	0.2	7	1.3	0	0.0
Western	397	279	70.3	0	0.0	0	0.0	0	0.0	0	0.0
<b>Michigan</b>											
Eastern	793	395	49.8	4	0.5	1	0.1	5	0.6	2	0.3
Western	431	260	60.3	5	1.2	3	0.7	8	1.9	0	0.0
<b>Ohio</b>											
Northern	975	583	59.8	3	0.3	2	0.2	5	0.5	2	0.2
Southern	687	314	45.7	0	0.0	6	0.9	3	0.4	0	0.0
<b>Tennessee</b>											
Eastern	528	323	61.2	2	0.4	1	0.2	5	0.9	0	0.0
Middle	285	162	56.8	2	0.7	2	0.7	0	0.0	0	0.0
Western	505	302	59.8	1	0.2	1	0.2	4	0.8	1	0.2
<b>SEVENTH CIRCUIT</b>	<b>3,055</b>	<b>1,994</b>	<b>65.3</b>	<b>11</b>	<b>0.4</b>	<b>9</b>	<b>0.3</b>	<b>8</b>	<b>0.3</b>	<b>1</b>	<b>0.0</b>
<b>Illinois</b>											
Central	331	211	63.7	0	0.0	2	0.6	1	0.3	0	0.0
Northern	1,094	595	54.4	6	0.5	1	0.1	0	0.0	0	0.0
Southern	373	311	83.4	0	0.0	3	0.8	0	0.0	0	0.0
<b>Indiana</b>											
Northern	402	288	71.6	1	0.2	2	0.5	0	0.0	0	0.0
Southern	310	199	64.2	3	1.0	1	0.3	2	0.6	0	0.0
<b>Wisconsin</b>											
Eastern	328	192	58.5	0	0.0	0	0.0	5	1.5	0	0.0
Western	217	198	91.2	1	0.5	0	0.0	0	0.0	1	0.5
<b>EIGHTH CIRCUIT</b>	<b>5,172</b>	<b>3,384</b>	<b>65.4</b>	<b>31</b>	<b>0.6</b>	<b>16</b>	<b>0.3</b>	<b>31</b>	<b>0.6</b>	<b>1</b>	<b>0.0</b>
<b>Arkansas</b>											
Eastern	379	257	67.8	1	0.3	1	0.3	3	0.8	0	0.0
Western	182	122	67.0	0	0.0	0	0.0	1	0.5	0	0.0
<b>Iowa</b>											
Northern	418	292	69.9	12	2.9	3	0.7	8	1.9	0	0.0
Southern	366	183	50.0	0	0.0	0	0.0	6	1.6	0	0.0
Minnesota	557	282	50.6	1	0.2	2	0.4	0	0.0	0	0.0
<b>Missouri</b>											
Eastern	984	665	67.6	2	0.2	1	0.1	1	0.1	1	0.1
Western	904	610	67.5	3	0.3	0	0.0	7	0.8	0	0.0
Nebraska	703	494	70.3	2	0.3	0	0.0	2	0.3	0	0.0
North Dakota	249	156	62.7	1	0.4	1	0.4	1	0.4	0	0.0
South Dakota	430	323	75.1	9	2.1	8	1.9	2	0.5	0	0.0



CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
<b>FIFTH CIRCUIT</b>	<b>1,237</b>	<b>7.9</b>	<b>1,124</b>	<b>7.2</b>	<b>305</b>	<b>1.9</b>	<b>393</b>	<b>2.5</b>	<b>75</b>	<b>0.5</b>	<b>576</b>	<b>3.7</b>	<b>98</b>	<b>0.6</b>
<b>Louisiana</b>														
Eastern	36	9.8	0	0.0	10	2.7	5	1.4	6	1.6	15	4.1	3	0.8
Middle	21	12.2	0	0.0	0	0.0	2	1.2	1	0.6	3	1.7	0	0.0
Western	37	7.6	0	0.0	0	0.0	9	1.8	7	1.4	16	3.3	7	1.4
<b>Mississippi</b>														
Northern	45	26.0	0	0.0	18	10.4	5	2.9	0	0.0	5	2.9	0	0.0
Southern	28	7.4	0	0.0	3	0.8	1	0.3	2	0.5	15	4.0	5	1.3
<b>Texas</b>														
Eastern	60	7.1	0	0.0	21	2.5	28	3.3	18	2.1	23	2.7	1	0.1
Northern	129	12.1	0	0.0	8	0.8	4	0.4	11	1.0	44	4.1	5	0.5
Southern	454	7.3	879	14.0	201	3.2	227	3.6	18	0.3	211	3.4	18	0.3
Western	427	7.2	245	4.1	44	0.7	112	1.9	12	0.2	244	4.1	59	1.0
<b>SIXTH CIRCUIT</b>	<b>1,304</b>	<b>25.4</b>	<b>1</b>	<b>0.0</b>	<b>89</b>	<b>1.7</b>	<b>136</b>	<b>2.7</b>	<b>133</b>	<b>2.6</b>	<b>418</b>	<b>8.2</b>	<b>86</b>	<b>1.7</b>
<b>Kentucky</b>														
Eastern	209	40.0	0	0.0	2	0.4	3	0.6	8	1.5	27	5.2	3	0.6
Western	63	15.9	1	0.3	12	3.0	11	2.8	2	0.5	24	6.0	5	1.3
<b>Michigan</b>														
Eastern	239	30.1	0	0.0	10	1.3	23	2.9	37	4.7	68	8.6	9	1.1
Western	75	17.4	0	0.0	2	0.5	15	3.5	9	2.1	50	11.6	4	0.9
<b>Ohio</b>														
Northern	208	21.3	0	0.0	16	1.6	29	3.0	25	2.6	81	8.3	21	2.2
Southern	223	32.5	0	0.0	13	1.9	32	4.7	34	4.9	52	7.6	10	1.5
<b>Tennessee</b>														
Eastern	146	27.7	0	0.0	6	1.1	3	0.6	5	0.9	33	6.3	4	0.8
Middle	54	18.9	0	0.0	9	3.2	8	2.8	6	2.1	28	9.8	14	4.9
Western	87	17.2	0	0.0	19	3.8	12	2.4	7	1.4	55	10.9	16	3.2
<b>SEVENTH CIRCUIT</b>	<b>531</b>	<b>17.4</b>	<b>0</b>	<b>0.0</b>	<b>62</b>	<b>2.0</b>	<b>96</b>	<b>3.1</b>	<b>79</b>	<b>2.6</b>	<b>194</b>	<b>6.4</b>	<b>70</b>	<b>2.3</b>
<b>Illinois</b>														
Central	66	19.9	0	0.0	12	3.6	7	2.1	4	1.2	23	6.9	5	1.5
Northern	247	22.6	0	0.0	13	1.2	54	4.9	61	5.6	67	6.1	50	4.6
Southern	20	5.4	0	0.0	7	1.9	10	2.7	7	1.9	12	3.2	3	0.8
<b>Indiana</b>														
Northern	86	21.4	0	0.0	5	1.2	4	1.0	1	0.2	7	1.7	8	2.0
Southern	55	17.7	0	0.0	8	2.6	10	3.2	2	0.6	29	9.4	1	0.3
<b>Wisconsin</b>														
Eastern	55	16.8	0	0.0	17	5.2	7	2.1	4	1.2	45	13.7	3	0.9
Western	2	0.9	0	0.0	0	0.0	4	1.8	0	0.0	11	5.1	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>822</b>	<b>15.9</b>	<b>58</b>	<b>1.1</b>	<b>129</b>	<b>2.5</b>	<b>119</b>	<b>2.3</b>	<b>88</b>	<b>1.7</b>	<b>417</b>	<b>8.1</b>	<b>76</b>	<b>1.5</b>
<b>Arkansas</b>														
Eastern	58	15.3	0	0.0	7	1.8	7	1.8	9	2.4	29	7.7	7	1.8
Western	48	26.4	0	0.0	1	0.5	0	0.0	1	0.5	8	4.4	1	0.5
<b>Iowa</b>														
Northern	62	14.8	0	0.0	5	1.2	6	1.4	1	0.2	28	6.7	1	0.2
Southern	84	23.0	0	0.0	6	1.6	4	1.1	5	1.4	73	19.9	5	1.4
Minnesota	117	21.0	0	0.0	12	2.2	23	4.1	37	6.6	69	12.4	14	2.5
<b>Missouri</b>														
Eastern	166	16.9	0	0.0	20	2.0	21	2.1	6	0.6	83	8.4	18	1.8
Western	173	19.1	0	0.0	11	1.2	13	1.4	12	1.3	55	6.1	20	2.2
Nebraska	32	4.6	51	7.3	51	7.3	31	4.4	5	0.7	28	4.0	7	1.0
North Dakota	53	21.3	7	2.8	9	3.6	6	2.4	3	1.2	9	3.6	3	1.2
South Dakota	29	6.7	0	0.0	7	1.6	8	1.9	9	2.1	35	8.1	0	0.0

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
<b>NINTH CIRCUIT</b>	<b>12,832</b>	<b>5,638</b>	<b>43.9</b>	<b>111</b>	<b>0.9</b>	<b>37</b>	<b>0.3</b>	<b>55</b>	<b>0.4</b>	<b>22</b>	<b>0.2</b>
Alaska	135	74	54.8	0	0.0	3	2.2	2	1.5	0	0.0
Arizona	4,019	1,181	29.4	78	1.9	15	0.4	5	0.1	10	0.2
California											
Central	1,287	723	56.2	0	0.0	5	0.4	10	0.8	3	0.2
Eastern	1,038	590	56.8	4	0.4	1	0.1	3	0.3	0	0.0
Northern	647	360	55.6	4	0.6	1	0.2	8	1.2	3	0.5
Southern	2,491	1,002	40.2	4	0.2	4	0.2	5	0.2	2	0.1
Guam	80	42	52.5	0	0.0	0	0.0	0	0.0	0	0.0
Hawaii	448	232	51.8	2	0.4	0	0.0	2	0.4	2	0.4
Idaho	259	100	38.6	2	0.8	0	0.0	3	1.2	1	0.4
Montana	432	332	76.9	5	1.2	3	0.7	7	1.6	0	0.0
Nevada	387	275	71.1	1	0.3	2	0.5	2	0.5	1	0.3
Northern Mariana Islands	11	7	63.6	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	496	256	51.6	2	0.4	1	0.2	3	0.6	0	0.0
Washington											
Eastern	359	190	52.9	3	0.8	1	0.3	5	1.4	0	0.0
Western	743	274	36.9	6	0.8	1	0.1	0	0.0	0	0.0
<b>TENTH CIRCUIT</b>	<b>5,974</b>	<b>3,705</b>	<b>62.0</b>	<b>25</b>	<b>0.4</b>	<b>2</b>	<b>0.0</b>	<b>39</b>	<b>0.7</b>	<b>16</b>	<b>0.3</b>
Colorado	652	377	57.8	1	0.2	0	0.0	2	0.3	0	0.0
Kansas	692	434	62.7	9	1.3	0	0.0	27	3.9	9	1.3
New Mexico	2,834	1,593	56.2	5	0.2	0	0.0	0	0.0	7	0.2
Oklahoma											
Eastern	80	60	75.0	0	0.0	0	0.0	0	0.0	0	0.0
Northern	202	169	83.7	0	0.0	0	0.0	0	0.0	0	0.0
Western	224	154	68.8	1	0.4	0	0.0	6	2.7	0	0.0
Utah	951	662	69.6	6	0.6	2	0.2	3	0.3	0	0.0
Wyoming	339	256	75.5	3	0.9	0	0.0	1	0.3	0	0.0
<b>ELEVENTH CIRCUIT</b>	<b>6,633</b>	<b>4,549</b>	<b>68.6</b>	<b>34</b>	<b>0.5</b>	<b>16</b>	<b>0.2</b>	<b>66</b>	<b>1.0</b>	<b>6</b>	<b>0.1</b>
Alabama											
Middle	248	152	61.3	2	0.8	0	0.0	2	0.8	0	0.0
Northern	479	288	60.1	1	0.2	1	0.2	7	1.5	0	0.0
Southern	393	258	65.6	1	0.3	1	0.3	5	1.3	0	0.0
Florida											
Middle	1,716	1,112	64.8	3	0.2	0	0.0	12	0.7	2	0.1
Northern	414	294	71.0	0	0.0	2	0.5	3	0.7	1	0.2
Southern	1,939	1,443	74.4	4	0.2	6	0.3	11	0.6	2	0.1
Georgia											
Middle	397	287	72.3	2	0.5	1	0.3	5	1.3	1	0.3
Northern	730	477	65.3	9	1.2	1	0.1	5	0.7	0	0.0
Southern	317	238	75.1	12	3.8	4	1.3	16	5.0	0	0.0

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
<b>NINTH CIRCUIT</b>	<b>1,364</b>	<b>10.6</b>	<b>3,428</b>	<b>26.7</b>	<b>528</b>	<b>4.1</b>	<b>357</b>	<b>2.8</b>	<b>442</b>	<b>3.4</b>	<b>619</b>	<b>4.8</b>	<b>231</b>	<b>1.8</b>
Alaska	18	13.3	0	0.0	14	10.4	4	3.0	6	4.4	7	5.2	7	5.2
Arizona	232	5.8	2,124	52.8	116	2.9	66	1.6	87	2.2	85	2.1	20	0.5
<b>California</b>														
Central	171	13.3	38	3.0	70	5.4	31	2.4	65	5.1	107	8.3	64	5.0
Eastern	134	12.9	175	16.9	28	2.7	26	2.5	19	1.8	38	3.7	20	1.9
Northern	88	13.6	13	2.0	56	8.7	14	2.2	40	6.2	47	7.3	13	2.0
Southern	152	6.1	1,003	40.3	75	3.0	106	4.3	12	0.5	71	2.9	55	2.2
Guam	28	35.0	0	0.0	1	1.3	1	1.3	1	1.3	7	8.8	0	0.0
Hawaii	140	31.3	0	0.0	8	1.8	10	2.2	11	2.5	39	8.7	2	0.4
Idaho	75	29.0	39	15.1	3	1.2	6	2.3	4	1.5	20	7.7	6	2.3
Montana	53	12.3	0	0.0	0	0.0	8	1.9	1	0.2	15	3.5	8	1.9
Nevada	30	7.8	0	0.0	16	4.1	5	1.3	9	2.3	37	9.6	9	2.3
Northern Mariana Islands	4	36.4	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	84	16.9	17	3.4	16	3.2	40	8.1	24	4.8	45	9.1	8	1.6
<b>Washington</b>														
Eastern	32	8.9	3	0.8	34	9.5	13	3.6	13	3.6	62	17.3	3	0.8
Western	123	16.6	16	2.2	91	12.2	27	3.6	150	20.2	39	5.2	16	2.2
<b>TENTH CIRCUIT</b>	<b>521</b>	<b>8.7</b>	<b>553</b>	<b>9.3</b>	<b>436</b>	<b>7.3</b>	<b>202</b>	<b>3.4</b>	<b>113</b>	<b>1.9</b>	<b>299</b>	<b>5.0</b>	<b>63</b>	<b>1.1</b>
Colorado	179	27.5	0	0.0	8	1.2	27	4.1	21	3.2	32	4.9	5	0.8
Kansas	94	13.6	1	0.1	41	5.9	5	0.7	8	1.2	63	9.1	1	0.1
New Mexico	110	3.9	525	18.5	337	11.9	96	3.4	32	1.1	101	3.6	28	1.0
<b>Oklahoma</b>														
Eastern	13	16.3	0	0.0	2	2.5	3	3.8	0	0.0	2	2.5	0	0.0
Northern	19	9.4	0	0.0	1	0.5	3	1.5	0	0.0	9	4.5	1	0.5
Western	12	5.4	0	0.0	2	0.9	2	0.9	1	0.4	45	20.1	1	0.4
Utah	69	7.3	27	2.8	35	3.7	56	5.9	42	4.4	30	3.2	19	2.0
Wyoming	25	7.4	0	0.0	10	2.9	10	2.9	9	2.7	17	5.0	8	2.4
<b>ELEVENTH CIRCUIT</b>	<b>1,217</b>	<b>18.3</b>	<b>2</b>	<b>0.0</b>	<b>79</b>	<b>1.2</b>	<b>94</b>	<b>1.4</b>	<b>72</b>	<b>1.1</b>	<b>437</b>	<b>6.6</b>	<b>61</b>	<b>0.9</b>
<b>Alabama</b>														
Middle	76	30.6	0	0.0	6	2.4	0	0.0	0	0.0	7	2.8	3	1.2
Northern	133	27.8	0	0.0	2	0.4	4	0.8	2	0.4	38	7.9	3	0.6
Southern	90	22.9	0	0.0	2	0.5	3	0.8	7	1.8	23	5.9	3	0.8
<b>Florida</b>														
Middle	400	23.3	2	0.1	15	0.9	38	2.2	12	0.7	111	6.5	9	0.5
Northern	91	22.0	0	0.0	0	0.0	1	0.2	3	0.7	17	4.1	2	0.5
Southern	244	12.6	0	0.0	23	1.2	20	1.0	20	1.0	138	7.1	28	1.4
<b>Georgia</b>														
Middle	61	15.4	0	0.0	7	1.8	5	1.3	0	0.0	25	6.3	3	0.8
Northern	105	14.4	0	0.0	23	3.2	14	1.9	25	3.4	61	8.4	10	1.4
Southern	17	5.4	0	0.0	1	0.3	9	2.8	3	0.9	17	5.4	0	0.0

Of the 72,585 guideline cases, 2,398 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: Western Oklahoma (37.1%), Southern Georgia (37.1%), Central California (21.2%), Middle Georgia (19.6%), Eastern Virginia (18.4%), Western Washington (11.4%), Western Kentucky (10.8%), Alaska (7.5%), Northern Alabama (7.4%), Maryland (6.8%), Arizona (6.7%), Oregon (5.9%), Southern California (5.6%), and Northern New York (5.1%).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.

**Table 10**

**GUIDELINE DEPARTURE RATE BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2006**

**National**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>70,128</b>	<b>43,271</b>	<b>61.7</b>	<b>412</b>	<b>0.6</b>	<b>177</b>	<b>0.3</b>	<b>455</b>	<b>0.6</b>	<b>84</b>	<b>0.1</b>
Robbery	1,152	758	65.8	13	1.1	8	0.7	9	0.8	2	0.2
Drugs - Trafficking	24,881	13,351	53.7	43	0.2	18	0.1	51	0.2	16	0.1
Drugs - Simple Possession	606	565	93.2	7	1.2	2	0.3	4	0.7	2	0.3
Firearms	8,330	5,809	69.7	74	0.9	31	0.4	93	1.1	7	0.1
Larceny	1,579	1,246	78.9	6	0.4	5	0.3	17	1.1	4	0.3
Fraud	6,787	4,374	64.4	38	0.6	34	0.5	68	1.0	15	0.2
Embezzlement	563	433	76.9	0	0.0	1	0.2	2	0.4	0	0.0
Forgery/Counterfeiting	1,157	846	73.1	14	1.2	3	0.3	10	0.9	3	0.3
Immigration	17,049	10,843	63.6	113	0.7	28	0.2	103	0.6	18	0.1
Other Miscellaneous Offenses	8,024	5,046	62.9	104	1.3	47	0.6	98	1.2	17	0.2

**Second Circuit**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>4,386</b>	<b>2,246</b>	<b>51.2</b>	<b>25</b>	<b>0.6</b>	<b>7</b>	<b>0.2</b>	<b>14</b>	<b>0.3</b>	<b>5</b>	<b>0.1</b>
Robbery	44	21	47.7	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	1,780	706	39.7	3	0.2	1	0.1	1	0.1	1	0.1
Drugs - Simple Possession	54	51	94.4	1	1.9	0	0.0	0	0.0	1	1.9
Firearms	447	261	58.4	5	1.1	0	0.0	2	0.4	0	0.0
Larceny	101	74	73.3	0	0.0	0	0.0	0	0.0	0	0.0
Fraud	655	362	55.3	4	0.6	2	0.3	3	0.5	2	0.3
Embezzlement	40	30	75.0	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	51	31	60.8	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	444	303	68.2	0	0.0	1	0.2	0	0.0	1	0.2
Other Miscellaneous Offenses	770	407	52.9	12	1.6	3	0.4	8	1.0	0	0.0

### National

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>10,134</b>	<b>14.5</b>	<b>5,163</b>	<b>7.4</b>	<b>1,930</b>	<b>2.8</b>	<b>1,901</b>	<b>2.7</b>	<b>1,432</b>	<b>2.0</b>	<b>4,240</b>	<b>6.0</b>	<b>929</b>	<b>1.3</b>
Robbery	144	12.5	0	0.0	30	2.6	48	4.2	49	4.3	78	6.8	13	1.1
Drugs - Trafficking	6,465	26.0	1,390	5.6	630	2.5	599	2.4	527	2.1	1,485	6.0	306	1.2
Drugs - Simple Possession	4	0.7	0	0.0	7	1.2	2	0.3	2	0.3	9	1.5	2	0.3
Firearms	960	11.5	41	0.5	209	2.5	247	3.0	178	2.1	563	6.8	118	1.4
Larceny	103	6.5	6	0.4	23	1.5	40	2.5	30	1.9	73	4.6	26	1.6
Fraud	1,035	15.2	5	0.1	142	2.1	205	3.0	199	2.9	522	7.7	150	2.2
Embezzlement	17	3.0	0	0.0	9	1.6	17	3.0	19	3.4	50	8.9	15	2.7
Forgery/Counterfeiting	98	8.5	3	0.3	21	1.8	32	2.8	22	1.9	85	7.3	20	1.7
Immigration	328	1.9	3,682	21.6	521	3.1	477	2.8	164	1.0	635	3.7	137	0.8
Other Miscellaneous Offenses	980	12.2	36	0.4	338	4.2	234	2.9	242	3.0	740	9.2	142	1.8

### Second Circuit

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>931</b>	<b>21.2</b>	<b>0</b>	<b>0.0</b>	<b>101</b>	<b>2.3</b>	<b>236</b>	<b>5.4</b>	<b>234</b>	<b>5.3</b>	<b>479</b>	<b>10.9</b>	<b>108</b>	<b>2.5</b>
Robbery	12	27.3	0	0.0	0	0.0	4	9.1	4	9.1	3	6.8	0	0.0
Drugs - Trafficking	550	30.9	0	0.0	40	2.2	101	5.7	110	6.2	222	12.5	45	2.5
Drugs - Simple Possession	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1	1.9	0	0.0
Firearms	76	17.0	0	0.0	16	3.6	20	4.5	20	4.5	38	8.5	9	2.0
Larceny	11	10.9	0	0.0	3	3.0	5	5.0	3	3.0	5	5.0	0	0.0
Fraud	130	19.8	0	0.0	5	0.8	31	4.7	32	4.9	63	9.6	21	3.2
Embezzlement	2	5.0	0	0.0	0	0.0	2	5.0	1	2.5	3	7.5	2	5.0
Forgery/Counterfeiting	6	11.8	0	0.0	0	0.0	5	9.8	2	3.9	5	9.8	2	3.9
Immigration	25	5.6	0	0.0	9	2.0	24	5.4	14	3.2	53	11.9	14	3.2
Other Miscellaneous Offenses	119	15.5	0	0.0	28	3.6	44	5.7	48	6.2	86	11.2	15	1.9

Of the 72,585 guideline cases, 2,457 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 (2,398) or missing primary offense (67).

Of the 4,436 guideline cases from the Second Circuit, 50 cases were excluded due to one of the following reasons: missing information needed to determine the relationship between the sentence imposed and the guideline range (49) or missing primary offense category (1).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2006 Datafile, OPAFY06.