

United States Sentencing Commission



Statistical Information Packet

Fiscal Year 2011

Second Circuit

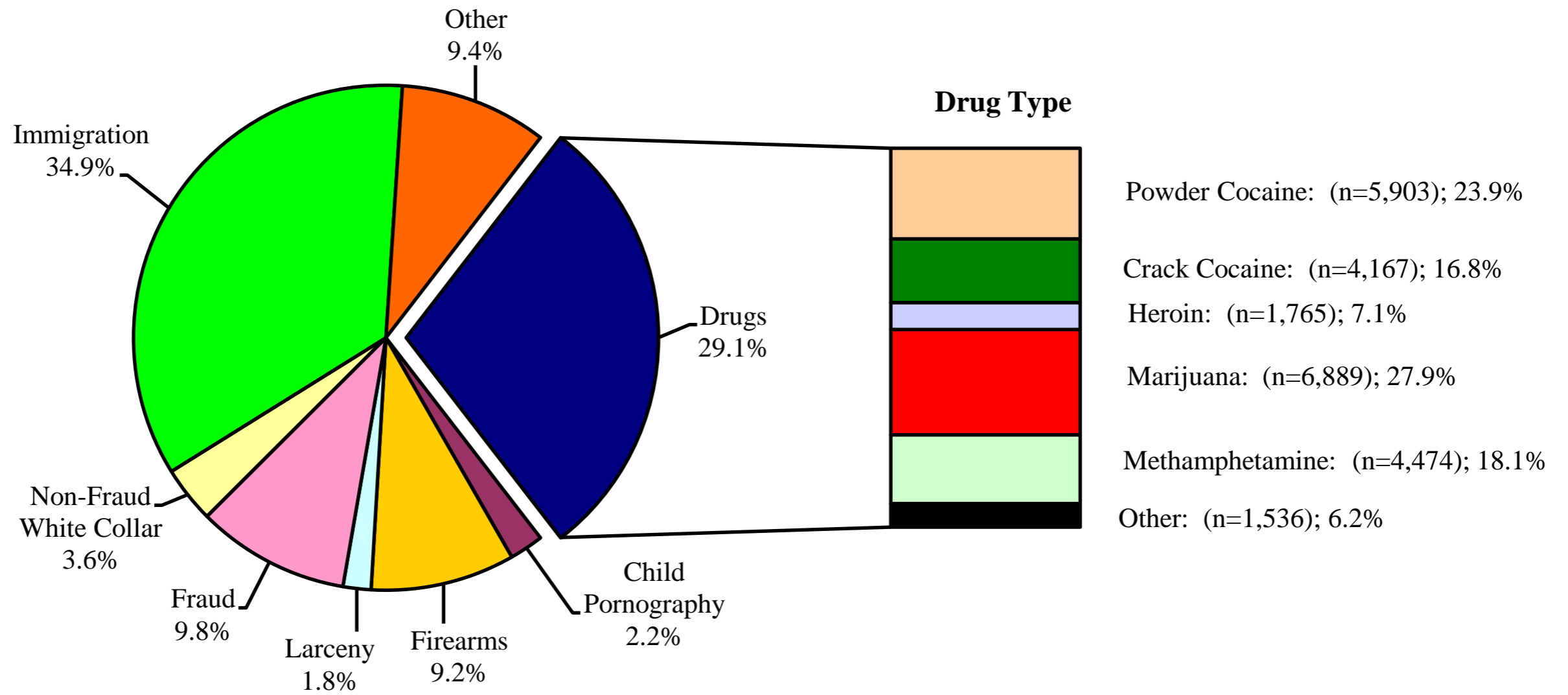
TABLE OF CONTENTS

Figure A	Offenders in Each Primary Offense Category	1
Table 1	Distribution of Guideline Offenders in Each Primary Offense Category	2
Table 2	Guilty Pleas and Trials in Each Circuit and District	3
Table 3	Guilty Pleas and Trials in Each Primary Offense Category	6
Table 4	Type of Sentence Imposed by Primary Offense Category (National)	7
Table 5	Type of Sentence Imposed by Primary Offense Category (District)	8
Table 6	Incarceration Rate of U.S. Citizen Defendants Eligible for Non-Prison Sentences by Primary Offense Category	9
Table 7	Length of Imprisonment by Primary Offense Category	10
Table 8	Comparison of Sentence Imposed and Position Relative to the Guideline Range	11
Table 9	Sentences Relative to the Guideline Range by Circuit and District	12
Table 10	Sentences Relative to the Guideline Range by Selected Primary Offense Category	18

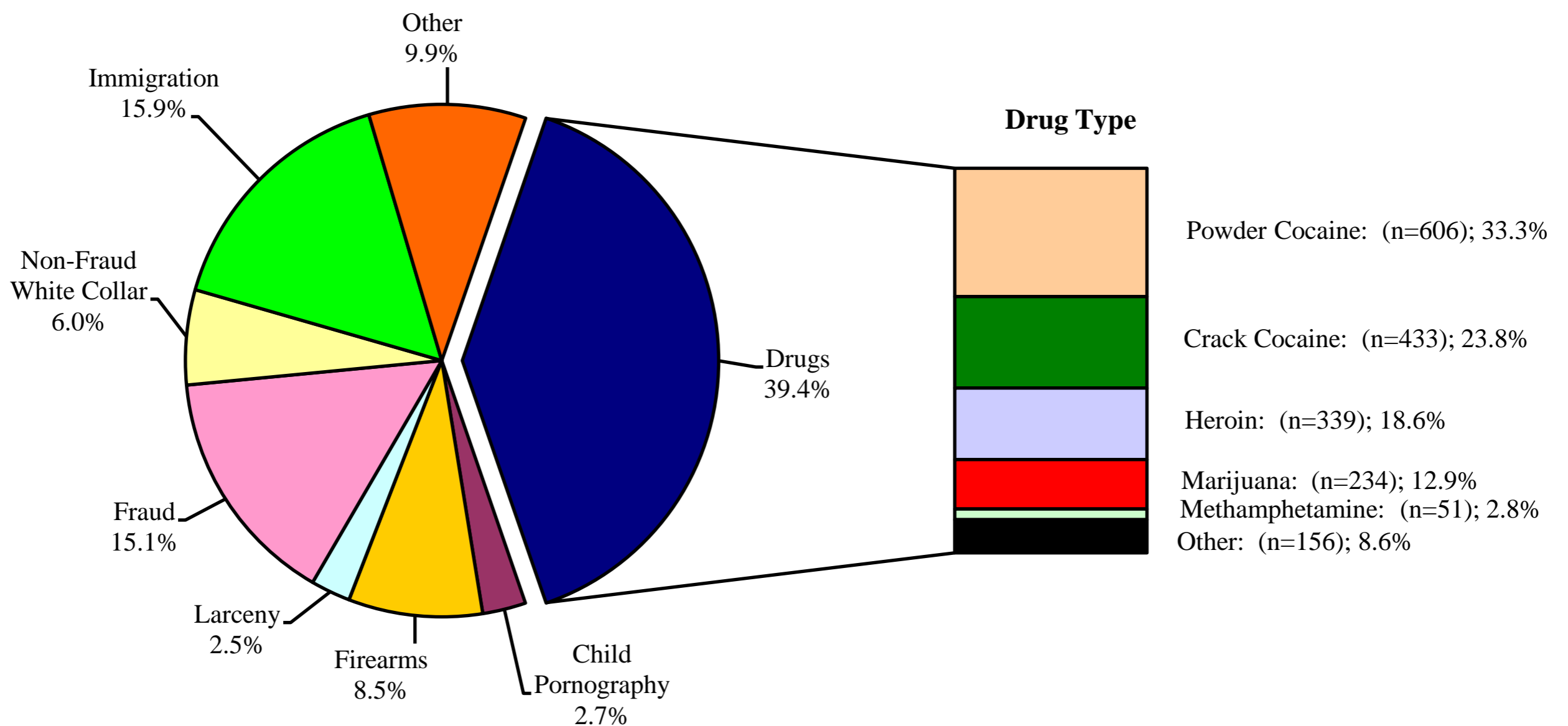
Figure A

OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2011

National



Second Circuit



¹ Of the 86,201 guideline cases, 1,079 cases were excluded due to missing drug type.
 Of the 4,634 guideline cases from the Second Circuit, 19 cases were excluded due to missing drug type.

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

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 1

**DISTRIBUTION OF GUIDELINE OFFENDERS IN EACH
PRIMARY OFFENSE CATEGORY
Fiscal Year 2011**

PRIMARY OFFENSE	National		Second Circuit	
	N	%	N	%
TOTAL	86,201	100.0	4,634	100.0
Murder	74	0.1	7	0.2
Manslaughter	65	0.1	0	0.0
Kidnapping/Hostage Taking	69	0.1	5	0.1
Sexual Abuse	395	0.5	22	0.5
Assault	680	0.8	6	0.1
Robbery	957	1.1	22	0.5
Arson	55	0.1	1	0.0
Drugs - Trafficking	24,442	28.4	1,759	38.0
Drugs - Communication Facility	469	0.5	37	0.8
Drugs - Simple Possession	902	1.0	42	0.9
Firearms	7,858	9.1	390	8.4
Burglary/B&E	52	0.1	0	0.0
Auto Theft	85	0.1	4	0.1
Larceny	1,528	1.8	115	2.5
Fraud	8,332	9.7	697	15.0
Embezzlement	391	0.5	20	0.4
Forgery/Counterfeiting	941	1.1	40	0.9
Bribery	221	0.3	26	0.6
Tax	677	0.8	72	1.6
Money Laundering	844	1.0	118	2.5
Racketeering/Extortion	731	0.8	152	3.3
Gambling/Lottery	80	0.1	20	0.4
Civil Rights	59	0.1	3	0.1
Immigration	29,717	34.5	736	15.9
Child Pornography	1,855	2.2	126	2.7
Prison Offenses	419	0.5	20	0.4
Administration of Justice Offenses	1,188	1.4	80	1.7
Environmental/Wildlife	201	0.2	6	0.1
National Defense	88	0.1	8	0.2
Antitrust	10	0.0	1	0.0
Food & Drug	55	0.1	1	0.0
Other Miscellaneous Offenses	2,761	3.2	98	2.1

Of the 86,201 guideline cases, no cases were excluded due to missing information on primary offense category.

Of the 4,634 guideline cases from the Second Circuit, no cases were excluded due to missing information on primary offense category.

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 2

**GUILTY PLEAS AND TRIALS IN EACH CIRCUIT AND DISTRICT
Fiscal Year 2011**

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	86,200	83,509	96.9	2,691	3.1
D.C. CIRCUIT	365	340	93.2	25	6.8
District of Columbia	365	340	93.2	25	6.8
FIRST CIRCUIT	2,375	2,276	95.8	99	4.2
Maine	193	178	92.2	15	7.8
Massachusetts	570	524	91.9	46	8.1
New Hampshire	204	199	97.5	5	2.5
Puerto Rico	1,196	1,174	98.2	22	1.8
Rhode Island	212	201	94.8	11	5.2
SECOND CIRCUIT	4,634	4,433	95.7	201	4.3
Connecticut	342	328	95.9	14	4.1
New York					
Eastern	1,150	1,087	94.5	63	5.5
Northern	583	561	96.2	22	3.8
Southern	1,593	1,508	94.7	85	5.3
Western	803	788	98.1	15	1.9
Vermont	163	161	98.8	2	1.2
THIRD CIRCUIT	2,966	2,776	93.6	190	6.4
Delaware	121	115	95.0	6	5.0
New Jersey	805	776	96.4	29	3.6
Pennsylvania					
Eastern	987	895	90.7	92	9.3
Middle	500	470	94.0	30	6.0
Western	491	479	97.6	12	2.4
Virgin Islands	62	41	66.1	21	33.9
FOURTH CIRCUIT	6,951	6,608	95.1	343	4.9
Maryland	901	854	94.8	47	5.2
North Carolina					
Eastern	853	827	97.0	26	3.0
Middle	529	510	96.4	19	3.6
Western	551	515	93.5	36	6.5
South Carolina	1,048	1,010	96.4	38	3.6
Virginia					
Eastern	2,066	1,931	93.5	135	6.5
Western	379	363	95.8	16	4.2
West Virginia					
Northern	312	300	96.2	12	3.8
Southern	312	298	95.5	14	4.5

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
FIFTH CIRCUIT	20,054	19,708	98.3	346	1.7
Louisiana					
Eastern	347	331	95.4	16	4.6
Middle	140	135	96.4	5	3.6
Western	305	283	92.8	22	7.2
Mississippi					
Northern	184	171	92.9	13	7.1
Southern	309	294	95.1	15	4.9
Texas					
Eastern	1,010	987	97.7	23	2.3
Northern	919	881	95.9	38	4.1
Southern	8,314	8,200	98.6	114	1.4
Western	8,526	8,426	98.8	100	1.2
SIXTH CIRCUIT	5,646	5,388	95.4	258	4.6
Kentucky					
Eastern	608	579	95.2	29	4.8
Western	435	416	95.6	19	4.4
Michigan					
Eastern	827	787	95.2	40	4.8
Western	501	478	95.4	23	4.6
Ohio					
Northern	631	608	96.4	23	3.6
Southern	744	726	97.6	18	2.4
Tennessee					
Eastern	913	847	92.8	66	7.2
Middle	347	331	95.4	16	4.6
Western	640	616	96.3	24	3.8
SEVENTH CIRCUIT	3,064	2,905	94.8	159	5.2
Illinois					
Central	360	345	95.8	15	4.2
Northern	928	861	92.8	67	7.2
Southern	345	330	95.7	15	4.3
Indiana					
Northern	454	430	94.7	24	5.3
Southern	289	272	94.1	17	5.9
Wisconsin					
Eastern	501	493	98.4	8	1.6
Western	187	174	93.0	13	7.0
EIGHTH CIRCUIT	4,772	4,600	96.4	172	3.6
Arkansas					
Eastern	325	306	94.2	19	5.8
Western	318	313	98.4	5	1.6
Iowa					
Northern	520	506	97.3	14	2.7
Southern	407	387	95.1	20	4.9
Minnesota	454	429	94.5	25	5.5
Missouri					
Eastern	817	795	97.3	22	2.7
Western	658	632	96.0	26	4.0
Nebraska	563	549	97.5	14	2.5
North Dakota	275	268	97.5	7	2.5
South Dakota	435	415	95.4	20	4.6

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
NINTH CIRCUIT	21,514	21,106	98.1	408	1.9
Alaska	153	146	95.4	7	4.6
Arizona	9,362	9,277	99.1	85	0.9
California					
Central	1,895	1,824	96.3	71	3.7
Eastern	1,046	1,017	97.2	29	2.8
Northern	814	788	96.8	26	3.2
Southern	4,835	4,766	98.6	69	1.4
Guam	54	49	90.7	5	9.3
Hawaii	206	197	95.6	9	4.4
Idaho	348	338	97.1	10	2.9
Montana	312	296	94.9	16	5.1
Nevada	651	632	97.1	19	2.9
Northern Mariana Islands	10	10	100.0	0	0.0
Oregon	665	652	98.0	13	2.0
Washington					
Eastern	371	359	96.8	12	3.2
Western	792	755	95.3	37	4.7
TENTH CIRCUIT	6,768	6,637	98.1	131	1.9
Colorado	667	647	97.0	20	3.0
Kansas	699	674	96.4	25	3.6
New Mexico	3,152	3,130	99.3	22	0.7
Oklahoma					
Eastern	104	100	96.2	4	3.8
Northern	197	187	94.9	10	5.1
Western	508	484	95.3	24	4.7
Utah	1,086	1,071	98.6	15	1.4
Wyoming	355	344	96.9	11	3.1
ELEVENTH CIRCUIT	7,091	6,732	94.9	359	5.1
Alabama					
Middle	230	211	91.7	19	8.3
Northern	473	460	97.3	13	2.7
Southern	439	415	94.5	24	5.5
Florida					
Middle	1,529	1,444	94.4	85	5.6
Northern	374	336	89.8	38	10.2
Southern	2,138	2,031	95.0	107	5.0
Georgia					
Middle	445	431	96.9	14	3.1
Northern	711	672	94.5	39	5.5
Southern	752	732	97.3	20	2.7

Of the 86,201 guideline cases, one case was excluded due to missing information on mode of conviction.

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 3

**GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY
Fiscal Year 2011**

PRIMARY OFFENSE	TOTAL	National				Second Circuit			
		PLEA		TRIAL		PLEA		TRIAL	
		N	%	N	%	N	%	N	%
TOTAL	86,200	83,509	96.9	2,691	3.1	4,433	95.7	201	4.3
Murder	74	55	74.3	19	25.7	6	85.7	1	14.3
Manslaughter	65	61	93.8	4	6.2	0	--	0	--
Kidnapping/Hostage Taking	69	51	73.9	18	26.1	4	80.0	1	20.0
Sexual Abuse	395	345	87.3	50	12.7	20	90.9	2	9.1
Assault	680	608	89.4	72	10.6	4	66.7	2	33.3
Robbery	957	920	96.1	37	3.9	21	95.5	1	4.5
Arson	55	51	92.7	4	7.3	1	100.0	0	0.0
Drugs - Trafficking	24,442	23,632	96.7	810	3.3	1,709	97.2	50	2.8
Drugs - Communication Facility	469	469	100.0	0	0.0	37	100.0	0	0.0
Drugs - Simple Possession	902	890	98.7	12	1.3	42	100.0	0	0.0
Firearms	7,858	7,357	93.6	501	6.4	355	91.0	35	9.0
Burglary/B&E	52	49	94.2	3	5.8	0	--	0	--
Auto Theft	85	77	90.6	8	9.4	3	75.0	1	25.0
Larceny	1,528	1,491	97.6	37	2.4	112	97.4	3	2.6
Fraud	8,332	7,876	94.5	456	5.5	639	91.7	58	8.3
Embezzlement	391	384	98.2	7	1.8	19	95.0	1	5.0
Forgery/Counterfeiting	941	924	98.2	17	1.8	39	97.5	1	2.5
Bribery	221	209	94.6	12	5.4	26	100.0	0	0.0
Tax	677	617	91.1	60	8.9	69	95.8	3	4.2
Money Laundering	844	806	95.5	38	4.5	116	98.3	2	1.7
Racketeering/Extortion	731	668	91.4	63	8.6	139	91.4	13	8.6
Gambling/Lottery	80	78	97.5	2	2.5	19	95.0	1	5.0
Civil Rights	59	49	83.1	10	16.9	3	100.0	0	0.0
Immigration	29,717	29,553	99.4	164	0.6	727	98.8	9	1.2
Child Pornography	1,855	1,797	96.9	58	3.1	125	99.2	1	0.8
Prison Offenses	419	411	98.1	8	1.9	20	100.0	0	0.0
Administration of Justice Offenses	1,188	1,126	94.8	62	5.2	73	91.3	7	8.8
Environmental/Wildlife	201	188	93.5	13	6.5	4	66.7	2	33.3
National Defense	88	80	90.9	8	9.1	5	62.5	3	37.5
Antitrust	10	10	100.0	0	0.0	1	100.0	0	0.0
Food & Drug	55	55	100.0	0	0.0	1	100.0	0	0.0
Other Miscellaneous Offenses	2,760	2,622	95.0	138	5.0	94	95.9	4	4.1

Of the 86,201 guideline cases, one case was excluded due to missing information on mode of conviction.

Of the 4,634 guideline cases from the Second Circuit, no cases were excluded due to missing information on mode of conviction.

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 4
TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2011

National

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
TOTAL	85,440	74,261	86.9	2,497	2.9	2,630	3.1	6,052	7.1
Murder	74	70	94.6	3	4.1	1	1.4	0	0.0
Manslaughter	65	56	86.2	6	9.2	2	3.1	1	1.5
Kidnapping/Hostage Taking	69	69	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	395	367	92.9	23	5.8	1	0.3	4	1.0
Assault	675	523	77.5	49	7.3	30	4.4	73	10.8
Robbery	957	899	93.9	35	3.7	8	0.8	15	1.6
Arson	54	51	94.4	2	3.7	1	1.9	0	0.0
Drugs - Trafficking	24,433	22,792	93.3	716	2.9	402	1.6	523	2.1
Drugs - Communication Facility	469	353	75.3	17	3.6	44	9.4	55	11.7
Drugs - Simple Possession	864	543	62.8	5	0.6	15	1.7	301	34.8
Firearms	7,846	7,217	92.0	218	2.8	178	2.3	233	3.0
Burglary/B&E	52	41	78.8	6	11.5	5	9.6	0	0.0
Auto Theft	85	55	64.7	7	8.2	12	14.1	11	12.9
Larceny	1,438	525	36.5	59	4.1	222	15.4	632	43.9
Fraud	8,298	5,918	71.3	565	6.8	675	8.1	1,140	13.7
Embezzlement	382	147	38.5	44	11.5	54	14.1	137	35.9
Forgery/Counterfeiting	940	630	67.0	70	7.4	119	12.7	121	12.9
Bribery	219	136	62.1	19	8.7	34	15.5	30	13.7
Tax	674	341	50.6	72	10.7	121	18.0	140	20.8
Money Laundering	841	626	74.4	45	5.4	63	7.5	107	12.7
Racketeering/Extortion	731	661	90.4	27	3.7	23	3.1	20	2.7
Gambling/Lottery	80	21	26.3	5	6.3	34	42.5	20	25.0
Civil Rights	58	31	53.4	8	13.8	6	10.3	13	22.4
Immigration	29,713	28,201	94.9	284	1.0	199	0.7	1,029	3.5
Child Pornography	1,853	1,785	96.3	43	2.3	13	0.7	12	0.6
Prison Offenses	419	380	90.7	18	4.3	7	1.7	14	3.3
Administration of Justice Offenses	1,176	807	68.6	63	5.4	82	7.0	224	19.0
Environmental/Wildlife	186	47	25.3	8	4.3	21	11.3	110	59.1
National Defense	87	74	85.1	4	4.6	4	4.6	5	5.7
Antitrust	10	7	70.0	1	10.0	1	10.0	1	10.0
Food & Drug	52	17	32.7	2	3.8	2	3.8	31	59.6
Other Miscellaneous Offenses	2,245	871	38.8	73	3.3	251	11.2	1,050	46.8

Of the 86,201 guideline cases, 761 cases were excluded due to one or both of the following reasons: missing sentencing information (5), or cases in which the defendant received no imprisonment or probation (756).

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 5
TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2011

Second Circuit

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
TOTAL	4,612	3,783	82.0	192	4.2	197	4.3	440	9.5
Murder	7	7	100.0	0	0.0	0	0.0	0	0.0
Manslaughter	0	0	--	0	--	0	--	0	--
Kidnapping/Hostage Taking	5	5	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	22	21	95.5	1	4.5	0	0.0	0	0.0
Assault	5	3	60.0	1	20.0	0	0.0	1	20.0
Robbery	22	19	86.4	3	13.6	0	0.0	0	0.0
Arson	1	0	0.0	1	100.0	0	0.0	0	0.0
Drugs - Trafficking	1,759	1,571	89.3	71	4.0	38	2.2	79	4.5
Drugs - Communication Facility	37	17	45.9	3	8.1	1	2.7	16	43.2
Drugs - Simple Possession	39	11	28.2	0	0.0	2	5.1	26	66.7
Firearms	389	343	88.2	17	4.4	12	3.1	17	4.4
Burglary/B&E	0	0	--	0	--	0	--	0	--
Auto Theft	4	2	50.0	0	0.0	0	0.0	2	50.0
Larceny	113	35	31.0	3	2.7	20	17.7	55	48.7
Fraud	691	455	65.8	44	6.4	57	8.2	135	19.5
Embezzlement	18	12	66.7	0	0.0	2	11.1	4	22.2
Forgery/Counterfeiting	40	26	65.0	3	7.5	6	15.0	5	12.5
Bribery	25	17	68.0	0	0.0	5	20.0	3	12.0
Tax	72	35	48.6	10	13.9	14	19.4	13	18.1
Money Laundering	116	84	72.4	1	0.9	9	7.8	22	19.0
Racketeering/Extortion	152	138	90.8	7	4.6	3	2.0	4	2.6
Gambling/Lottery	20	11	55.0	1	5.0	5	25.0	3	15.0
Civil Rights	3	1	33.3	1	33.3	0	0.0	1	33.3
Immigration	736	718	97.6	4	0.5	3	0.4	11	1.5
Child Pornography	126	119	94.4	4	3.2	2	1.6	1	0.8
Prison Offenses	20	19	95.0	1	5.0	0	0.0	0	0.0
Administration of Justice Offenses	80	52	65.0	7	8.8	5	6.3	16	20.0
Environmental/Wildlife	6	4	66.7	1	16.7	0	0.0	1	16.7
National Defense	8	8	100.0	0	0.0	0	0.0	0	0.0
Antitrust	1	0	0.0	0	0.0	0	0.0	1	100.0
Food & Drug	1	1	100.0	0	0.0	0	0.0	0	0.0
Other Miscellaneous Offenses	94	49	52.1	8	8.5	13	13.8	24	25.5

Of the 4,634 guideline cases from the Second Circuit, 22 cases were excluded due to one of the following reasons: missing sentencing information (1) or cases in which the defendant received no imprisonment or probation (21).

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 6

**INCARCERATION RATE OF U.S. CITIZEN DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES
BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2011**

PRIMARY OFFENSE	TOTAL	National				Second Circuit			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		N	%	N	%	N	%	N	%
TOTAL	5,541	1,851	33.4	3,690	66.6	100	26.6	276	73.4
Fraud	1,329	479	36.0	850	64.0	23	20.5	89	79.5
Larceny	731	136	18.6	595	81.4	0	0.0	56	100.0
Immigration	469	237	50.5	232	49.5	9	56.3	7	43.8
Embezzlement	189	43	22.8	146	77.2	0	0.0	3	100.0
Drugs - Trafficking	426	162	38.0	264	62.0	19	43.2	25	56.8
Drugs - Simple Possession	333	163	48.9	170	51.1	6	20.0	24	80.0
Firearms	191	79	41.4	112	58.6	10	47.6	11	52.4
Forgery/Counterfeiting	257	103	40.1	154	59.9	2	28.6	5	71.4
Other Miscellaneous Offenses	1,616	449	27.8	1,167	72.2	31	35.6	56	64.4

Of the 86,201 guideline cases, a U.S. Citizen was the defendant in 43,553 cases. Of these, 38,012 cases were excluded due to one or both of the following reasons: defendant ineligible for non-prison sentence (38,012), or missing sentencing information (4).

Of the 4,634 guideline cases from the Second Circuit, a U.S. Citizen was the defendant in 2,954 cases. Of these, 2,578 cases were excluded because the defendant was ineligible for a non-prison sentence.

This table was limited to U.S. Citizens beginning in Fiscal Year 2010.

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 7

**LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2011**

PRIMARY OFFENSE	National			Second Circuit		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
TOTAL	49	27	73,891	51	30	3,629
Murder	241	210	73	228	288	7
Manslaughter	57	39	60	--	--	0
Kidnapping/Hostage Taking	226	188	69	195	180	5
Sexual Abuse	125	108	389	123	86	22
Assault	44	30	559	63	47	4
Robbery	85	65	931	87	56	22
Arson	64	60	52	--	--	0
Drugs - Trafficking	74	60	23,129	57	42	1,505
Drugs - Communication Facility	40	41	362	23	13	14
Drugs - Simple Possession	5	3	494	17	4	4
Firearms	89	60	7,350	84	60	345
Burglary/B&E	24	23	46	--	--	0
Auto Theft	77	27	60	--	--	1
Larceny	18	12	566	22	18	35
Fraud	30	18	6,064	38	21	453
Embezzlement	17	12	184	28	20	11
Forgery/Counterfeiting	23	18	669	19	12	22
Bribery	25	18	153	12	10	17
Tax	23	18	406	17	12	41
Money Laundering	37	24	629	31	22	77
Racketeering/Extortion	89	60	671	86	54	139
Gambling/Lottery	11	12	22	12	12	9
Civil Rights	46	24	37	--	--	1
Immigration	18	12	26,808	17	12	633
Child Pornography	121	84	1,817	106	72	121
Prison Offenses	15	12	394	14	11	20
Administration of Justice Offenses	25	18	845	18	18	53
Environmental/Wildlife	12	6	52	26	14	5
National Defense	70	37	78	267	240	8
Antitrust	14	10	8	--	--	0
Food & Drug	28	16	18	--	--	1
Other Miscellaneous Offenses	34	12	896	41	16	54

Of the 86,201 guideline cases, 12,310 cases were excluded for one or both of the following reasons: zero months of prison ordered (11,546), or missing or indeterminable sentencing information (764).

Of the 4,634 guideline cases from the Second Circuit, 1,005 cases were excluded due to one of the following reasons: zero months of prison ordered (983) or missing or indeterminable sentencing information (22).

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 8

**COMPARISON OF SENTENCE IMPOSED AND POSITION
RELATIVE TO THE GUIDELINE RANGE
Fiscal Year 2011**

	National		Second Circuit	
	N	%	N	%
TOTAL CASES¹	84,744	100.0	4,604	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	46,160	54.5	1,797	39.0
CASES SENTENCED ABOVE GUIDELINE RANGE	1,527	1.8	44	1.0
DEPARTURE ABOVE GUIDELINE RANGE	488	0.6	16	0.3
Upward Departure From Guideline Range ²	379	0.4	13	0.3
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	109	0.1	3	0.1
OTHERWISE ABOVE GUIDELINE RANGE	1,039	1.2	28	0.6
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	947	1.1	22	0.5
All Remaining Cases Above Guideline Range ⁵	92	0.1	6	0.1
GOVERNMENT SPONSORED BELOW RANGE⁶	22,295	26.3	991	21.5
§5K1.1 Substantial Assistance Departure	9,522	11.2	871	18.9
§5K3.1 Early Disposition Program Departure	9,057	10.7	0	0.0
Other Government Sponsored Below Range	3,716	4.4	120	2.6
NON-GOVERNMENT SPONSORED BELOW RANGE	14,762	17.4	1,772	38.5
DEPARTURE BELOW GUIDELINE RANGE	2,893	3.4	290	6.3
Downward Departure From Guideline Range ²	1,976	2.3	142	3.1
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	917	1.1	148	3.2
OTHERWISE BELOW GUIDELINE RANGE	11,869	14.0	1,482	32.2
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	11,371	13.4	1,443	31.3
All Remaining Cases Below Guideline Range ⁵	498	0.6	39	0.8

¹ This table reflects the 86,201 cases sentenced nationally in Fiscal Year 2011, 4,634 of which were from the Second Circuit. Of these, 1,457 cases nationally and 30 cases from the Second Circuit were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range.

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

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

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

⁵ 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.

⁶ 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: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 9

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT
Fiscal Year 2011**

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	%
TOTAL	84,744	46,160	54.5	379	0.4	109	0.1	947	1.1	92	0.1
D.C. CIRCUIT	359	138	38.4	3	0.8	1	0.3	4	1.1	0	0.0
District of Columbia	359	138	38.4	3	0.8	1	0.3	4	1.1	0	0.0
FIRST CIRCUIT	2,328	1,340	57.6	6	0.3	6	0.3	37	1.6	3	0.1
Maine	193	83	43.0	1	0.5	0	0.0	1	0.5	0	0.0
Massachusetts	566	207	36.6	3	0.5	3	0.5	12	2.1	1	0.2
New Hampshire	204	85	41.7	0	0.0	1	0.5	8	3.9	0	0.0
Puerto Rico	1,155	863	74.7	2	0.2	2	0.2	16	1.4	2	0.2
Rhode Island	210	102	48.6	0	0.0	0	0.0	0	0.0	0	0.0
SECOND CIRCUIT	4,604	1,797	39.0	13	0.3	3	0.1	22	0.5	6	0.1
Connecticut	341	144	42.2	2	0.6	0	0.0	2	0.6	0	0.0
New York											
Eastern	1,147	350	30.5	1	0.1	2	0.2	12	1.0	3	0.3
Northern	573	298	52.0	3	0.5	1	0.2	0	0.0	1	0.2
Southern	1,579	551	34.9	1	0.1	0	0.0	6	0.4	1	0.1
Western	803	403	50.2	5	0.6	0	0.0	1	0.1	1	0.1
Vermont	161	51	31.7	1	0.6	0	0.0	1	0.6	0	0.0
THIRD CIRCUIT	2,955	1,344	45.5	7	0.2	3	0.1	27	0.9	5	0.2
Delaware	121	47	38.8	0	0.0	0	0.0	1	0.8	0	0.0
New Jersey	803	384	47.8	1	0.1	1	0.1	3	0.4	0	0.0
Pennsylvania											
Eastern	979	384	39.2	3	0.3	1	0.1	18	1.8	3	0.3
Middle	500	234	46.8	2	0.4	0	0.0	2	0.4	0	0.0
Western	490	252	51.4	0	0.0	0	0.0	1	0.2	1	0.2
Virgin Islands	62	43	69.4	1	1.6	1	1.6	2	3.2	1	1.6
FOURTH CIRCUIT	6,794	4,119	60.6	43	0.6	17	0.3	83	1.2	4	0.1
Maryland	853	353	41.4	8	0.9	5	0.6	12	1.4	1	0.1
North Carolina											
Eastern	805	441	54.8	13	1.6	4	0.5	12	1.5	0	0.0
Middle	527	372	70.6	6	1.1	0	0.0	10	1.9	0	0.0
Western	550	312	56.7	1	0.2	1	0.2	6	1.1	0	0.0
South Carolina	1,044	613	58.7	6	0.6	1	0.1	7	0.7	2	0.2
Virginia											
Eastern	2,020	1,513	74.9	7	0.3	5	0.2	22	1.1	0	0.0
Western	374	181	48.4	1	0.3	1	0.3	6	1.6	0	0.0
West Virginia											
Northern	311	177	56.9	1	0.3	0	0.0	5	1.6	0	0.0
Southern	310	157	50.6	0	0.0	0	0.0	3	1.0	1	0.3

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	%
TOTAL	9,522	11.2	9,057	10.7	3,716	4.4	1,976	2.3	917	1.1	11,371	13.4	498	0.6
D.C. CIRCUIT	84	23.4	0	0.0	57	15.9	12	3.3	20	5.6	33	9.2	7	1.9
District of Columbia	84	23.4	0	0.0	57	15.9	12	3.3	20	5.6	33	9.2	7	1.9
FIRST CIRCUIT	247	10.6	17	0.7	205	8.8	59	2.5	26	1.1	362	15.5	20	0.9
Maine	62	32.1	0	0.0	2	1.0	9	4.7	3	1.6	32	16.6	0	0.0
Massachusetts	68	12.0	2	0.4	96	17.0	16	2.8	6	1.1	147	26.0	5	0.9
New Hampshire	34	16.7	0	0.0	26	12.7	4	2.0	6	2.9	40	19.6	0	0.0
Puerto Rico	71	6.1	15	1.3	75	6.5	29	2.5	11	1.0	54	4.7	15	1.3
Rhode Island	12	5.7	0	0.0	6	2.9	1	0.5	0	0.0	89	42.4	0	0.0
SECOND CIRCUIT	871	18.9	0	0.0	120	2.6	142	3.1	148	3.2	1,443	31.3	39	0.8
Connecticut	52	15.2	0	0.0	5	1.5	22	6.5	14	4.1	99	29.0	1	0.3
New York														
Eastern	232	20.2	0	0.0	38	3.3	41	3.6	60	5.2	395	34.4	13	1.1
Northern	119	20.8	0	0.0	7	1.2	18	3.1	11	1.9	111	19.4	4	0.7
Southern	228	14.4	0	0.0	18	1.1	34	2.2	37	2.3	687	43.5	16	1.0
Western	218	27.1	0	0.0	38	4.7	3	0.4	6	0.7	123	15.3	5	0.6
Vermont	22	13.7	0	0.0	14	8.7	24	14.9	20	12.4	28	17.4	0	0.0
THIRD CIRCUIT	729	24.7	0	0.0	147	5.0	39	1.3	55	1.9	574	19.4	25	0.8
Delaware	19	15.7	0	0.0	12	9.9	0	0.0	0	0.0	40	33.1	2	1.7
New Jersey	219	27.3	0	0.0	25	3.1	10	1.2	11	1.4	146	18.2	3	0.4
Pennsylvania														
Eastern	303	30.9	0	0.0	38	3.9	10	1.0	6	0.6	197	20.1	16	1.6
Middle	92	18.4	0	0.0	59	11.8	12	2.4	11	2.2	88	17.6	0	0.0
Western	88	18.0	0	0.0	12	2.4	6	1.2	27	5.5	101	20.6	2	0.4
Virgin Islands	8	12.9	0	0.0	1	1.6	1	1.6	0	0.0	2	3.2	2	3.2
FOURTH CIRCUIT	1,060	15.6	0	0.0	242	3.6	100	1.5	65	1.0	1,028	15.1	33	0.5
Maryland	213	25.0	0	0.0	78	9.1	17	2.0	23	2.7	137	16.1	6	0.7
North Carolina														
Eastern	263	32.7	0	0.0	2	0.2	6	0.7	3	0.4	59	7.3	2	0.2
Middle	59	11.2	0	0.0	1	0.2	6	1.1	1	0.2	72	13.7	0	0.0
Western	121	22.0	0	0.0	28	5.1	6	1.1	5	0.9	69	12.5	1	0.2
South Carolina	186	17.8	0	0.0	27	2.6	12	1.1	7	0.7	175	16.8	8	0.8
Virginia														
Eastern	72	3.6	0	0.0	42	2.1	42	2.1	20	1.0	284	14.1	13	0.6
Western	82	21.9	0	0.0	24	6.4	8	2.1	3	0.8	67	17.9	1	0.3
West Virginia														
Northern	28	9.0	0	0.0	36	11.6	0	0.0	1	0.3	62	19.9	1	0.3
Southern	36	11.6	0	0.0	4	1.3	3	1.0	2	0.6	103	33.2	1	0.3

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	%
FIFTH CIRCUIT	19,363	13,662	70.6	98	0.5	22	0.1	319	1.6	22	0.1
Louisiana											
Eastern	347	242	69.7	5	1.4	5	1.4	7	2.0	1	0.3
Middle	138	75	54.3	3	2.2	2	1.4	5	3.6	0	0.0
Western	285	205	71.9	4	1.4	1	0.4	15	5.3	2	0.7
Mississippi											
Northern	183	120	65.6	0	0.0	0	0.0	9	4.9	0	0.0
Southern	306	246	80.4	1	0.3	0	0.0	2	0.7	0	0.0
Texas											
Eastern	1,008	700	69.4	7	0.7	0	0.0	8	0.8	1	0.1
Northern	914	554	60.6	15	1.6	8	0.9	61	6.7	0	0.0
Southern	8,302	5,477	66.0	50	0.6	4	0.0	58	0.7	0	0.0
Western	7,880	6,043	76.7	13	0.2	2	0.0	154	2.0	18	0.2
SIXTH CIRCUIT	5,608	2,831	50.5	31	0.6	4	0.1	69	1.2	5	0.1
Kentucky											
Eastern	607	293	48.3	0	0.0	0	0.0	9	1.5	0	0.0
Western	431	219	50.8	3	0.7	0	0.0	1	0.2	1	0.2
Michigan											
Eastern	825	404	49.0	2	0.2	1	0.1	5	0.6	1	0.1
Western	499	325	65.1	5	1.0	1	0.2	10	2.0	2	0.4
Ohio											
Northern	628	300	47.8	1	0.2	0	0.0	8	1.3	0	0.0
Southern	741	255	34.4	3	0.4	2	0.3	8	1.1	1	0.1
Tennessee											
Eastern	912	559	61.3	6	0.7	0	0.0	8	0.9	0	0.0
Middle	335	140	41.8	3	0.9	0	0.0	6	1.8	0	0.0
Western	630	336	53.3	8	1.3	0	0.0	14	2.2	0	0.0
SEVENTH CIRCUIT	3,037	1,481	48.8	18	0.6	5	0.2	54	1.8	1	0.0
Illinois											
Central	358	196	54.7	2	0.6	0	0.0	3	0.8	0	0.0
Northern	921	417	45.3	4	0.4	0	0.0	7	0.8	0	0.0
Southern	332	253	76.2	4	1.2	1	0.3	4	1.2	0	0.0
Indiana											
Northern	451	269	59.6	2	0.4	2	0.4	7	1.6	1	0.2
Southern	288	146	50.7	2	0.7	0	0.0	25	8.7	0	0.0
Wisconsin											
Eastern	500	123	24.6	2	0.4	1	0.2	7	1.4	0	0.0
Western	187	77	41.2	2	1.1	1	0.5	1	0.5	0	0.0
EIGHTH CIRCUIT	4,760	2,613	54.9	37	0.8	16	0.3	69	1.4	6	0.1
Arkansas											
Eastern	325	204	62.8	2	0.6	1	0.3	8	2.5	0	0.0
Western	318	243	76.4	0	0.0	0	0.0	0	0.0	2	0.6
Iowa											
Northern	520	327	62.9	13	2.5	4	0.8	16	3.1	0	0.0
Southern	407	154	37.8	3	0.7	0	0.0	5	1.2	0	0.0
Minnesota	451	141	31.3	1	0.2	5	1.1	1	0.2	0	0.0
Missouri											
Eastern	817	400	49.0	3	0.4	3	0.4	11	1.3	3	0.4
Western	654	360	55.0	2	0.3	1	0.2	18	2.8	1	0.2
Nebraska	561	339	60.4	5	0.9	0	0.0	3	0.5	0	0.0
North Dakota	275	153	55.6	0	0.0	2	0.7	5	1.8	0	0.0
South Dakota	432	292	67.6	8	1.9	0	0.0	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	%
FIFTH CIRCUIT	1,371	7.1	851	4.4	365	1.9	741	3.8	56	0.3	1,728	8.9	128	0.7
Louisiana														
Eastern	37	10.7	0	0.0	7	2.0	5	1.4	5	1.4	30	8.6	3	0.9
Middle	30	21.7	0	0.0	2	1.4	1	0.7	1	0.7	19	13.8	0	0.0
Western	25	8.8	0	0.0	1	0.4	1	0.4	0	0.0	29	10.2	2	0.7
Mississippi														
Northern	32	17.5	0	0.0	4	2.2	0	0.0	0	0.0	18	9.8	0	0.0
Southern	26	8.5	0	0.0	0	0.0	3	1.0	0	0.0	20	6.5	8	2.6
Texas														
Eastern	94	9.3	0	0.0	104	10.3	30	3.0	10	1.0	51	5.1	3	0.3
Northern	118	12.9	0	0.0	18	2.0	4	0.4	1	0.1	134	14.7	1	0.1
Southern	436	5.3	842	10.1	123	1.5	517	6.2	18	0.2	765	9.2	12	0.1
Western	573	7.3	9	0.1	106	1.3	180	2.3	21	0.3	662	8.4	99	1.3
SIXTH CIRCUIT	1,296	23.1	1	0.0	236	4.2	125	2.2	106	1.9	862	15.4	42	0.7
Kentucky														
Eastern	228	37.6	0	0.0	12	2.0	0	0.0	3	0.5	61	10.0	1	0.2
Western	98	22.7	0	0.0	45	10.4	13	3.0	3	0.7	47	10.9	1	0.2
Michigan														
Eastern	147	17.8	1	0.1	27	3.3	16	1.9	12	1.5	205	24.8	4	0.5
Western	58	11.6	0	0.0	2	0.4	10	2.0	7	1.4	76	15.2	3	0.6
Ohio														
Northern	167	26.6	0	0.0	18	2.9	15	2.4	7	1.1	106	16.9	6	1.0
Southern	220	29.7	0	0.0	53	7.2	36	4.9	44	5.9	104	14.0	15	2.0
Tennessee														
Eastern	220	24.1	0	0.0	14	1.5	11	1.2	5	0.5	82	9.0	7	0.8
Middle	54	16.1	0	0.0	47	14.0	13	3.9	5	1.5	67	20.0	0	0.0
Western	104	16.5	0	0.0	18	2.9	11	1.7	20	3.2	114	18.1	5	0.8
SEVENTH CIRCUIT	501	16.5	1	0.0	147	4.8	73	2.4	104	3.4	619	20.4	33	1.1
Illinois														
Central	53	14.8	0	0.0	17	4.7	1	0.3	3	0.8	81	22.6	2	0.6
Northern	133	14.4	0	0.0	14	1.5	19	2.1	72	7.8	238	25.8	17	1.8
Southern	23	6.9	0	0.0	11	3.3	4	1.2	6	1.8	23	6.9	3	0.9
Indiana														
Northern	98	21.7	0	0.0	21	4.7	15	3.3	5	1.1	31	6.9	0	0.0
Southern	32	11.1	0	0.0	20	6.9	8	2.8	1	0.3	54	18.8	0	0.0
Wisconsin														
Eastern	146	29.2	0	0.0	64	12.8	3	0.6	0	0.0	143	28.6	11	2.2
Western	16	8.6	1	0.5	0	0.0	23	12.3	17	9.1	49	26.2	0	0.0
EIGHTH CIRCUIT	658	13.8	37	0.8	199	4.2	109	2.3	64	1.3	929	19.5	23	0.5
Arkansas														
Eastern	33	10.2	0	0.0	11	3.4	6	1.8	4	1.2	53	16.3	3	0.9
Western	36	11.3	0	0.0	1	0.3	1	0.3	3	0.9	31	9.7	1	0.3
Iowa														
Northern	100	19.2	0	0.0	5	1.0	3	0.6	0	0.0	52	10.0	0	0.0
Southern	84	20.6	0	0.0	42	10.3	2	0.5	5	1.2	110	27.0	2	0.5
Minnesota	94	20.8	1	0.2	7	1.6	15	3.3	10	2.2	176	39.0	0	0.0
Missouri														
Eastern	105	12.9	0	0.0	53	6.5	10	1.2	20	2.4	202	24.7	7	0.9
Western	124	19.0	0	0.0	22	3.4	12	1.8	6	0.9	106	16.2	2	0.3
Nebraska	15	2.7	36	6.4	36	6.4	10	1.8	5	0.9	106	18.9	6	1.1
North Dakota	57	20.7	0	0.0	13	4.7	13	4.7	2	0.7	29	10.5	1	0.4
South Dakota	10	2.3	0	0.0	9	2.1	37	8.6	9	2.1	64	14.8	1	0.2

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	%
NINTH CIRCUIT	21,265	8,668	40.8	79	0.4	22	0.1	97	0.5	21	0.1
Alaska	153	61	39.9	2	1.3	3	2.0	0	0.0	0	0.0
Arizona	9,185	4,273	46.5	48	0.5	5	0.1	15	0.2	5	0.1
California											
Central	1,886	613	32.5	5	0.3	8	0.4	11	0.6	3	0.2
Eastern	1,038	405	39.0	5	0.5	0	0.0	7	0.7	3	0.3
Northern	811	362	44.6	0	0.0	2	0.2	8	1.0	0	0.0
Southern	4,834	1,367	28.3	7	0.1	1	0.0	7	0.1	8	0.2
Guam	50	27	54.0	0	0.0	1	2.0	0	0.0	0	0.0
Hawaii	206	82	39.8	0	0.0	1	0.5	3	1.5	0	0.0
Idaho	347	146	42.1	1	0.3	0	0.0	4	1.2	0	0.0
Montana	311	209	67.2	1	0.3	0	0.0	4	1.3	0	0.0
Nevada	649	400	61.6	1	0.2	0	0.0	9	1.4	1	0.2
Northern Mariana Islands	10	7	70.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	631	232	36.8	2	0.3	0	0.0	14	2.2	0	0.0
Washington											
Eastern	369	129	35.0	6	1.6	1	0.3	7	1.9	1	0.3
Western	785	355	45.2	1	0.1	0	0.0	8	1.0	0	0.0
TENTH CIRCUIT	6,739	3,797	56.3	28	0.4	3	0.0	50	0.7	7	0.1
Colorado	657	360	54.8	2	0.3	2	0.3	3	0.5	1	0.2
Kansas	688	341	49.6	9	1.3	0	0.0	27	3.9	1	0.1
New Mexico	3,149	1,964	62.4	8	0.3	1	0.0	4	0.1	3	0.1
Oklahoma											
Eastern	104	79	76.0	0	0.0	0	0.0	0	0.0	0	0.0
Northern	197	123	62.4	2	1.0	0	0.0	0	0.0	0	0.0
Western	503	342	68.0	1	0.2	0	0.0	6	1.2	0	0.0
Utah	1,086	390	35.9	4	0.4	0	0.0	6	0.6	1	0.1
Wyoming	355	198	55.8	2	0.6	0	0.0	4	1.1	1	0.3
ELEVENTH CIRCUIT	6,932	4,370	63.0	16	0.2	7	0.1	116	1.7	12	0.2
Alabama											
Middle	230	135	58.7	0	0.0	1	0.4	12	5.2	0	0.0
Northern	456	307	67.3	0	0.0	0	0.0	5	1.1	0	0.0
Southern	439	273	62.2	2	0.5	0	0.0	3	0.7	0	0.0
Florida											
Middle	1,526	789	51.7	3	0.2	0	0.0	33	2.2	2	0.1
Northern	369	240	65.0	3	0.8	2	0.5	5	1.4	0	0.0
Southern	2,093	1,346	64.3	4	0.2	3	0.1	24	1.1	9	0.4
Georgia											
Middle	396	317	80.1	0	0.0	1	0.3	3	0.8	0	0.0
Northern	671	360	53.7	2	0.3	0	0.0	11	1.6	0	0.0
Southern	752	603	80.2	2	0.3	0	0.0	20	2.7	1	0.1

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE DEPARTURE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
NINTH CIRCUIT	1,314	6.2	7,358	34.6	1,227	5.8	387	1.8	169	0.8	1,828	8.6	95	0.4
Alaska	22	14.4	0	0.0	16	10.5	6	3.9	10	6.5	32	20.9	1	0.7
Arizona	158	1.7	3,839	41.8	272	3.0	114	1.2	36	0.4	406	4.4	14	0.2
California														
Central	205	10.9	401	21.3	198	10.5	53	2.8	25	1.3	325	17.2	39	2.1
Eastern	139	13.4	332	32.0	28	2.7	12	1.2	5	0.5	99	9.5	3	0.3
Northern	79	9.7	103	12.7	126	15.5	14	1.7	27	3.3	88	10.9	2	0.2
Southern	265	5.5	2,514	52.0	148	3.1	142	2.9	32	0.7	322	6.7	21	0.4
Guam	7	14.0	0	0.0	0	0.0	1	2.0	0	0.0	12	24.0	2	4.0
Hawaii	55	26.7	0	0.0	2	1.0	3	1.5	2	1.0	58	28.2	0	0.0
Idaho	93	26.8	26	7.5	8	2.3	4	1.2	3	0.9	61	17.6	1	0.3
Montana	48	15.4	0	0.0	3	1.0	1	0.3	2	0.6	42	13.5	1	0.3
Nevada	55	8.5	0	0.0	65	10.0	15	2.3	4	0.6	93	14.3	6	0.9
Northern Mariana Islands	1	10.0	0	0.0	1	10.0	0	0.0	1	10.0	0	0.0	0	0.0
Oregon	107	17.0	53	8.4	102	16.2	9	1.4	9	1.4	101	16.0	2	0.3
Washington														
Eastern	33	8.9	48	13.0	62	16.8	8	2.2	6	1.6	68	18.4	0	0.0
Western	47	6.0	42	5.4	196	25.0	5	0.6	7	0.9	121	15.4	3	0.4
TENTH CIRCUIT	497	7.4	792	11.8	644	9.6	109	1.6	43	0.6	750	11.1	19	0.3
Colorado	140	21.3	0	0.0	33	5.0	13	2.0	8	1.2	95	14.5	0	0.0
Kansas	112	16.3	0	0.0	111	16.1	7	1.0	1	0.1	78	11.3	1	0.1
New Mexico	91	2.9	408	13.0	411	13.1	52	1.7	20	0.6	175	5.6	12	0.4
Oklahoma														
Eastern	14	13.5	0	0.0	4	3.8	0	0.0	0	0.0	7	6.7	0	0.0
Northern	34	17.3	0	0.0	0	0.0	1	0.5	1	0.5	36	18.3	0	0.0
Western	36	7.2	0	0.0	2	0.4	9	1.8	3	0.6	103	20.5	1	0.2
Utah	30	2.8	377	34.7	54	5.0	19	1.7	0	0.0	200	18.4	5	0.5
Wyoming	40	11.3	7	2.0	29	8.2	8	2.3	10	2.8	56	15.8	0	0.0
ELEVENTH CIRCUIT	894	12.9	0	0.0	127	1.8	80	1.2	61	0.9	1,215	17.5	34	0.5
Alabama														
Middle	47	20.4	0	0.0	5	2.2	3	1.3	0	0.0	27	11.7	0	0.0
Northern	82	18.0	0	0.0	7	1.5	2	0.4	1	0.2	52	11.4	0	0.0
Southern	81	18.5	0	0.0	6	1.4	4	0.9	4	0.9	66	15.0	0	0.0
Florida														
Middle	244	16.0	0	0.0	17	1.1	28	1.8	22	1.4	378	24.8	10	0.7
Northern	50	13.6	0	0.0	0	0.0	8	2.2	2	0.5	59	16.0	0	0.0
Southern	197	9.4	0	0.0	37	1.8	17	0.8	21	1.0	416	19.9	19	0.9
Georgia														
Middle	50	12.6	0	0.0	4	1.0	2	0.5	2	0.5	17	4.3	0	0.0
Northern	73	10.9	0	0.0	42	6.3	11	1.6	8	1.2	161	24.0	3	0.4
Southern	70	9.3	0	0.0	9	1.2	5	0.7	1	0.1	39	5.2	2	0.3

Of the 86,201 cases, 1,457 were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. The information needed to determine the relationship between the sentence imposed and the guideline range was missing in five percent or more of the cases received from: Middle Georgia (11.0%), Western Texas (7.6%), Guam (7.4%), Western Louisiana (6.6%), Eastern North Carolina (5.6%), Northern Georgia (5.6%), Maryland (5.3%), and Oregon (5.1%).

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.

Table 10

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY SELECTED PRIMARY OFFENSE CATEGORY
Fiscal Year 2011**

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	%
TOTAL	84,744	46,160	54.5	379	0.4	109	0.1	947	1.1	92	0.1
Robbery	957	576	60.2	9	0.9	5	0.5	24	2.5	1	0.1
Drugs - Trafficking	24,401	11,283	46.2	62	0.3	11	0.0	130	0.5	18	0.1
Drugs - Simple Possession	764	725	94.9	5	0.7	3	0.4	7	0.9	1	0.1
Firearms	7,837	4,640	59.2	85	1.1	13	0.2	183	2.3	12	0.2
Larceny	1,472	1,083	73.6	4	0.3	4	0.3	15	1.0	2	0.1
Fraud	7,887	4,304	54.6	33	0.4	24	0.3	106	1.3	11	0.1
Embezzlement	385	246	63.9	0	0.0	0	0.0	2	0.5	1	0.3
Forgery/Counterfeiting	937	601	64.1	3	0.3	2	0.2	16	1.7	1	0.1
Immigration	29,327	16,913	57.7	97	0.3	24	0.1	291	1.0	21	0.1
Other Miscellaneous Offenses	10,777	5,789	53.7	81	0.8	23	0.2	173	1.6	24	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	%
TOTAL	4,604	1,797	39.0	13	0.3	3	0.1	22	0.5	6	0.1
Robbery	22	11	50.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	1,757	466	26.5	3	0.2	0	0.0	4	0.2	2	0.1
Drugs - Simple Possession	39	34	87.2	1	2.6	0	0.0	0	0.0	0	0.0
Firearms	387	167	43.2	2	0.5	1	0.3	5	1.3	2	0.5
Larceny	114	72	63.2	1	0.9	0	0.0	0	0.0	0	0.0
Fraud	691	261	37.8	2	0.3	2	0.3	4	0.6	0	0.0
Embezzlement	19	5	26.3	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	40	24	60.0	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	728	456	62.6	2	0.3	0	0.0	3	0.4	2	0.3
Other Miscellaneous Offenses	807	301	37.3	2	0.2	0	0.0	6	0.7	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	%
TOTAL	9,522	11.2	9,057	10.7	3,716	4.4	1,976	2.3	917	1.1	11,371	13.4	498	0.6
Robbery	104	10.9	3	0.3	40	4.2	25	2.6	12	1.3	155	16.2	3	0.3
Drugs - Trafficking	5,766	23.6	1,364	5.6	1,199	4.9	502	2.1	305	1.2	3,653	15.0	108	0.4
Drugs - Simple Possession	5	0.7	0	0.0	3	0.4	2	0.3	0	0.0	11	1.4	2	0.3
Firearms	894	11.4	12	0.2	418	5.3	167	2.1	103	1.3	1,272	16.2	38	0.5
Larceny	65	4.4	2	0.1	62	4.2	24	1.6	11	0.7	184	12.5	16	1.1
Fraud	1,281	16.2	10	0.1	333	4.2	141	1.8	145	1.8	1,418	18.0	81	1.0
Embezzlement	15	3.9	1	0.3	16	4.2	7	1.8	5	1.3	87	22.6	5	1.3
Forgery/Counterfeiting	112	12.0	1	0.1	27	2.9	15	1.6	8	0.9	143	15.3	8	0.9
Immigration	281	1.0	7,626	26.0	668	2.3	828	2.8	141	0.5	2,296	7.8	141	0.5
Other Miscellaneous Offenses	999	9.3	38	0.4	950	8.8	265	2.5	187	1.7	2,152	20.0	96	0.9

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	%
TOTAL	871	18.9	0	0.0	120	2.6	142	3.1	148	3.2	1,443	31.3	39	0.8
Robbery	3	13.6	0	0.0	2	9.1	0	0.0	2	9.1	4	18.2	0	0.0
Drugs - Trafficking	533	30.3	0	0.0	39	2.2	63	3.6	70	4.0	568	32.3	9	0.5
Drugs - Simple Possession	1	2.6	0	0.0	0	0.0	1	2.6	0	0.0	2	5.1	0	0.0
Firearms	74	19.1	0	0.0	13	3.4	10	2.6	12	3.1	98	25.3	3	0.8
Larceny	6	5.3	0	0.0	2	1.8	1	0.9	1	0.9	29	25.4	2	1.8
Fraud	132	19.1	0	0.0	7	1.0	19	2.7	22	3.2	227	32.9	15	2.2
Embezzlement	2	10.5	0	0.0	1	5.3	1	5.3	0	0.0	10	52.6	0	0.0
Forgery/Counterfeiting	0	0.0	0	0.0	2	5.0	1	2.5	0	0.0	13	32.5	0	0.0
Immigration	10	1.4	0	0.0	4	0.5	16	2.2	17	2.3	214	29.4	4	0.5
Other Miscellaneous Offenses	110	13.6	0	0.0	50	6.2	30	3.7	24	3.0	278	34.4	6	0.7

Of the 86,201 guideline cases, 1,457 cases were excluded due to missing information from the submitted documents that prevented the comparison of the sentence and the guideline range.

Of the 4,634 guideline cases from the Second Circuit, 30 cases were excluded due to missing information from the from the submitted documents that prevented the comparison of the sentence and the guideline range.

SOURCE: U.S. Sentencing Commission, 2011 Datafile, OPAFY11.