

**United  
States  
Sentencing  
Commission**



***Statistical Information Packet***

***Fiscal Year 2007***

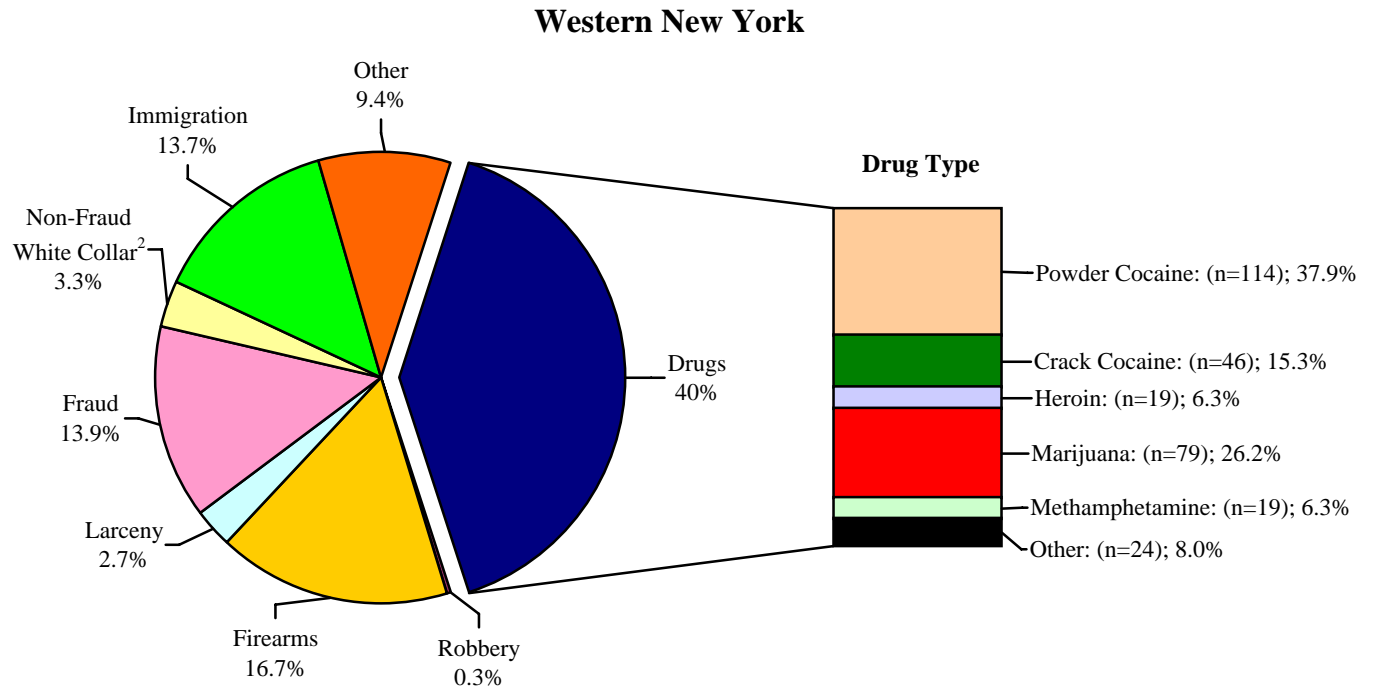
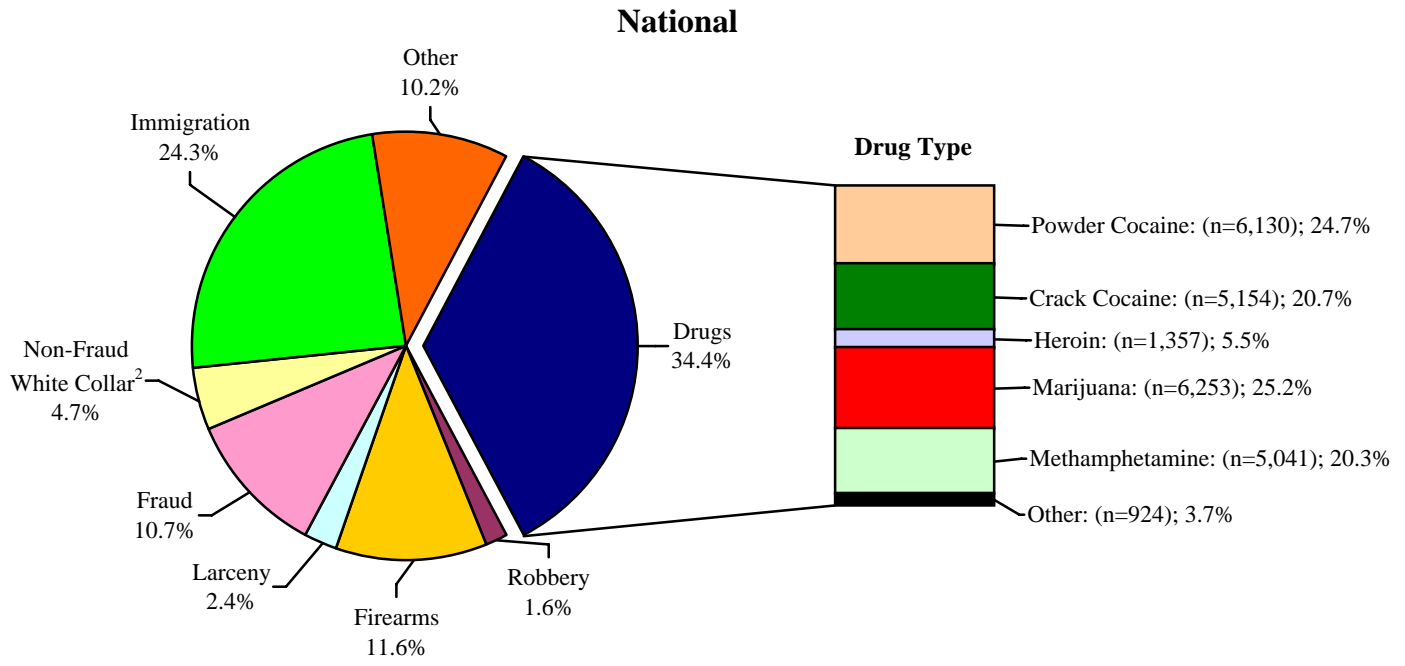
***District of Western New York***

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**Figure A**

**DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED BY SELECT PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Fiscal Year 2007**



<sup>1</sup>Of the 72,865 guideline cases, 613 cases were excluded due to one of the following reasons: missing primary offense category (100) or missing drug type (513). Of the 762 guideline cases from the District of Western New York, nine cases were excluded due to missing drug type.

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

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

**Table 1**

**DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2007**

PRIMARY OFFENSE	National		Western New York	
	Number	Percent	Number	Percent
<b>TOTAL</b>	<b>72,765</b>	<b>100.0</b>	<b>762</b>	<b>100.0</b>
Murder	81	0.1	0	0.0
Manslaughter	65	0.1	0	0.0
Kidnapping/Hostage Taking	48	0.1	0	0.0
Sexual Abuse	382	0.5	3	0.4
Assault	576	0.8	1	0.1
Robbery	1,120	1.5	2	0.3
Arson	78	0.1	0	0.0
Drugs - Trafficking	24,332	33.4	254	33.3
Drugs - Communication Facility	376	0.5	17	2.2
Drugs - Simple Possession	664	0.9	39	5.1
Firearms	8,359	11.5	126	16.5
Burglary/B&E	41	0.1	0	0.0
Auto Theft	64	0.1	0	0.0
Larceny	1,762	2.4	20	2.6
Fraud	7,767	10.7	105	13.8
Embezzlement	465	0.6	2	0.3
Forgery/Counterfeiting	1,157	1.6	9	1.2
Bribery	243	0.3	0	0.0
Tax	647	0.9	11	1.4
Money Laundering	918	1.3	3	0.4
Racketeering/Extortion	621	0.9	11	1.4
Gambling/Lottery	113	0.2	0	0.0
Civil Rights	64	0.1	0	0.0
Immigration	17,592	24.2	103	13.5
Pornography/Prostitution	1,445	2.0	25	3.3
Prison Offenses	316	0.4	0	0.0
Administration of Justice Offenses	1,016	1.4	12	1.6
Environmental/Wildlife	193	0.3	1	0.1
National Defense	32	0.0	0	0.0
Antitrust	15	0.0	0	0.0
Food & Drug	71	0.1	4	0.5
Other Miscellaneous Offenses	2,142	2.9	14	1.8

Of the 72,865 guideline cases, 100 cases were excluded due to missing information on primary offense category.

Of the 762 guideline cases from the District of Western New York, no case was excluded.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 2

**MODE OF CONVICTION BY CIRCUIT AND DISTRICT  
Fiscal Year 2007**

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
<b>TOTAL</b>	<b>72,761</b>	<b>69,689</b>	<b>95.8</b>	<b>3,072</b>	<b>4.2</b>
<b>D.C. CIRCUIT</b>	<b>450</b>	<b>416</b>	<b>92.4</b>	<b>34</b>	<b>7.6</b>
District of Columbia	450	416	92.4	34	7.6
<b>FIRST CIRCUIT</b>	<b>1,926</b>	<b>1,786</b>	<b>92.7</b>	<b>140</b>	<b>7.3</b>
Maine	191	171	89.5	20	10.5
Massachusetts	581	528	90.9	53	9.1
New Hampshire	239	230	96.2	9	3.8
Puerto Rico	772	726	94.0	46	6.0
Rhode Island	143	131	91.6	12	8.4
<b>SECOND CIRCUIT</b>	<b>4,453</b>	<b>4,227</b>	<b>94.9</b>	<b>226</b>	<b>5.1</b>
Connecticut	405	390	96.3	15	3.7
New York					
Eastern	1,043	980	94.0	63	6.0
Northern	450	427	94.9	23	5.1
Southern	1,653	1,545	93.5	108	6.5
Western	762	747	98.0	15	2.0
Vermont	140	138	98.6	2	1.4
<b>THIRD CIRCUIT</b>	<b>3,099</b>	<b>2,924</b>	<b>94.4</b>	<b>175</b>	<b>5.6</b>
Delaware	107	100	93.5	7	6.5
New Jersey	1,012	978	96.6	34	3.4
Pennsylvania					
Eastern	793	732	92.3	61	7.7
Middle	589	572	97.1	17	2.9
Western	492	461	93.7	31	6.3
Virgin Islands	106	81	76.4	25	23.6
<b>FOURTH CIRCUIT</b>	<b>6,540</b>	<b>6,204</b>	<b>94.9</b>	<b>336</b>	<b>5.1</b>
Maryland	696	645	92.7	51	7.3
North Carolina					
Eastern	611	588	96.2	23	3.8
Middle	429	400	93.2	29	6.8
Western	766	728	95.0	38	5.0
South Carolina	1,129	1,093	96.8	36	3.2
Virginia					
Eastern	1,764	1,671	94.7	93	5.3
Western	623	583	93.6	40	6.4
West Virginia					
Northern	268	253	94.4	15	5.6
Southern	254	243	95.7	11	4.3

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
<b>FIFTH CIRCUIT</b>	<b>15,086</b>	<b>14,723</b>	<b>97.6</b>	<b>363</b>	<b>2.4</b>
Louisiana					
Eastern	420	407	96.9	13	3.1
Middle	166	156	94.0	10	6.0
Western	488	460	94.3	28	5.7
Mississippi					
Northern	193	191	99.0	2	1.0
Southern	430	409	95.1	21	4.9
Texas					
Eastern	978	951	97.2	27	2.8
Northern	1,052	1,001	95.2	51	4.8
Southern	5,581	5,475	98.1	106	1.9
Western	5,778	5,673	98.2	105	1.8
<b>SIXTH CIRCUIT</b>	<b>5,271</b>	<b>4,996</b>	<b>94.8</b>	<b>275</b>	<b>5.2</b>
Kentucky					
Eastern	579	549	94.8	30	5.2
Western	536	510	95.1	26	4.9
Michigan					
Eastern	759	716	94.3	43	5.7
Western	447	429	96.0	18	4.0
Ohio					
Northern	881	836	94.9	45	5.1
Southern	631	603	95.6	28	4.4
Tennessee					
Eastern	570	538	94.4	32	5.6
Middle	317	303	95.6	14	4.4
Western	551	512	92.9	39	7.1
<b>SEVENTH CIRCUIT</b>	<b>2,928</b>	<b>2,728</b>	<b>93.2</b>	<b>200</b>	<b>6.8</b>
Illinois					
Central	391	367	93.9	24	6.1
Northern	850	776	91.3	74	8.7
Southern	344	327	95.1	17	4.9
Indiana					
Northern	426	385	90.4	41	9.6
Southern	314	289	92.0	25	8.0
Wisconsin					
Eastern	406	392	96.6	14	3.4
Western	197	192	97.5	5	2.5
<b>EIGHTH CIRCUIT</b>	<b>5,059</b>	<b>4,823</b>	<b>95.3</b>	<b>236</b>	<b>4.7</b>
Arkansas					
Eastern	366	361	98.6	5	1.4
Western	182	173	95.1	9	4.9
Iowa					
Northern	455	418	91.9	37	8.1
Southern	373	346	92.8	27	7.2
Minnesota	541	507	93.7	34	6.3
Missouri					
Eastern	975	946	97.0	29	3.0
Western	808	778	96.3	30	3.7
Nebraska	703	674	95.9	29	4.1
North Dakota	210	199	94.8	11	5.2
South Dakota	446	421	94.4	25	5.6

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
<b>NINTH CIRCUIT</b>	<b>14,821</b>	<b>14,410</b>	<b>97.2</b>	<b>411</b>	<b>2.8</b>
Alaska	131	124	94.7	7	5.3
Arizona	4,720	4,653	98.6	67	1.4
California					
Central	1,630	1,561	95.8	69	4.2
Eastern	946	914	96.6	32	3.4
Northern	655	641	97.9	14	2.1
Southern	3,245	3,180	98.0	65	2.0
Guam	68	64	94.1	4	5.9
Hawaii	359	345	96.1	14	3.9
Idaho	251	238	94.8	13	5.2
Montana	366	323	88.3	43	11.7
Nevada	655	632	96.5	23	3.5
Northern Mariana Islands	19	13	68.4	6	31.6
Oregon	565	549	97.2	16	2.8
Washington					
Eastern	364	349	95.9	15	4.1
Western	847	824	97.3	23	2.7
<b>TENTH CIRCUIT</b>	<b>5,885</b>	<b>5,710</b>	<b>97.0</b>	<b>175</b>	<b>3.0</b>
Colorado	548	517	94.3	31	5.7
Kansas	649	626	96.5	23	3.5
New Mexico	2,520	2,493	98.9	27	1.1
Oklahoma					
Eastern	95	84	88.4	11	11.6
Northern	231	211	91.3	20	8.7
Western	547	515	94.1	32	5.9
Utah	913	890	97.5	23	2.5
Wyoming	382	374	97.9	8	2.1
<b>ELEVENTH CIRCUIT</b>	<b>7,243</b>	<b>6,742</b>	<b>93.1</b>	<b>501</b>	<b>6.9</b>
Alabama					
Middle	243	226	93.0	17	7.0
Northern	582	527	90.5	55	9.5
Southern	356	330	92.7	26	7.3
Florida					
Middle	1,604	1,496	93.3	108	6.7
Northern	441	391	88.7	50	11.3
Southern	2,326	2,171	93.3	155	6.7
Georgia					
Middle	538	507	94.2	31	5.8
Northern	609	569	93.4	40	6.6
Southern	544	525	96.5	19	3.5

Of the 72,865 guideline cases, 104 cases were excluded due to missing information on mode of conviction.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

**Table 3**

**MODE OF CONVICTION BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2007**

PRIMARY OFFENSE	TOTAL	National				Western New York			
		PLEA		TRIAL		PLEA		TRIAL	
		n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>72,759</b>	<b>69,687</b>	<b>95.8</b>	<b>3,072</b>	<b>4.2</b>	<b>747</b>	<b>98.0</b>	<b>15</b>	<b>2.0</b>
<b>Murder</b>	<b>81</b>	57	70.4	24	29.6	0	--	0	--
<b>Manslaughter</b>	<b>65</b>	58	89.2	7	10.8	0	--	0	--
<b>Kidnapping/Hostage Taking</b>	<b>48</b>	46	95.8	2	4.2	0	--	0	--
<b>Sexual Abuse</b>	<b>382</b>	328	85.9	54	14.1	3	100.0	0	0.0
<b>Assault</b>	<b>576</b>	529	91.8	47	8.2	1	100.0	0	0.0
<b>Robbery</b>	<b>1,120</b>	1,075	96.0	45	4.0	2	100.0	0	0.0
<b>Arson</b>	<b>78</b>	67	85.9	11	14.1	0	--	0	--
<b>Drugs - Trafficking</b>	<b>24,332</b>	23,258	95.6	1,074	4.4	250	98.4	4	1.6
<b>Drugs - Communication Facility</b>	<b>376</b>	374	99.5	2	0.5	17	100.0	0	0.0
<b>Drugs - Simple Possession</b>	<b>662</b>	650	98.2	12	1.8	39	100.0	0	0.0
<b>Firearms</b>	<b>8,359</b>	7,736	92.5	623	7.5	121	96.0	5	4.0
<b>Burglary/B&amp;E</b>	<b>41</b>	39	95.1	2	4.9	0	--	0	--
<b>Auto Theft</b>	<b>64</b>	60	93.8	4	6.3	0	--	0	--
<b>Larceny</b>	<b>1,762</b>	1,710	97.0	52	3.0	20	100.0	0	0.0
<b>Fraud</b>	<b>7,767</b>	7,378	95.0	389	5.0	103	98.1	2	1.9
<b>Embezzlement</b>	<b>465</b>	454	97.6	11	2.4	2	100.0	0	0.0
<b>Forgery/Counterfeiting</b>	<b>1,157</b>	1,137	98.3	20	1.7	9	100.0	0	0.0
<b>Bribery</b>	<b>243</b>	218	89.7	25	10.3	0	--	0	--
<b>Tax</b>	<b>647</b>	586	90.6	61	9.4	11	100.0	0	0.0
<b>Money Laundering</b>	<b>918</b>	845	92.0	73	8.0	3	100.0	0	0.0
<b>Racketeering/Extortion</b>	<b>621</b>	540	87.0	81	13.0	11	100.0	0	0.0
<b>Gambling/Lottery</b>	<b>113</b>	112	99.1	1	0.9	0	--	0	--
<b>Civil Rights</b>	<b>64</b>	54	84.4	10	15.6	0	--	0	--
<b>Immigration</b>	<b>17,591</b>	17,401	98.9	190	1.1	101	98.1	2	1.9
<b>Pornography/Prostitution</b>	<b>1,445</b>	1,377	95.3	68	4.7	24	96.0	1	4.0
<b>Prison Offenses</b>	<b>316</b>	304	96.2	12	3.8	0	--	0	--
<b>Administration of Justice Offenses</b>	<b>1,016</b>	945	93.0	71	7.0	11	91.7	1	8.3
<b>Environmental/Wildlife</b>	<b>193</b>	187	96.9	6	3.1	1	100.0	0	0.0
<b>National Defense</b>	<b>32</b>	29	90.6	3	9.4	0	--	0	--
<b>Antitrust</b>	<b>15</b>	15	100.0	0	0.0	0	--	0	--
<b>Food &amp; Drug</b>	<b>71</b>	69	97.2	2	2.8	4	100.0	0	0.0
<b>Other Miscellaneous Offenses</b>	<b>2,139</b>	2,049	95.8	90	4.2	14	100.0	0	0.0

Of the 72,865 guideline cases, 106 cases were excluded due to one or both of the following reasons: missing primary offense category (100) or missing mode of conviction (104).

Of the 762 guideline cases from the District of Western New York, no case was excluded.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.



**Table 4**  
**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2007**

**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>72,061</b>	<b>61,498</b>	<b>85.3</b>	<b>2,226</b>	<b>3.1</b>	<b>2,789</b>	<b>3.9</b>	<b>5,548</b>	<b>7.7</b>
Murder	81	80	98.8	1	1.2	0	0.0	0	0.0
Manslaughter	65	60	92.3	2	3.1	3	4.6	0	0.0
Kidnapping/Hostage Taking	48	48	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	381	358	94.0	10	2.6	6	1.6	7	1.8
Assault	567	450	79.4	27	4.8	30	5.3	60	10.6
Robbery	1,119	1,083	96.8	16	1.4	9	0.8	11	1.0
Arson	78	73	93.6	2	2.6	2	2.6	1	1.3
Drugs - Trafficking	24,304	23,081	95.0	561	2.3	305	1.3	357	1.5
Drugs - Communication Facility	372	304	81.7	9	2.4	24	6.5	35	9.4
Drugs - Simple Possession	599	248	41.4	9	1.5	28	4.7	314	52.4
Firearms	8,348	7,684	92.0	195	2.3	230	2.8	239	2.9
Burglary/B&E	41	33	80.5	4	9.8	0	0.0	4	9.8
Auto Theft	64	50	78.1	4	6.3	5	7.8	5	7.8
Larceny	1,621	618	38.1	80	4.9	249	15.4	674	41.6
Fraud	7,727	4,973	64.4	561	7.3	829	10.7	1,364	17.7
Embezzlement	462	155	33.5	64	13.9	77	16.7	166	35.9
Forgery/Counterfeiting	1,153	728	63.1	80	6.9	149	12.9	196	17.0
Bribery	243	152	62.6	23	9.5	35	14.4	33	13.6
Tax	642	313	48.8	73	11.4	110	17.1	146	22.7
Money Laundering	917	724	79.0	46	5.0	70	7.6	77	8.4
Racketeering/Extortion	620	557	89.8	9	1.5	27	4.4	27	4.4
Gambling/Lottery	112	21	18.8	6	5.4	50	44.6	35	31.3
Civil Rights	62	38	61.3	2	3.2	9	14.5	13	21.0
Immigration	17,574	16,683	94.9	280	1.6	169	1.0	442	2.5
Pornography/Prostitution	1,442	1,401	97.2	15	1.0	14	1.0	12	0.8
Prison Offenses	316	293	92.7	11	3.5	4	1.3	8	2.5
Administration of Justice Offenses	995	629	63.2	54	5.4	113	11.4	199	20.0
Environmental/Wildlife	159	25	15.7	13	8.2	32	20.1	89	56.0
National Defense	30	24	80.0	2	6.7	1	3.3	3	10.0
Antitrust	15	9	60.0	2	13.3	1	6.7	3	20.0
Food & Drug	62	17	27.4	2	3.2	3	4.8	40	64.5
Other Miscellaneous Offenses	1,842	586	31.8	63	3.4	205	11.1	988	53.6

Of the 72,865 guideline cases, 804 cases were excluded due to one or more of the following reasons: missing sentencing information (164), missing primary offense category (100), or cases in which the defendant received no imprisonment or probation (636).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2007**

**Western New York**

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>752</b>	<b>519</b>	<b>69.0</b>	<b>14</b>	<b>1.9</b>	<b>55</b>	<b>7.3</b>	<b>164</b>	<b>21.8</b>
Murder	0	0	--	0	--	0	--	0	--
Manslaughter	0	0	--	0	--	0	--	0	--
Kidnapping/Hostage Taking	0	0	--	0	--	0	--	0	--
Sexual Abuse	3	3	100.0	0	0.0	0	0.0	0	0.0
Assault	1	0	0.0	0	0.0	0	0.0	1	100.0
Robbery	2	2	100.0	0	0.0	0	0.0	0	0.0
Arson	0	0	--	0	--	0	--	0	--
Drugs - Trafficking	254	200	78.7	8	3.1	19	7.5	27	10.6
Drugs - Communication Facility	17	8	47.1	1	5.9	2	11.8	6	35.3
Drugs - Simple Possession	37	7	18.9	0	0.0	2	5.4	28	75.7
Firearms	126	113	89.7	2	1.6	5	4.0	6	4.8
Burglary/B&E	0	0	--	0	--	0	--	0	--
Auto Theft	0	0	--	0	--	0	--	0	--
Larceny	20	6	30.0	1	5.0	2	10.0	11	55.0
Fraud	101	48	47.5	2	2.0	17	16.8	34	33.7
Embezzlement	2	1	50.0	0	0.0	0	0.0	1	50.0
Forgery/Counterfeiting	9	7	77.8	0	0.0	0	0.0	2	22.2
Bribery	0	0	--	0	--	0	--	0	--
Tax	10	6	60.0	0	0.0	1	10.0	3	30.0
Money Laundering	3	2	66.7	0	0.0	1	33.3	0	0.0
Racketeering/Extortion	11	8	72.7	0	0.0	2	18.2	1	9.1
Gambling/Lottery	0	0	--	0	--	0	--	0	--
Civil Rights	0	0	--	0	--	0	--	0	--
Immigration	103	75	72.8	0	0.0	2	1.9	26	25.2
Pornography/Prostitution	25	25	100.0	0	0.0	0	0.0	0	0.0
Prison Offenses	0	0	--	0	--	0	--	0	--
Administration of Justice Offenses	12	8	66.7	0	0.0	1	8.3	3	25.0
Environmental/Wildlife	1	0	0.0	0	0.0	0	0.0	1	100.0
National Defense	0	0	--	0	--	0	--	0	--
Antitrust	0	0	--	0	--	0	--	0	--
Food & Drug	2	0	0.0	0	0.0	0	0.0	2	100.0
Other Miscellaneous Offenses	13	0	0.0	0	0.0	1	7.7	12	92.3

Of the 762 guideline cases from the District of Western New York, 10 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 (9).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07

**Table 6**

**INCARCERATION RATE OF DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2007**

PRIMARY OFFENSE	TOTAL	National				Western New York			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>TOTAL</b>	<b>11,585</b>	<b>6,337</b>	<b>54.7</b>	<b>5,248</b>	<b>45.3</b>	<b>81</b>	<b>33.6</b>	<b>160</b>	<b>66.4</b>
<b>Fraud</b>	<b>2,512</b>	1,036	41.2	1,476	58.8	21	35.0	39	65.0
<b>Larceny</b>	<b>996</b>	191	19.2	805	80.8	2	16.7	10	83.3
<b>Immigration</b>	<b>4,407</b>	3,947	89.6	460	10.4	41	63.1	24	36.9
<b>Embezzlement</b>	<b>257</b>	60	23.3	197	76.7	0	0.0	1	100.0
<b>Drugs - Trafficking</b>	<b>462</b>	217	47.0	245	53.0	2	10.0	18	90.0
<b>Drugs - Simple Possession</b>	<b>454</b>	159	35.0	295	65.0	7	18.9	30	81.1
<b>Firearms</b>	<b>297</b>	117	39.4	180	60.6	1	14.3	6	85.7
<b>Forgery/Counterfeiting</b>	<b>386</b>	133	34.5	253	65.5	2	66.7	1	33.3
<b>Other Miscellaneous Offenses</b>	<b>1,814</b>	477	26.3	1,337	73.7	5	13.9	31	86.1

Of the 72,865 guideline cases, 61,280 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (61,273), missing sentencing information (164) or missing primary offense category (100).

Of the 762 guideline cases from the District of Western New York, 521 cases were excluded due to one or both of the following reasons: defendant ineligible for non-prison alternatives (521) or missing sentencing information (1).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

**Table 7**

**AVERAGE LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2007**

PRIMARY OFFENSE	National			Western New York		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
<b>TOTAL</b>	<b>59.3</b>	<b>36.0</b>	<b>62,973</b>	<b>52.0</b>	<b>37.0</b>	<b>499</b>
<b>Murder</b>	258.3	235.0	81	--	--	0
<b>Manslaughter</b>	51.1	37.0	61	--	--	0
<b>Kidnapping/Hostage Taking</b>	169.0	156.5	48	--	--	0
<b>Sexual Abuse</b>	97.3	60.0	368	55.3	60.0	3
<b>Assault</b>	37.4	30.0	462	--	--	0
<b>Robbery</b>	86.5	70.0	1,099	--	--	2
<b>Arson</b>	83.5	60.0	75	--	--	0
<b>Drugs - Trafficking</b>	85.6	60.0	23,567	62.3	41.0	204
<b>Drugs - Communication Facility</b>	43.8	48.0	311	26.6	29.3	8
<b>Drugs - Simple Possession</b>	13.8	4.0	235	4.2	4.2	3
<b>Firearms</b>	85.0	59.0	7,851	60.1	49.5	112
<b>Burglary/B&amp;E</b>	20.7	22.0	37	--	--	0
<b>Auto Theft</b>	69.7	24.0	54	--	--	0
<b>Larceny</b>	18.3	12.0	687	11.7	5.0	7
<b>Fraud</b>	25.8	16.0	5,409	16.5	9.2	45
<b>Embezzlement</b>	13.8	6.0	215	--	--	1
<b>Forgery/Counterfeiting</b>	19.6	15.0	798	16.3	17.0	6
<b>Bribery</b>	29.8	20.0	174	--	--	0
<b>Tax</b>	21.1	15.0	382	7.9	12.0	5
<b>Money Laundering</b>	42.1	30.0	759	--	--	2
<b>Racketeering/Extortion</b>	97.5	60.0	565	84.9	51.0	8
<b>Gambling/Lottery</b>	9.8	6.0	26	--	--	0
<b>Civil Rights</b>	41.9	25.5	40	--	--	0
<b>Immigration</b>	22.7	18.0	16,570	17.3	9.9	60
<b>Pornography/Prostitution</b>	111.7	78.0	1,413	119.4	78.0	25
<b>Prison Offenses</b>	19.6	15.0	303	--	--	0
<b>Administration of Justice Offenses</b>	28.3	15.0	670	36.6	21.5	8
<b>Environmental/Wildlife</b>	11.7	6.0	37	--	--	0
<b>National Defense</b>	48.9	22.5	26	--	--	0
<b>Antitrust</b>	19.2	9.0	11	--	--	0
<b>Food &amp; Drug</b>	30.2	18.0	19	--	--	0
<b>Other Miscellaneous Offenses</b>	17.4	6.0	620	--	--	0

Of the 72,865 guideline cases, 9,892 cases were excluded for one or more of the following reasons: zero months prison ordered (9,091), missing primary offense category (100) or missing or indeterminable sentencing information (801).

Of the 762 guideline cases from the District of Western New York, 263 cases were excluded due to one of the following reasons: zero prison months ordered (253) or missing or indeterminable sentencing information (10).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

**Table 8**

**COMPARISON OF SENTENCE IMPOSED AND POSITION  
RELATIVE TO THE GUIDELINE RANGE  
Fiscal Year 2007**

	National		Western New York	
	N	%	N	%
<b>TOTAL CASES<sup>1</sup></b>	<b>69,893</b>	<b>100.0</b>	<b>757</b>	<b>100.0</b>
<b>CASES SENTENCED WITHIN GUIDELINE RANGE</b>	<b>42,504</b>	<b>60.8</b>	<b>439</b>	<b>58.0</b>
<b>CASES SENTENCED ABOVE GUIDELINE RANGE</b>	<b>1,060</b>	<b>1.5</b>	<b>3</b>	<b>0.4</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>467</b>	<b>0.7</b>	<b>2</b>	<b>0.3</b>
Upward Departure From Guideline Range <sup>2</sup>	324	0.5	2	0.3
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	143	0.2	0	0.0
<b>OTHERWISE ABOVE GUIDELINE RANGE</b>	<b>593</b>	<b>0.8</b>	<b>1</b>	<b>0.1</b>
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	491	0.7	0	0.0
All Remaining Cases Above Guideline Range <sup>5</sup>	102	0.1	1	0.1
<b>GOVERNMENT SPONSORED BELOW RANGE<sup>6</sup></b>	<b>17,896</b>	<b>25.6</b>	<b>245</b>	<b>32.4</b>
§5K1.1 Substantial Assistance Departure	10,049	14.4	226	29.9
§5K3.1 Early Disposition Program Departure	5,233	7.5	0	0.0
Other Government Sponsored Below Range	2,614	3.7	19	2.5
<b>NON-GOVERNMENT SPONSORED BELOW RANGE</b>	<b>8,433</b>	<b>12.0</b>	<b>70</b>	<b>9.3</b>
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>2,770</b>	<b>3.9</b>	<b>11</b>	<b>1.5</b>
Downward Departure From Guideline Range <sup>2</sup>	1,757	2.5	9	1.2
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	1,013	1.4	2	0.3
<b>OTHERWISE BELOW GUIDELINE RANGE</b>	<b>5,663</b>	<b>8.1</b>	<b>59</b>	<b>7.8</b>
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	4,957	7.1	46	6.1
All Remaining Cases Below Guideline Range <sup>5</sup>	706	1.0	13	1.7

<sup>1</sup>This table reflects the 72,865 cases sentenced nationally in Fiscal Year 2007, 762 of which were from the District of Western New York. Of these, 2,972 cases nationally and five cases from the District of Western New York were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range.

<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, 2007 Datafile, OPAFY07.

**Table 9**

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT  
Fiscal Year 2007**

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>69,893</b>	<b>42,504</b>	<b>60.8</b>	<b>324</b>	<b>0.5</b>	<b>143</b>	<b>0.2</b>	<b>491</b>	<b>0.7</b>	<b>102</b>	<b>0.1</b>
<b>D.C. CIRCUIT</b>	<b>448</b>	<b>187</b>	<b>41.7</b>	<b>2</b>	<b>0.4</b>	<b>1</b>	<b>0.2</b>	<b>1</b>	<b>0.2</b>	<b>1</b>	<b>0.2</b>
District of Columbia	448	187	41.7	2	0.4	1	0.2	1	0.2	1	0.2
<b>FIRST CIRCUIT</b>	<b>1,918</b>	<b>1,314</b>	<b>68.5</b>	<b>11</b>	<b>0.6</b>	<b>3</b>	<b>0.2</b>	<b>7</b>	<b>0.4</b>	<b>2</b>	<b>0.1</b>
Maine	191	131	68.6	1	0.5	0	0.0	0	0.0	0	0.0
Massachusetts	576	316	54.9	6	1.0	0	0.0	2	0.3	1	0.2
New Hampshire	239	122	51.0	3	1.3	0	0.0	2	0.8	0	0.0
Puerto Rico	770	653	84.8	0	0.0	2	0.3	2	0.3	1	0.1
Rhode Island	142	92	64.8	1	0.7	1	0.7	1	0.7	0	0.0
<b>SECOND CIRCUIT</b>	<b>4,426</b>	<b>2,225</b>	<b>50.3</b>	<b>10</b>	<b>0.2</b>	<b>6</b>	<b>0.1</b>	<b>9</b>	<b>0.2</b>	<b>3</b>	<b>0.1</b>
Connecticut	404	181	44.8	2	0.5	1	0.2	0	0.0	0	0.0
New York											
Eastern	1,043	433	41.5	3	0.3	5	0.5	3	0.3	2	0.2
Northern	435	229	52.6	0	0.0	0	0.0	2	0.5	0	0.0
Southern	1,647	874	53.1	2	0.1	0	0.0	4	0.2	0	0.0
Western	757	439	58.0	2	0.3	0	0.0	0	0.0	1	0.1
Vermont	140	69	49.3	1	0.7	0	0.0	0	0.0	0	0.0
<b>THIRD CIRCUIT</b>	<b>3,075</b>	<b>1,618</b>	<b>52.6</b>	<b>4</b>	<b>0.1</b>	<b>4</b>	<b>0.1</b>	<b>23</b>	<b>0.7</b>	<b>2</b>	<b>0.1</b>
Delaware	106	68	64.2	0	0.0	0	0.0	0	0.0	0	0.0
New Jersey	1,009	545	54.0	1	0.1	0	0.0	3	0.3	0	0.0
Pennsylvania											
Eastern	780	322	41.3	2	0.3	3	0.4	9	1.2	2	0.3
Middle	586	268	45.7	1	0.2	0	0.0	2	0.3	0	0.0
Western	489	345	70.6	0	0.0	1	0.2	6	1.2	0	0.0
Virgin Islands	105	70	66.7	0	0.0	0	0.0	3	2.9	0	0.0
<b>FOURTH CIRCUIT</b>	<b>6,022</b>	<b>4,352</b>	<b>72.3</b>	<b>33</b>	<b>0.5</b>	<b>12</b>	<b>0.2</b>	<b>28</b>	<b>0.5</b>	<b>3</b>	<b>0.0</b>
Maryland	653	336	51.5	2	0.3	3	0.5	0	0.0	1	0.2
North Carolina											
Eastern	584	365	62.5	9	1.5	1	0.2	7	1.2	1	0.2
Middle	421	328	77.9	1	0.2	1	0.2	1	0.2	0	0.0
Western	759	532	70.1	2	0.3	0	0.0	2	0.3	0	0.0
South Carolina	1,122	861	76.7	2	0.2	1	0.1	5	0.4	0	0.0
Virginia											
Eastern	1,342	1,071	79.8	8	0.6	3	0.2	9	0.7	0	0.0
Western	620	424	68.4	4	0.6	2	0.3	2	0.3	1	0.2
West Virginia											
Northern	267	214	80.1	3	1.1	0	0.0	2	0.7	0	0.0
Southern	254	221	87.0	2	0.8	1	0.4	0	0.0	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 DEPARTURE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>10,049</b>	<b>14.4</b>	<b>5,233</b>	<b>7.5</b>	<b>2,614</b>	<b>3.7</b>	<b>1,757</b>	<b>2.5</b>	<b>1,013</b>	<b>1.4</b>	<b>4,957</b>	<b>7.1</b>	<b>706</b>	<b>1.0</b>
<b>D.C. CIRCUIT</b>	<b>152</b>	<b>33.9</b>	<b>0</b>	<b>0.0</b>	<b>40</b>	<b>8.9</b>	<b>3</b>	<b>0.7</b>	<b>15</b>	<b>3.3</b>	<b>39</b>	<b>8.7</b>	<b>7</b>	<b>1.6</b>
District of Columbia	152	33.9	0	0.0	40	8.9	3	0.7	15	3.3	39	8.7	7	1.6
<b>FIRST CIRCUIT</b>	<b>207</b>	<b>10.8</b>	<b>0</b>	<b>0.0</b>	<b>47</b>	<b>2.5</b>	<b>90</b>	<b>4.7</b>	<b>33</b>	<b>1.7</b>	<b>190</b>	<b>9.9</b>	<b>14</b>	<b>0.7</b>
Maine	35	18.3	0	0.0	0	0.0	8	4.2	3	1.6	12	6.3	1	0.5
Massachusetts	62	10.8	0	0.0	17	3.0	42	7.3	15	2.6	109	18.9	6	1.0
New Hampshire	65	27.2	0	0.0	11	4.6	16	6.7	3	1.3	15	6.3	2	0.8
Puerto Rico	40	5.2	0	0.0	17	2.2	18	2.3	9	1.2	24	3.1	4	0.5
Rhode Island	5	3.5	0	0.0	2	1.4	6	4.2	3	2.1	30	21.1	1	0.7
<b>SECOND CIRCUIT</b>	<b>955</b>	<b>21.6</b>	<b>2</b>	<b>0.0</b>	<b>104</b>	<b>2.3</b>	<b>240</b>	<b>5.4</b>	<b>182</b>	<b>4.1</b>	<b>620</b>	<b>14.0</b>	<b>70</b>	<b>1.6</b>
Connecticut	73	18.1	0	0.0	9	2.2	54	13.4	30	7.4	53	13.1	1	0.2
New York														
Eastern	244	23.4	2	0.2	35	3.4	64	6.1	83	8.0	144	13.8	25	2.4
Northern	132	30.3	0	0.0	7	1.6	35	8.0	9	2.1	21	4.8	0	0.0
Southern	252	15.3	0	0.0	31	1.9	58	3.5	48	2.9	347	21.1	31	1.9
Western	226	29.9	0	0.0	19	2.5	9	1.2	2	0.3	46	6.1	13	1.7
Vermont	28	20.0	0	0.0	3	2.1	20	14.3	10	7.1	9	6.4	0	0.0
<b>THIRD CIRCUIT</b>	<b>833</b>	<b>27.1</b>	<b>0</b>	<b>0.0</b>	<b>52</b>	<b>1.7</b>	<b>74</b>	<b>2.4</b>	<b>71</b>	<b>2.3</b>	<b>352</b>	<b>11.4</b>	<b>42</b>	<b>1.4</b>
Delaware	9	8.5	0	0.0	4	3.8	0	0.0	1	0.9	20	18.9	4	3.8
New Jersey	283	28.0	0	0.0	8	0.8	31	3.1	8	0.8	121	12.0	9	0.9
Pennsylvania														
Eastern	262	33.6	0	0.0	10	1.3	10	1.3	28	3.6	115	14.7	17	2.2
Middle	208	35.5	0	0.0	24	4.1	9	1.5	11	1.9	56	9.6	7	1.2
Western	57	11.7	0	0.0	5	1.0	24	4.9	16	3.3	35	7.2	0	0.0
Virgin Islands	14	13.3	0	0.0	1	1.0	0	0.0	7	6.7	5	4.8	5	4.8
<b>FOURTH CIRCUIT</b>	<b>1,011</b>	<b>16.8</b>	<b>0</b>	<b>0.0</b>	<b>60</b>	<b>1.0</b>	<b>99</b>	<b>1.6</b>	<b>98</b>	<b>1.6</b>	<b>284</b>	<b>4.7</b>	<b>42</b>	<b>0.7</b>
Maryland	175	26.8	0	0.0	17	2.6	26	4.0	29	4.4	53	8.1	11	1.7
North Carolina														
Eastern	165	28.3	0	0.0	0	0.0	8	1.4	5	0.9	17	2.9	6	1.0
Middle	67	15.9	0	0.0	1	0.2	2	0.5	1	0.2	19	4.5	0	0.0
Western	173	22.8	0	0.0	12	1.6	5	0.7	6	0.8	21	2.8	6	0.8
South Carolina	170	15.2	0	0.0	14	1.2	18	1.6	3	0.3	44	3.9	4	0.4
Virginia														
Eastern	79	5.9	0	0.0	7	0.5	25	1.9	50	3.7	78	5.8	12	0.9
Western	140	22.6	0	0.0	7	1.1	8	1.3	1	0.2	29	4.7	2	0.3
West Virginia														
Northern	23	8.6	0	0.0	2	0.7	5	1.9	2	0.7	16	6.0	0	0.0
Southern	19	7.5	0	0.0	0	0.0	2	0.8	1	0.4	7	2.8	1	0.4

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>14,953</b>	<b>10,738</b>	<b>71.8</b>	<b>79</b>	<b>0.5</b>	<b>46</b>	<b>0.3</b>	<b>171</b>	<b>1.1</b>	<b>26</b>	<b>0.2</b>
<b>Louisiana</b>											
Eastern	423	328	77.5	4	0.9	7	1.7	7	1.7	0	0.0
Middle	166	126	75.9	3	1.8	1	0.6	1	0.6	0	0.0
Western	464	362	78.0	3	0.6	4	0.9	7	1.5	2	0.4
<b>Mississippi</b>											
Northern	187	99	52.9	1	0.5	0	0.0	3	1.6	0	0.0
Southern	401	321	80.0	4	1.0	1	0.2	6	1.5	3	0.7
<b>Texas</b>											
Eastern	978	786	80.4	1	0.1	0	0.0	0	0.0	1	0.1
Northern	1,048	767	73.2	11	1.0	14	1.3	54	5.2	1	0.1
Southern	5,576	3,382	60.7	31	0.6	2	0.0	23	0.4	9	0.2
Western	5,710	4,567	80.0	21	0.4	17	0.3	70	1.2	10	0.2
<b>SIXTH CIRCUIT</b>	<b>5,178</b>	<b>2,925</b>	<b>56.5</b>	<b>16</b>	<b>0.3</b>	<b>9</b>	<b>0.2</b>	<b>26</b>	<b>0.5</b>	<b>12</b>	<b>0.2</b>
<b>Kentucky</b>											
Eastern	577	292	50.6	2	0.3	2	0.3	2	0.3	0	0.0
Western	502	367	73.1	1	0.2	0	0.0	1	0.2	0	0.0
<b>Michigan</b>											
Eastern	756	416	55.0	0	0.0	1	0.1	2	0.3	3	0.4
Western	443	254	57.3	6	1.4	1	0.2	7	1.6	1	0.2
<b>Ohio</b>											
Northern	880	483	54.9	1	0.1	1	0.1	5	0.6	0	0.0
Southern	625	267	42.7	0	0.0	3	0.5	0	0.0	3	0.5
<b>Tennessee</b>											
Eastern	566	384	67.8	0	0.0	1	0.2	5	0.9	4	0.7
Middle	285	171	60.0	0	0.0	0	0.0	1	0.4	0	0.0
Western	544	291	53.5	6	1.1	0	0.0	3	0.6	1	0.2
<b>SEVENTH CIRCUIT</b>	<b>2,908</b>	<b>1,736</b>	<b>59.7</b>	<b>9</b>	<b>0.3</b>	<b>7</b>	<b>0.2</b>	<b>25</b>	<b>0.9</b>	<b>3</b>	<b>0.1</b>
<b>Illinois</b>											
Central	391	222	56.8	1	0.3	0	0.0	5	1.3	0	0.0
Northern	837	419	50.1	4	0.5	1	0.1	5	0.6	1	0.1
Southern	344	277	80.5	1	0.3	5	1.5	2	0.6	0	0.0
<b>Indiana</b>											
Northern	425	298	70.1	0	0.0	0	0.0	2	0.5	2	0.5
Southern	311	170	54.7	2	0.6	1	0.3	6	1.9	0	0.0
<b>Wisconsin</b>											
Eastern	406	182	44.8	0	0.0	0	0.0	3	0.7	0	0.0
Western	194	168	86.6	1	0.5	0	0.0	2	1.0	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>5,040</b>	<b>3,443</b>	<b>68.3</b>	<b>34</b>	<b>0.7</b>	<b>13</b>	<b>0.3</b>	<b>27</b>	<b>0.5</b>	<b>6</b>	<b>0.1</b>
<b>Arkansas</b>											
Eastern	363	238	65.6	0	0.0	1	0.3	0	0.0	0	0.0
Western	180	137	76.1	0	0.0	0	0.0	1	0.6	0	0.0
<b>Iowa</b>											
Northern	454	319	70.3	12	2.6	1	0.2	5	1.1	2	0.4
Southern	371	220	59.3	5	1.3	2	0.5	0	0.0	0	0.0
Minnesota	539	281	52.1	1	0.2	1	0.2	0	0.0	0	0.0
<b>Missouri</b>											
Eastern	972	695	71.5	1	0.1	2	0.2	1	0.1	0	0.0
Western	806	594	73.7	1	0.1	3	0.4	3	0.4	1	0.1
Nebraska	703	503	71.6	7	1.0	0	0.0	8	1.1	2	0.3
North Dakota	210	124	59.0	1	0.5	0	0.0	0	0.0	0	0.0
South Dakota	442	332	75.1	6	1.4	3	0.7	9	2.0	1	0.2



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>1,252</b>	<b>8.4</b>	<b>970</b>	<b>6.5</b>	<b>718</b>	<b>4.8</b>	<b>349</b>	<b>2.3</b>	<b>47</b>	<b>0.3</b>	<b>480</b>	<b>3.2</b>	<b>77</b>	<b>0.5</b>
<b>Louisiana</b>														
Eastern	42	9.9	0	0.0	12	2.8	3	0.7	5	1.2	11	2.6	4	0.9
Middle	26	15.7	0	0.0	1	0.6	3	1.8	1	0.6	4	2.4	0	0.0
Western	61	13.1	0	0.0	1	0.2	4	0.9	4	0.9	11	2.4	5	1.1
<b>Mississippi</b>														
Northern	56	29.9	0	0.0	20	10.7	0	0.0	0	0.0	6	3.2	2	1.1
Southern	34	8.5	2	0.5	2	0.5	4	1.0	1	0.2	13	3.2	10	2.5
<b>Texas</b>														
Eastern	98	10.0	0	0.0	37	3.8	32	3.3	4	0.4	15	1.5	4	0.4
Northern	127	12.1	1	0.1	19	1.8	13	1.2	4	0.4	33	3.1	4	0.4
Southern	381	6.8	822	14.7	551	9.9	195	3.5	7	0.1	168	3.0	5	0.1
Western	427	7.5	145	2.5	75	1.3	95	1.7	21	0.4	219	3.8	43	0.8
<b>SIXTH CIRCUIT</b>	<b>1,307</b>	<b>25.2</b>	<b>2</b>	<b>0.0</b>	<b>118</b>	<b>2.3</b>	<b>94</b>	<b>1.8</b>	<b>98</b>	<b>1.9</b>	<b>503</b>	<b>9.7</b>	<b>68</b>	<b>1.3</b>
<b>Kentucky</b>														
Eastern	208	36.0	0	0.0	2	0.3	3	0.5	2	0.3	58	10.1	6	1.0
Western	62	12.4	0	0.0	26	5.2	7	1.4	3	0.6	29	5.8	6	1.2
<b>Michigan</b>														
Eastern	188	24.9	0	0.0	9	1.2	19	2.5	18	2.4	87	11.5	13	1.7
Western	85	19.2	0	0.0	7	1.6	9	2.0	3	0.7	66	14.9	4	0.9
<b>Ohio</b>														
Northern	215	24.4	0	0.0	23	2.6	24	2.7	19	2.2	94	10.7	15	1.7
Southern	223	35.7	2	0.3	19	3.0	15	2.4	32	5.1	57	9.1	4	0.6
<b>Tennessee</b>														
Eastern	129	22.8	0	0.0	2	0.4	5	0.9	1	0.2	27	4.8	8	1.4
Middle	57	20.0	0	0.0	7	2.5	7	2.5	8	2.8	29	10.2	5	1.8
Western	140	25.7	0	0.0	23	4.2	5	0.9	12	2.2	56	10.3	7	1.3
<b>SEVENTH CIRCUIT</b>	<b>514</b>	<b>17.7</b>	<b>0</b>	<b>0.0</b>	<b>58</b>	<b>2.0</b>	<b>75</b>	<b>2.6</b>	<b>72</b>	<b>2.5</b>	<b>340</b>	<b>11.7</b>	<b>69</b>	<b>2.4</b>
<b>Illinois</b>														
Central	79	20.2	0	0.0	12	3.1	9	2.3	9	2.3	51	13.0	3	0.8
Northern	168	20.1	0	0.0	17	2.0	42	5.0	45	5.4	94	11.2	41	4.9
Southern	19	5.5	0	0.0	3	0.9	7	2.0	9	2.6	16	4.7	5	1.5
<b>Indiana</b>														
Northern	91	21.4	0	0.0	5	1.2	1	0.2	1	0.2	18	4.2	7	1.6
Southern	64	20.6	0	0.0	9	2.9	10	3.2	2	0.6	47	15.1	0	0.0
<b>Wisconsin</b>														
Eastern	86	21.2	0	0.0	12	3.0	5	1.2	4	1.0	101	24.9	13	3.2
Western	7	3.6	0	0.0	0	0.0	1	0.5	2	1.0	13	6.7	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>740</b>	<b>14.7</b>	<b>31</b>	<b>0.6</b>	<b>132</b>	<b>2.6</b>	<b>136</b>	<b>2.7</b>	<b>69</b>	<b>1.4</b>	<b>368</b>	<b>7.3</b>	<b>41</b>	<b>0.8</b>
<b>Arkansas</b>														
Eastern	78	21.5	0	0.0	8	2.2	7	1.9	6	1.7	23	6.3	2	0.6
Western	26	14.4	0	0.0	2	1.1	3	1.7	0	0.0	11	6.1	0	0.0
<b>Iowa</b>														
Northern	68	15.0	0	0.0	9	2.0	3	0.7	2	0.4	31	6.8	2	0.4
Southern	71	19.1	0	0.0	10	2.7	12	3.2	5	1.3	45	12.1	1	0.3
Minnesota	140	26.0	0	0.0	11	2.0	24	4.5	23	4.3	55	10.2	3	0.6
<b>Missouri</b>														
Eastern	136	14.0	0	0.0	22	2.3	23	2.4	11	1.1	72	7.4	9	0.9
Western	114	14.1	0	0.0	12	1.5	13	1.6	11	1.4	39	4.8	15	1.9
Nebraska	33	4.7	27	3.8	35	5.0	30	4.3	3	0.4	51	7.3	4	0.6
North Dakota	59	28.1	4	1.9	7	3.3	5	2.4	0	0.0	6	2.9	4	1.9
South Dakota	15	3.4	0	0.0	16	3.6	16	3.6	8	1.8	35	7.9	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	%
<b>NINTH CIRCUIT</b>	<b>13,419</b>	<b>5,934</b>	<b>44.2</b>	<b>96</b>	<b>0.7</b>	<b>23</b>	<b>0.2</b>	<b>63</b>	<b>0.5</b>	<b>25</b>	<b>0.2</b>
Alaska	124	91	73.4	0	0.0	1	0.8	0	0.0	0	0.0
Arizona	3,913	1,216	31.1	63	1.6	8	0.2	8	0.2	3	0.1
California											
Central	1,268	666	52.5	1	0.1	3	0.2	3	0.2	2	0.2
Eastern	944	504	53.4	3	0.3	3	0.3	3	0.3	0	0.0
Northern	650	337	51.8	3	0.5	3	0.5	4	0.6	2	0.3
Southern	3,155	1,311	41.6	3	0.1	1	0.0	13	0.4	7	0.2
Guam	67	41	61.2	1	1.5	0	0.0	0	0.0	1	1.5
Hawaii	354	162	45.8	0	0.0	1	0.3	4	1.1	0	0.0
Idaho	249	125	50.2	0	0.0	0	0.0	3	1.2	0	0.0
Montana	362	285	78.7	4	1.1	1	0.3	5	1.4	1	0.3
Nevada	650	442	68.0	2	0.3	1	0.2	4	0.6	3	0.5
Northern Mariana Islands	19	11	57.9	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	552	282	51.1	5	0.9	1	0.2	2	0.4	2	0.4
Washington											
Eastern	361	153	42.4	1	0.3	0	0.0	6	1.7	2	0.6
Western	751	308	41.0	10	1.3	0	0.0	8	1.1	2	0.3
<b>TENTH CIRCUIT</b>	<b>5,614</b>	<b>3,365</b>	<b>59.9</b>	<b>13</b>	<b>0.2</b>	<b>5</b>	<b>0.1</b>	<b>51</b>	<b>0.9</b>	<b>10</b>	<b>0.2</b>
Colorado	526	311	59.1	0	0.0	0	0.0	5	1.0	2	0.4
Kansas	643	395	61.4	1	0.2	0	0.0	32	5.0	1	0.2
New Mexico	2,510	1,421	56.6	3	0.1	1	0.0	1	0.0	2	0.1
Oklahoma											
Eastern	91	70	76.9	1	1.1	0	0.0	0	0.0	0	0.0
Northern	230	189	82.2	1	0.4	0	0.0	1	0.4	0	0.0
Western	319	231	72.4	3	0.9	0	0.0	7	2.2	0	0.0
Utah	913	479	52.5	4	0.4	3	0.3	4	0.4	4	0.4
Wyoming	382	269	70.4	0	0.0	1	0.3	1	0.3	1	0.3
<b>ELEVENTH CIRCUIT</b>	<b>6,892</b>	<b>4,667</b>	<b>67.7</b>	<b>17</b>	<b>0.2</b>	<b>14</b>	<b>0.2</b>	<b>60</b>	<b>0.9</b>	<b>9</b>	<b>0.1</b>
Alabama											
Middle	242	134	55.4	1	0.4	0	0.0	4	1.7	0	0.0
Northern	550	344	62.5	0	0.0	0	0.0	5	0.9	1	0.2
Southern	355	234	65.9	0	0.0	1	0.3	0	0.0	1	0.3
Florida											
Middle	1,601	952	59.5	2	0.1	1	0.1	5	0.3	2	0.1
Northern	419	291	69.5	2	0.5	5	1.2	4	1.0	0	0.0
Southern	2,204	1,581	71.7	4	0.2	4	0.2	13	0.6	1	0.0
Georgia											
Middle	392	290	74.0	2	0.5	0	0.0	5	1.3	1	0.3
Northern	593	394	66.4	3	0.5	3	0.5	5	0.8	3	0.5
Southern	536	447	83.4	3	0.6	0	0.0	19	3.5	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 DEPARTURE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
<b>NINTH CIRCUIT</b>	<b>1,341</b>	<b>10.0</b>	<b>3,712</b>	<b>27.7</b>	<b>701</b>	<b>5.2</b>	<b>301</b>	<b>2.2</b>	<b>185</b>	<b>1.4</b>	<b>849</b>	<b>6.3</b>	<b>189</b>	<b>1.4</b>
Alaska	5	4.0	0	0.0	5	4.0	3	2.4	4	3.2	12	9.7	3	2.4
Arizona	246	6.3	2,027	51.8	112	2.9	50	1.3	45	1.2	101	2.6	34	0.9
California														
Central	212	16.7	76	6.0	83	6.5	35	2.8	35	2.8	104	8.2	48	3.8
Eastern	130	13.8	132	14.0	50	5.3	23	2.4	10	1.1	76	8.1	10	1.1
Northern	95	14.6	39	6.0	52	8.0	18	2.8	18	2.8	65	10.0	14	2.2
Southern	138	4.4	1,287	40.8	116	3.7	100	3.2	21	0.7	106	3.4	52	1.6
Guam	9	13.4	0	0.0	0	0.0	0	0.0	0	0.0	15	22.4	0	0.0
Hawaii	114	32.2	0	0.0	6	1.7	2	0.6	2	0.6	61	17.2	2	0.6
Idaho	51	20.5	28	11.2	5	2.0	1	0.4	4	1.6	27	10.8	5	2.0
Montana	39	10.8	0	0.0	0	0.0	4	1.1	1	0.3	21	5.8	1	0.3
Nevada	67	10.3	0	0.0	54	8.3	9	1.4	6	0.9	55	8.5	7	1.1
Northern Mariana Islands	4	21.1	0	0.0	2	10.5	0	0.0	1	5.3	1	5.3	0	0.0
Oregon	82	14.9	17	3.1	51	9.2	21	3.8	5	0.9	75	13.6	9	1.6
Washington														
Eastern	34	9.4	85	23.5	28	7.8	5	1.4	3	0.8	44	12.2	0	0.0
Western	115	15.3	21	2.8	137	18.2	30	4.0	30	4.0	86	11.5	4	0.5
<b>TENTH CIRCUIT</b>	<b>510</b>	<b>9.1</b>	<b>486</b>	<b>8.7</b>	<b>518</b>	<b>9.2</b>	<b>198</b>	<b>3.5</b>	<b>69</b>	<b>1.2</b>	<b>349</b>	<b>6.2</b>	<b>40</b>	<b>0.7</b>
Colorado	130	24.7	0	0.0	16	3.0	21	4.0	6	1.1	30	5.7	5	1.0
Kansas	116	18.0	0	0.0	52	8.1	2	0.3	0	0.0	42	6.5	2	0.3
New Mexico	83	3.3	316	12.6	379	15.1	107	4.3	33	1.3	152	6.1	12	0.5
Oklahoma														
Eastern	13	14.3	0	0.0	1	1.1	0	0.0	1	1.1	5	5.5	0	0.0
Northern	27	11.7	0	0.0	3	1.3	1	0.4	0	0.0	7	3.0	1	0.4
Western	23	7.2	0	0.0	1	0.3	4	1.3	0	0.0	46	14.4	4	1.3
Utah	82	9.0	170	18.6	49	5.4	44	4.8	19	2.1	41	4.5	14	1.5
Wyoming	36	9.4	0	0.0	17	4.5	19	5.0	10	2.6	26	6.8	2	0.5
<b>ELEVENTH CIRCUIT</b>	<b>1,227</b>	<b>17.8</b>	<b>30</b>	<b>0.4</b>	<b>66</b>	<b>1.0</b>	<b>98</b>	<b>1.4</b>	<b>74</b>	<b>1.1</b>	<b>583</b>	<b>8.5</b>	<b>47</b>	<b>0.7</b>
Alabama														
Middle	82	33.9	0	0.0	4	1.7	1	0.4	0	0.0	16	6.6	0	0.0
Northern	139	25.3	0	0.0	4	0.7	6	1.1	1	0.2	50	9.1	0	0.0
Southern	81	22.8	0	0.0	1	0.3	3	0.8	1	0.3	33	9.3	0	0.0
Florida														
Middle	393	24.5	30	1.9	15	0.9	30	1.9	18	1.1	142	8.9	11	0.7
Northern	87	20.8	0	0.0	0	0.0	4	1.0	5	1.2	20	4.8	1	0.2
Southern	246	11.2	0	0.0	26	1.2	22	1.0	34	1.5	245	11.1	28	1.3
Georgia														
Middle	72	18.4	0	0.0	2	0.5	5	1.3	1	0.3	13	3.3	1	0.3
Northern	82	13.8	0	0.0	12	2.0	20	3.4	14	2.4	51	8.6	6	1.0
Southern	45	8.4	0	0.0	2	0.4	7	1.3	0	0.0	13	2.4	0	0.0

Of the 72,865 cases, 2,972 were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Districts for which information needed to determine the relationship between the sentence imposed and the guideline range is missing in five percent or more of the cases received included: Western Oklahoma (42.2%), Middle Georgia (27.1%), Central California (25.5%), Eastern Virginia (24.1%), Arizona (17.1%), Western Washington (11.3%), Middle Tennessee (10.1%), Southern Mississippi (7.0%), Maryland (6.6%), Western Kentucky (6.3%), Alaska (6.1%), Northern Alabama (5.5%), Southern Florida (5.2%), and Northern Florida (5.0%).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

**Table 10**

**GUIDELINE DEPARTURE RATE BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2007**

**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>69,801</b>	<b>42,446</b>	<b>60.8</b>	<b>324</b>	<b>0.5</b>	<b>143</b>	<b>0.2</b>	<b>488</b>	<b>0.7</b>	<b>102</b>	<b>0.1</b>
Robbery	1,109	733	66.1	7	0.6	5	0.5	12	1.1	1	0.1
Drugs - Trafficking	24,199	13,022	53.8	38	0.2	14	0.1	35	0.1	17	0.1
Drugs - Simple Possession	527	479	90.9	5	0.9	2	0.4	7	1.3	4	0.8
Firearms	8,328	5,826	70.0	48	0.6	29	0.3	60	0.7	13	0.2
Larceny	1,598	1,253	78.4	7	0.4	1	0.1	8	0.5	6	0.4
Fraud	7,160	4,627	64.6	33	0.5	25	0.3	77	1.1	15	0.2
Embezzlement	452	339	75.0	0	0.0	0	0.0	1	0.2	0	0.0
Forgery/Counterfeiting	1,115	814	73.0	8	0.7	4	0.4	9	0.8	2	0.2
Immigration	16,903	10,220	60.5	113	0.7	24	0.1	190	1.1	25	0.1
Other Miscellaneous Offenses	8,410	5,133	61.0	65	0.8	39	0.5	89	1.1	19	0.2

**Western New York**

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>757</b>	<b>439</b>	<b>58.0</b>	<b>2</b>	<b>0.3</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>1</b>	<b>0.1</b>
Robbery	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	254	91	35.8	0	0.0	0	0.0	0	0.0	1	0.4
Drugs - Simple Possession	38	36	94.7	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	126	75	59.5	1	0.8	0	0.0	0	0.0	0	0.0
Larceny	20	14	70.0	0	0.0	0	0.0	0	0.0	0	0.0
Fraud	104	71	68.3	0	0.0	0	0.0	0	0.0	0	0.0
Embezzlement	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	9	7	77.8	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	100	78	78.0	0	0.0	0	0.0	0	0.0	0	0.0
Other Miscellaneous Offenses	102	63	61.8	1	1.0	0	0.0	0	0.0	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>10,042</b>	<b>14.4</b>	<b>5,224</b>	<b>7.5</b>	<b>2,604</b>	<b>3.7</b>	<b>1,756</b>	<b>2.5</b>	<b>1,011</b>	<b>1.4</b>	<b>4,955</b>	<b>7.1</b>	<b>706</b>	<b>1.0</b>
Robbery	131	11.8	1	0.1	34	3.1	51	4.6	22	2.0	103	9.3	9	0.8
Drugs - Trafficking	6,177	25.5	1,268	5.2	822	3.4	539	2.2	368	1.5	1,707	7.1	192	0.8
Drugs - Simple Possession	8	1.5	1	0.2	3	0.6	1	0.2	3	0.6	9	1.7	5	0.9
Firearms	992	11.9	38	0.5	223	2.7	226	2.7	162	1.9	641	7.7	70	0.8
Larceny	93	5.8	6	0.4	41	2.6	37	2.3	14	0.9	103	6.4	29	1.8
Fraud	1,109	15.5	5	0.1	166	2.3	189	2.6	122	1.7	665	9.3	127	1.8
Embezzlement	14	3.1	0	0.0	9	2.0	6	1.3	15	3.3	60	13.3	8	1.8
Forgery/Counterfeiting	136	12.2	1	0.1	17	1.5	15	1.3	14	1.3	78	7.0	17	1.5
Immigration	324	1.9	3,849	22.8	865	5.1	445	2.6	111	0.7	617	3.7	120	0.7
Other Miscellaneous Offenses	1,058	12.6	55	0.7	424	5.0	247	2.9	180	2.1	972	11.6	129	1.5

### Western New York

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>226</b>	<b>29.9</b>	<b>0</b>	<b>0.0</b>	<b>19</b>	<b>2.5</b>	<b>9</b>	<b>1.2</b>	<b>2</b>	<b>0.3</b>	<b>46</b>	<b>6.1</b>	<b>13</b>	<b>1.7</b>
Robbery	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	143	56.3	0	0.0	6	2.4	1	0.4	0	0.0	11	4.3	1	0.4
Drugs - Simple Possession	2	5.3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	31	24.6	0	0.0	5	4.0	2	1.6	0	0.0	10	7.9	2	1.6
Larceny	2	10.0	0	0.0	1	5.0	0	0.0	1	5.0	2	10.0	0	0.0
Fraud	22	21.2	0	0.0	0	0.0	1	1.0	0	0.0	7	6.7	3	2.9
Embezzlement	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	1	11.1	0	0.0	0	0.0	1	11.1	0	0.0	0	0.0	0	0.0
Immigration	6	6.0	0	0.0	5	5.0	1	1.0	0	0.0	5	5.0	5	5.0
Other Miscellaneous Offenses	19	18.6	0	0.0	2	2.0	3	2.9	1	1.0	11	10.8	2	2.0

Of the 72,865 guideline cases, 3,064 cases were excluded due to one or both of the following reasons: missing information from the submitted documents that prevented the comparison of the sentence and the guideline range (2,972) or missing primary offense (100).

Of the 762 guideline cases from the District of Western New York, five cases were excluded due to missing information needed to determine the relationship between the sentence imposed and the guideline range.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.