

Table N-2

**COMPARISON OF SENTENCE IMPOSED AND POSITION
RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT¹
Fiscal Year 2017**

	National		Second Circuit	
	N	%	N	%
TOTAL CASES	66,266	100.0	3,513	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	32,552	49.1	1,087	30.9
CASES SENTENCED ABOVE GUIDELINE RANGE	1,950	2.9	62	1.8
DEPARTURE ABOVE GUIDELINE RANGE	456	0.7	20	0.6
Upward Departure From Guideline Range ²	352	0.5	14	0.4
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	104	0.2	6	0.2
OTHERWISE ABOVE GUIDELINE RANGE	1,494	2.3	42	1.2
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	1,411	2.1	40	1.1
All Remaining Cases Above Guideline Range ⁵	83	0.1	2	0.1
GOVERNMENT SPONSORED BELOW RANGE⁶	18,417	27.8	912	26.0
§5K1.1 Substantial Assistance Departure	7,128	10.8	628	17.9
§5K3.1 Early Disposition Program Departure	5,828	8.8	10	0.3
Other Government Sponsored Below Range	5,461	8.2	274	7.8
NON-GOVERNMENT SPONSORED BELOW RANGE	13,347	20.1	1,452	41.3
DEPARTURE BELOW GUIDELINE RANGE	1,563	2.4	121	3.4
Downward Departure From Guideline Range ²	1,142	1.7	64	1.8
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	421	0.6	57	1.6
OTHERWISE BELOW GUIDELINE RANGE	11,784	17.8	1,331	37.9
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	11,457	17.3	1,314	37.4
All Remaining Cases Below Guideline Range ⁵	327	0.5	17	0.5

¹ This table reflects the 66,873 cases sentenced nationally in fiscal year 2017, 3,525 of which were from district courts in the Second Circuit. Of these, 607 cases nationally and 12 cases from courts in the Second Circuit were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

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.