

United States Sentencing Commission



Statistical Information Packet

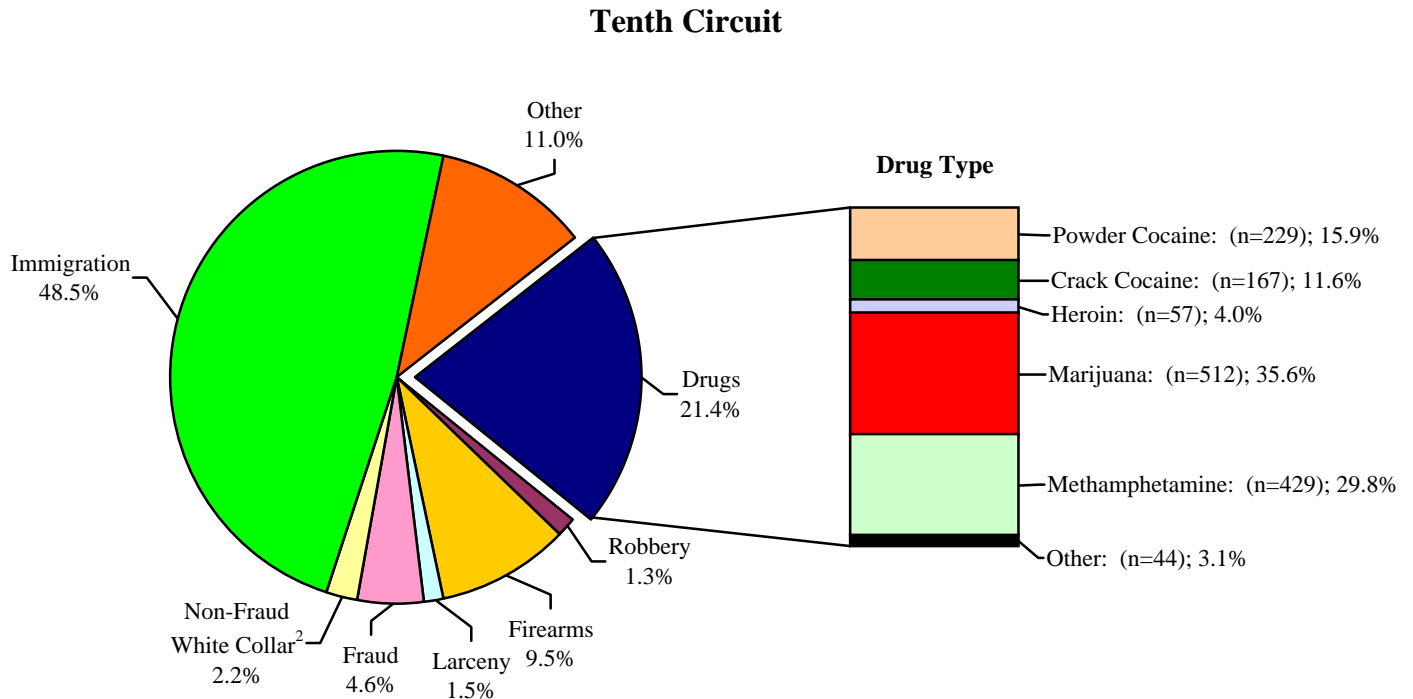
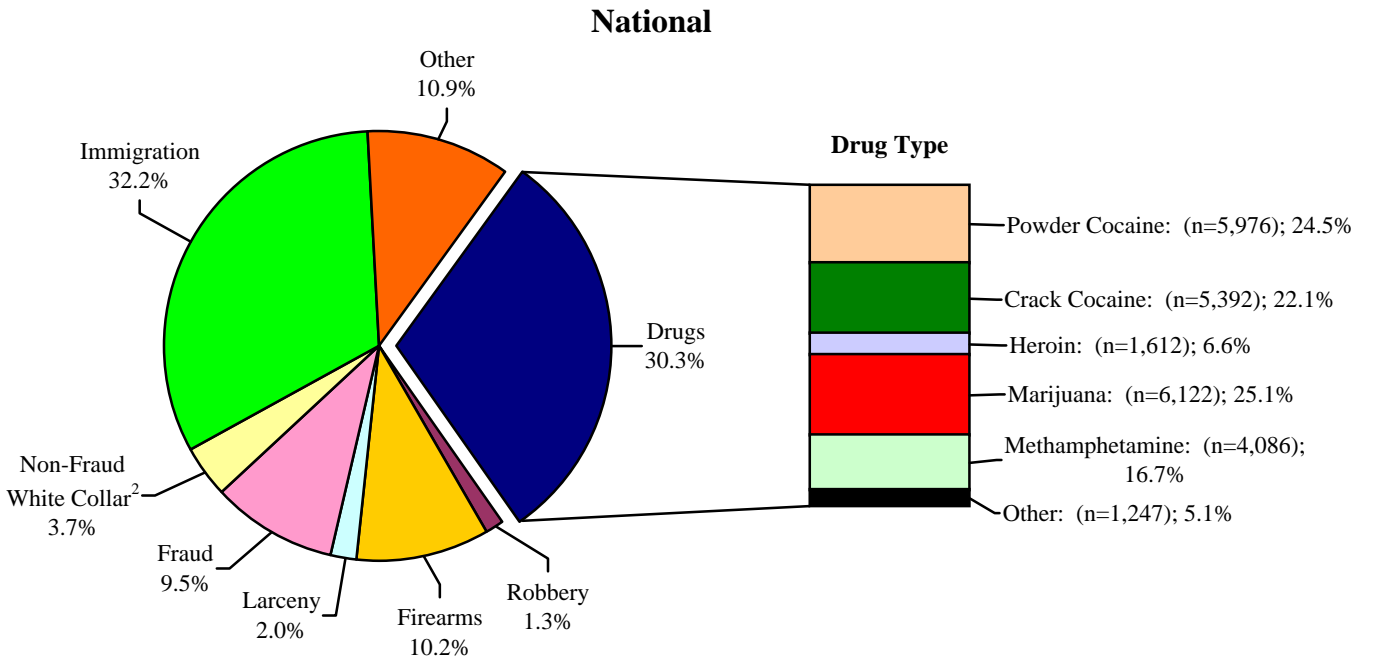
Fiscal Year 2009

Tenth Circuit

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Figure A
DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED BY SELECT
PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009



¹Of the 81,372 guideline cases, 771 cases were excluded due to missing drug type.

Of the 6,777 guideline cases from the Tenth Circuit, 59 cases were excluded due to missing drug type.

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

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.

Table 1

**DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED
BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009**

| PRIMARY OFFENSE | National | | Tenth Circuit | |
|------------------------------------|---------------|--------------|---------------|--------------|
| | N | % | N | % |
| TOTAL | 81,372 | 100.0 | 6,777 | 100.0 |
| Murder | 93 | 0.1 | 14 | 0.2 |
| Manslaughter | 59 | 0.1 | 9 | 0.1 |
| Kidnapping/Hostage Taking | 41 | 0.1 | 2 | 0.0 |
| Sexual Abuse | 478 | 0.6 | 56 | 0.8 |
| Assault | 660 | 0.8 | 83 | 1.2 |
| Robbery | 1,011 | 1.2 | 89 | 1.3 |
| Arson | 60 | 0.1 | 5 | 0.1 |
| Drugs - Trafficking | 23,938 | 29.4 | 1,373 | 20.3 |
| Drugs - Communication Facility | 508 | 0.6 | 44 | 0.6 |
| Drugs - Simple Possession | 760 | 0.9 | 80 | 1.2 |
| Firearms | 8,243 | 10.1 | 637 | 9.4 |
| Burglary/B&E | 36 | 0.0 | 3 | 0.0 |
| Auto Theft | 77 | 0.1 | 2 | 0.0 |
| Larceny | 1,592 | 2.0 | 98 | 1.4 |
| Fraud | 7,618 | 9.4 | 308 | 4.5 |
| Embezzlement | 471 | 0.6 | 37 | 0.5 |
| Forgery/Counterfeiting | 887 | 1.1 | 56 | 0.8 |
| Bribery | 171 | 0.2 | 7 | 0.1 |
| Tax | 633 | 0.8 | 30 | 0.4 |
| Money Laundering | 812 | 1.0 | 18 | 0.3 |
| Racketeering/Extortion | 635 | 0.8 | 33 | 0.5 |
| Gambling/Lottery | 62 | 0.1 | 0 | 0.0 |
| Civil Rights | 63 | 0.1 | 4 | 0.1 |
| Immigration | 25,927 | 31.9 | 3,261 | 48.1 |
| Pornography/Prostitution | 1,969 | 2.4 | 115 | 1.7 |
| Prison Offenses | 445 | 0.5 | 17 | 0.3 |
| Administration of Justice Offenses | 998 | 1.2 | 82 | 1.2 |
| Environmental/Wildlife | 231 | 0.3 | 14 | 0.2 |
| National Defense | 67 | 0.1 | 4 | 0.1 |
| Antitrust | 21 | 0.0 | 0 | 0.0 |
| Food & Drug | 80 | 0.1 | 2 | 0.0 |
| Other Miscellaneous Offenses | 2,726 | 3.4 | 294 | 4.3 |

Of the 81,372 guideline cases, no cases were excluded due to missing information on primary offense category.

Of the 6,777 guideline cases from the Tenth Circuit, no case was excluded.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.

Table 2

**MODE OF CONVICTION BY CIRCUIT AND DISTRICT
Fiscal Year 2009**

| CIRCUIT District | TOTAL | PLEA | | TRIAL | |
|-----------------------|---------------|---------------|-------------|--------------|------------|
| | | N | % | N | % |
| TOTAL | 81,370 | 78,398 | 96.3 | 2,972 | 3.7 |
| D.C. CIRCUIT | 378 | 352 | 93.1 | 26 | 6.9 |
| District of Columbia | 378 | 352 | 93.1 | 26 | 6.9 |
| FIRST CIRCUIT | 1,782 | 1,692 | 94.9 | 90 | 5.1 |
| Maine | 227 | 207 | 91.2 | 20 | 8.8 |
| Massachusetts | 522 | 490 | 93.9 | 32 | 6.1 |
| New Hampshire | 205 | 200 | 97.6 | 5 | 2.4 |
| Puerto Rico | 697 | 669 | 96.0 | 28 | 4.0 |
| Rhode Island | 131 | 126 | 96.2 | 5 | 3.8 |
| SECOND CIRCUIT | 4,726 | 4,529 | 95.8 | 197 | 4.2 |
| Connecticut | 407 | 386 | 94.8 | 21 | 5.2 |
| New York | | | | | |
| Eastern | 1,213 | 1,159 | 95.5 | 54 | 4.5 |
| Northern | 547 | 525 | 96.0 | 22 | 4.0 |
| Southern | 1,649 | 1,572 | 95.3 | 77 | 4.7 |
| Western | 715 | 696 | 97.3 | 19 | 2.7 |
| Vermont | 195 | 191 | 97.9 | 4 | 2.1 |
| THIRD CIRCUIT | 3,083 | 2,862 | 92.8 | 221 | 7.2 |
| Delaware | 159 | 151 | 95.0 | 8 | 5.0 |
| New Jersey | 892 | 849 | 95.2 | 43 | 4.8 |
| Pennsylvania | | | | | |
| Eastern | 865 | 757 | 87.5 | 108 | 12.5 |
| Middle | 634 | 608 | 95.9 | 26 | 4.1 |
| Western | 460 | 441 | 95.9 | 19 | 4.1 |
| Virgin Islands | 73 | 56 | 76.7 | 17 | 23.3 |
| FOURTH CIRCUIT | 6,874 | 6,462 | 94.0 | 412 | 6.0 |
| Maryland | 801 | 738 | 92.1 | 63 | 7.9 |
| North Carolina | | | | | |
| Eastern | 659 | 639 | 97.0 | 20 | 3.0 |
| Middle | 431 | 408 | 94.7 | 23 | 5.3 |
| Western | 530 | 484 | 91.3 | 46 | 8.7 |
| South Carolina | 1,140 | 1,097 | 96.2 | 43 | 3.8 |
| Virginia | | | | | |
| Eastern | 2,116 | 1,955 | 92.4 | 161 | 7.6 |
| Western | 500 | 467 | 93.4 | 33 | 6.6 |
| West Virginia | | | | | |
| Northern | 413 | 394 | 95.4 | 19 | 4.6 |
| Southern | 284 | 280 | 98.6 | 4 | 1.4 |

| CIRCUIT District | TOTAL | PLEA | | TRIAL | |
|------------------------|---------------|---------------|-------------|------------|------------|
| | | N | % | N | % |
| FIFTH CIRCUIT | 19,506 | 19,148 | 98.2 | 358 | 1.8 |
| Louisiana | | | | | |
| Eastern | 440 | 426 | 96.8 | 14 | 3.2 |
| Middle | 176 | 167 | 94.9 | 9 | 5.1 |
| Western | 351 | 311 | 88.6 | 40 | 11.4 |
| Mississippi | | | | | |
| Northern | 139 | 133 | 95.7 | 6 | 4.3 |
| Southern | 358 | 338 | 94.4 | 20 | 5.6 |
| Texas | | | | | |
| Eastern | 927 | 900 | 97.1 | 27 | 2.9 |
| Northern | 1,008 | 953 | 94.5 | 55 | 5.5 |
| Southern | 7,602 | 7,512 | 98.8 | 90 | 1.2 |
| Western | 8,505 | 8,408 | 98.9 | 97 | 1.1 |
| SIXTH CIRCUIT | 5,235 | 5,008 | 95.7 | 227 | 4.3 |
| Kentucky | | | | | |
| Eastern | 703 | 678 | 96.4 | 25 | 3.6 |
| Western | 425 | 410 | 96.5 | 15 | 3.5 |
| Michigan | | | | | |
| Eastern | 716 | 666 | 93.0 | 50 | 7.0 |
| Western | 484 | 468 | 96.7 | 16 | 3.3 |
| Ohio | | | | | |
| Northern | 673 | 645 | 95.8 | 28 | 4.2 |
| Southern | 619 | 605 | 97.7 | 14 | 2.3 |
| Tennessee | | | | | |
| Eastern | 652 | 622 | 95.4 | 30 | 4.6 |
| Middle | 320 | 306 | 95.6 | 14 | 4.4 |
| Western | 643 | 608 | 94.6 | 35 | 5.4 |
| SEVENTH CIRCUIT | 2,927 | 2,739 | 93.6 | 188 | 6.4 |
| Illinois | | | | | |
| Central | 349 | 330 | 94.6 | 19 | 5.4 |
| Northern | 919 | 837 | 91.1 | 82 | 8.9 |
| Southern | 314 | 298 | 94.9 | 16 | 5.1 |
| Indiana | | | | | |
| Northern | 452 | 422 | 93.4 | 30 | 6.6 |
| Southern | 233 | 213 | 91.4 | 20 | 8.6 |
| Wisconsin | | | | | |
| Eastern | 468 | 452 | 96.6 | 16 | 3.4 |
| Western | 192 | 187 | 97.4 | 5 | 2.6 |
| EIGHTH CIRCUIT | 5,440 | 5,203 | 95.6 | 237 | 4.4 |
| Arkansas | | | | | |
| Eastern | 416 | 401 | 96.4 | 15 | 3.6 |
| Western | 255 | 253 | 99.2 | 2 | 0.8 |
| Iowa | | | | | |
| Northern | 349 | 328 | 94.0 | 21 | 6.0 |
| Southern | 469 | 427 | 91.0 | 42 | 9.0 |
| Minnesota | 625 | 590 | 94.4 | 35 | 5.6 |
| Missouri | | | | | |
| Eastern | 1,053 | 1,019 | 96.8 | 34 | 3.2 |
| Western | 832 | 791 | 95.1 | 41 | 4.9 |
| Nebraska | 651 | 630 | 96.8 | 21 | 3.2 |
| North Dakota | 278 | 268 | 96.4 | 10 | 3.6 |
| South Dakota | 512 | 496 | 96.9 | 16 | 3.1 |

| CIRCUIT District | TOTAL | PLEA | | TRIAL | |
|--------------------------|---------------|---------------|-------------|------------|------------|
| | | N | % | N | % |
| NINTH CIRCUIT | 17,246 | 16,836 | 97.6 | 410 | 2.4 |
| Alaska | 184 | 170 | 92.4 | 14 | 7.6 |
| Arizona | 4,784 | 4,732 | 98.9 | 52 | 1.1 |
| California | | | | | |
| Central | 1,937 | 1,872 | 96.6 | 65 | 3.4 |
| Eastern | 1,036 | 1,012 | 97.7 | 24 | 2.3 |
| Northern | 907 | 892 | 98.3 | 15 | 1.7 |
| Southern | 4,838 | 4,766 | 98.5 | 72 | 1.5 |
| Guam | 62 | 58 | 93.5 | 4 | 6.5 |
| Hawaii | 303 | 283 | 93.4 | 20 | 6.6 |
| Idaho | 336 | 322 | 95.8 | 14 | 4.2 |
| Montana | 405 | 367 | 90.6 | 38 | 9.4 |
| Nevada | 406 | 378 | 93.1 | 28 | 6.9 |
| Northern Mariana Islands | 26 | 21 | 80.8 | 5 | 19.2 |
| Oregon | 640 | 626 | 97.8 | 14 | 2.2 |
| Washington | | | | | |
| Eastern | 429 | 413 | 96.3 | 16 | 3.7 |
| Western | 953 | 924 | 97.0 | 29 | 3.0 |
| TENTH CIRCUIT | 6,777 | 6,637 | 97.9 | 140 | 2.1 |
| Colorado | 524 | 512 | 97.7 | 12 | 2.3 |
| Kansas | 741 | 709 | 95.7 | 32 | 4.3 |
| New Mexico | 3,427 | 3,410 | 99.5 | 17 | 0.5 |
| Oklahoma | | | | | |
| Eastern | 98 | 88 | 89.8 | 10 | 10.2 |
| Northern | 218 | 209 | 95.9 | 9 | 4.1 |
| Western | 502 | 485 | 96.6 | 17 | 3.4 |
| Utah | 835 | 813 | 97.4 | 22 | 2.6 |
| Wyoming | 432 | 411 | 95.1 | 21 | 4.9 |
| ELEVENTH CIRCUIT | 7,396 | 6,930 | 93.7 | 466 | 6.3 |
| Alabama | | | | | |
| Middle | 236 | 212 | 89.8 | 24 | 10.2 |
| Northern | 488 | 460 | 94.3 | 28 | 5.7 |
| Southern | 430 | 405 | 94.2 | 25 | 5.8 |
| Florida | | | | | |
| Middle | 1,648 | 1,542 | 93.6 | 106 | 6.4 |
| Northern | 406 | 363 | 89.4 | 43 | 10.6 |
| Southern | 2,418 | 2,253 | 93.2 | 165 | 6.8 |
| Georgia | | | | | |
| Middle | 423 | 412 | 97.4 | 11 | 2.6 |
| Northern | 789 | 737 | 93.4 | 52 | 6.6 |
| Southern | 558 | 546 | 97.8 | 12 | 2.2 |

Of the 81,372 guideline cases, two cases were excluded due to missing information on mode of conviction.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.

Table 3

**MODE OF CONVICTION BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009**

| PRIMARY OFFENSE | TOTAL | National | | | | Tenth Circuit | | | |
|---|---------------|---------------|-------------|--------------|------------|---------------|-------------|------------|------------|
| | | PLEA | | TRIAL | | PLEA | | TRIAL | |
| | | N | % | N | % | N | % | N | % |
| TOTAL | 81,370 | 78,398 | 96.3 | 2,972 | 3.7 | 6,637 | 97.9 | 140 | 2.1 |
| Murder | 93 | 68 | 73.1 | 25 | 26.9 | 13 | 92.9 | 1 | 7.1 |
| Manslaughter | 59 | 55 | 93.2 | 4 | 6.8 | 7 | 77.8 | 2 | 22.2 |
| Kidnapping/Hostage Taking | 41 | 36 | 87.8 | 5 | 12.2 | 2 | 100.0 | 0 | 0.0 |
| Sexual Abuse | 478 | 418 | 87.4 | 60 | 12.6 | 52 | 92.9 | 4 | 7.1 |
| Assault | 660 | 617 | 93.5 | 43 | 6.5 | 82 | 98.8 | 1 | 1.2 |
| Robbery | 1,011 | 970 | 95.9 | 41 | 4.1 | 85 | 95.5 | 4 | 4.5 |
| Arson | 60 | 54 | 90.0 | 6 | 10.0 | 5 | 100.0 | 0 | 0.0 |
| Drugs - Trafficking | 23,938 | 22,968 | 95.9 | 970 | 4.1 | 1,320 | 96.1 | 53 | 3.9 |
| Drugs - Communication Facility | 508 | 506 | 99.6 | 2 | 0.4 | 44 | 100.0 | 0 | 0.0 |
| Drugs - Simple Possession | 759 | 734 | 96.7 | 25 | 3.3 | 79 | 98.8 | 1 | 1.3 |
| Firearms | 8,243 | 7,649 | 92.8 | 594 | 7.2 | 605 | 95.0 | 32 | 5.0 |
| Burglary/B&E | 36 | 34 | 94.4 | 2 | 5.6 | 1 | 33.3 | 2 | 66.7 |
| Auto Theft | 77 | 76 | 98.7 | 1 | 1.3 | 2 | 100.0 | 0 | 0.0 |
| Larceny | 1,592 | 1,556 | 97.7 | 36 | 2.3 | 94 | 95.9 | 4 | 4.1 |
| Fraud | 7,618 | 7,231 | 94.9 | 387 | 5.1 | 300 | 97.4 | 8 | 2.6 |
| Embezzlement | 471 | 458 | 97.2 | 13 | 2.8 | 36 | 97.3 | 1 | 2.7 |
| Forgery/Counterfeiting | 887 | 872 | 98.3 | 15 | 1.7 | 54 | 96.4 | 2 | 3.6 |
| Bribery | 171 | 161 | 94.2 | 10 | 5.8 | 5 | 71.4 | 2 | 28.6 |
| Tax | 633 | 562 | 88.8 | 71 | 11.2 | 29 | 96.7 | 1 | 3.3 |
| Money Laundering | 812 | 759 | 93.5 | 53 | 6.5 | 17 | 94.4 | 1 | 5.6 |
| Racketeering/Extortion | 635 | 557 | 87.7 | 78 | 12.3 | 33 | 100.0 | 0 | 0.0 |
| Gambling/Lottery | 62 | 58 | 93.5 | 4 | 6.5 | 0 | -- | 0 | -- |
| Civil Rights | 63 | 56 | 88.9 | 7 | 11.1 | 4 | 100.0 | 0 | 0.0 |
| Immigration | 25,927 | 25,734 | 99.3 | 193 | 0.7 | 3,260 | 100.0 | 1 | 0.0 |
| Pornography/Prostitution | 1,969 | 1,859 | 94.4 | 110 | 5.6 | 108 | 93.9 | 7 | 6.1 |
| Prison Offenses | 445 | 437 | 98.2 | 8 | 1.8 | 17 | 100.0 | 0 | 0.0 |
| Administration of Justice Offenses | 998 | 948 | 95.0 | 50 | 5.0 | 79 | 96.3 | 3 | 3.7 |
| Environmental/Wildlife | 231 | 214 | 92.6 | 17 | 7.4 | 14 | 100.0 | 0 | 0.0 |
| National Defense | 67 | 61 | 91.0 | 6 | 9.0 | 4 | 100.0 | 0 | 0.0 |
| Antitrust | 21 | 21 | 100.0 | 0 | 0.0 | 0 | -- | 0 | -- |
| Food & Drug | 80 | 78 | 97.5 | 2 | 2.5 | 2 | 100.0 | 0 | 0.0 |
| Other Miscellaneous Offenses | 2,725 | 2,591 | 95.1 | 134 | 4.9 | 284 | 96.6 | 10 | 3.4 |

Of the 81,372 guideline cases, two cases were excluded due to missing mode of conviction.

Of the 6,777 guideline cases from the Tenth Circuit, no case was excluded.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.

Table 4
TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009

National

| PRIMARY OFFENSE | TOTAL | Prison | | Prison/Community Split Sentence | | Probation and Confinement | | Probation Only | |
|------------------------------------|---------------|---------------|-------------|---------------------------------|------------|---------------------------|------------|----------------|------------|
| | | N | % | N | % | N | % | N | % |
| TOTAL | 80,550 | 70,090 | 87.0 | 2,072 | 2.6 | 2,491 | 3.1 | 5,897 | 7.3 |
| Murder | 93 | 93 | 100.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Manslaughter | 59 | 55 | 93.2 | 2 | 3.4 | 1 | 1.7 | 1 | 1.7 |
| Kidnapping/Hostage Taking | 41 | 40 | 97.6 | 1 | 2.4 | 0 | 0.0 | 0 | 0.0 |
| Sexual Abuse | 478 | 447 | 93.5 | 14 | 2.9 | 7 | 1.5 | 10 | 2.1 |
| Assault | 650 | 540 | 83.1 | 24 | 3.7 | 27 | 4.2 | 59 | 9.1 |
| Robbery | 1,007 | 964 | 95.7 | 23 | 2.3 | 9 | 0.9 | 11 | 1.1 |
| Arson | 60 | 57 | 95.0 | 2 | 3.3 | 1 | 1.7 | 0 | 0.0 |
| Drugs - Trafficking | 23,931 | 22,522 | 94.1 | 594 | 2.5 | 354 | 1.5 | 461 | 1.9 |
| Drugs - Communication Facility | 508 | 373 | 73.4 | 16 | 3.1 | 41 | 8.1 | 78 | 15.4 |
| Drugs - Simple Possession | 704 | 401 | 57.0 | 10 | 1.4 | 26 | 3.7 | 267 | 37.9 |
| Firearms | 8,229 | 7,510 | 91.3 | 210 | 2.6 | 197 | 2.4 | 312 | 3.8 |
| Burglary/B&E | 36 | 33 | 91.7 | 0 | 0.0 | 3 | 8.3 | 0 | 0.0 |
| Auto Theft | 77 | 67 | 87.0 | 2 | 2.6 | 2 | 2.6 | 6 | 7.8 |
| Larceny | 1,484 | 551 | 37.1 | 76 | 5.1 | 229 | 15.4 | 628 | 42.3 |
| Fraud | 7,583 | 5,491 | 72.4 | 409 | 5.4 | 601 | 7.9 | 1,082 | 14.3 |
| Embezzlement | 459 | 176 | 38.3 | 49 | 10.7 | 59 | 12.9 | 175 | 38.1 |
| Forgery/Counterfeiting | 883 | 593 | 67.2 | 45 | 5.1 | 104 | 11.8 | 141 | 16.0 |
| Bribery | 171 | 115 | 67.3 | 16 | 9.4 | 17 | 9.9 | 23 | 13.5 |
| Tax | 632 | 326 | 51.6 | 66 | 10.4 | 122 | 19.3 | 118 | 18.7 |
| Money Laundering | 811 | 591 | 72.9 | 48 | 5.9 | 62 | 7.6 | 110 | 13.6 |
| Racketeering/Extortion | 634 | 572 | 90.2 | 13 | 2.1 | 17 | 2.7 | 32 | 5.0 |
| Gambling/Lottery | 62 | 22 | 35.5 | 8 | 12.9 | 11 | 17.7 | 21 | 33.9 |
| Civil Rights | 62 | 33 | 53.2 | 3 | 4.8 | 10 | 16.1 | 16 | 25.8 |
| Immigration | 25,914 | 24,692 | 95.3 | 273 | 1.1 | 163 | 0.6 | 786 | 3.0 |
| Pornography/Prostitution | 1,969 | 1,891 | 96.0 | 23 | 1.2 | 40 | 2.0 | 15 | 0.8 |
| Prison Offenses | 445 | 414 | 93.0 | 12 | 2.7 | 7 | 1.6 | 12 | 2.7 |
| Administration of Justice Offenses | 981 | 589 | 60.0 | 44 | 4.5 | 102 | 10.4 | 246 | 25.1 |
| Environmental/Wildlife | 206 | 47 | 22.8 | 15 | 7.3 | 30 | 14.6 | 114 | 55.3 |
| National Defense | 67 | 52 | 77.6 | 6 | 9.0 | 4 | 6.0 | 5 | 7.5 |
| Antitrust | 20 | 16 | 80.0 | 1 | 5.0 | 1 | 5.0 | 2 | 10.0 |
| Food & Drug | 76 | 13 | 17.1 | 3 | 3.9 | 12 | 15.8 | 48 | 63.2 |
| Other Miscellaneous Offenses | 2,218 | 804 | 36.2 | 64 | 2.9 | 232 | 10.5 | 1,118 | 50.4 |

Of the 81,372 guideline cases, 822 cases were excluded due to one or more of the following reasons: missing sentencing information (24), or cases in which the defendant received no imprisonment or probation (798).

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.

Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009**

Tenth Circuit

| PRIMARY OFFENSE | TOTAL | Prison | | Prison/Community Split Sentence | | Probation and Confinement | | Probation Only | |
|------------------------------------|--------------|--------------|-------------|---------------------------------|------------|---------------------------|------------|----------------|------------|
| | | N | % | N | % | N | % | N | % |
| TOTAL | 6,594 | 5,940 | 90.1 | 114 | 1.7 | 139 | 2.1 | 401 | 6.1 |
| Murder | 14 | 14 | 100.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Manslaughter | 9 | 8 | 88.9 | 1 | 11.1 | 0 | 0.0 | 0 | 0.0 |
| Kidnapping/Hostage Taking | 2 | 2 | 100.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Sexual Abuse | 56 | 54 | 96.4 | 1 | 1.8 | 0 | 0.0 | 1 | 1.8 |
| Assault | 83 | 66 | 79.5 | 2 | 2.4 | 3 | 3.6 | 12 | 14.5 |
| Robbery | 89 | 84 | 94.4 | 2 | 2.2 | 1 | 1.1 | 2 | 2.2 |
| Arson | 5 | 5 | 100.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Drugs - Trafficking | 1,371 | 1,289 | 94.0 | 30 | 2.2 | 31 | 2.3 | 21 | 1.5 |
| Drugs - Communication Facility | 44 | 35 | 79.5 | 0 | 0.0 | 3 | 6.8 | 6 | 13.6 |
| Drugs - Simple Possession | 76 | 25 | 32.9 | 0 | 0.0 | 2 | 2.6 | 49 | 64.5 |
| Firearms | 636 | 573 | 90.1 | 21 | 3.3 | 16 | 2.5 | 26 | 4.1 |
| Burglary/B&E | 3 | 3 | 100.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Auto Theft | 2 | 2 | 100.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Larceny | 87 | 28 | 32.2 | 3 | 3.4 | 14 | 16.1 | 42 | 48.3 |
| Fraud | 300 | 198 | 66.0 | 26 | 8.7 | 22 | 7.3 | 54 | 18.0 |
| Embezzlement | 35 | 15 | 42.9 | 1 | 2.9 | 9 | 25.7 | 10 | 28.6 |
| Forgery/Counterfeiting | 54 | 35 | 64.8 | 4 | 7.4 | 7 | 13.0 | 8 | 14.8 |
| Bribery | 7 | 6 | 85.7 | 0 | 0.0 | 0 | 0.0 | 1 | 14.3 |
| Tax | 30 | 11 | 36.7 | 5 | 16.7 | 9 | 30.0 | 5 | 16.7 |
| Money Laundering | 18 | 13 | 72.2 | 0 | 0.0 | 3 | 16.7 | 2 | 11.1 |
| Racketeering/Extortion | 33 | 33 | 100.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Gambling/Lottery | 0 | 0 | -- | 0 | -- | 0 | -- | 0 | -- |
| Civil Rights | 4 | 1 | 25.0 | 0 | 0.0 | 0 | 0.0 | 3 | 75.0 |
| Immigration | 3,258 | 3,231 | 99.2 | 5 | 0.2 | 2 | 0.1 | 20 | 0.6 |
| Pornography/Prostitution | 115 | 112 | 97.4 | 0 | 0.0 | 1 | 0.9 | 2 | 1.7 |
| Prison Offenses | 17 | 14 | 82.4 | 2 | 11.8 | 0 | 0.0 | 1 | 5.9 |
| Administration of Justice Offenses | 67 | 32 | 47.8 | 5 | 7.5 | 7 | 10.4 | 23 | 34.3 |
| Environmental/Wildlife | 11 | 1 | 9.1 | 0 | 0.0 | 1 | 9.1 | 9 | 81.8 |
| National Defense | 4 | 2 | 50.0 | 0 | 0.0 | 0 | 0.0 | 2 | 50.0 |
| Antitrust | 0 | 0 | -- | 0 | -- | 0 | -- | 0 | -- |
| Food & Drug | 2 | 1 | 50.0 | 0 | 0.0 | 0 | 0.0 | 1 | 50.0 |
| Other Miscellaneous Offenses | 162 | 47 | 29.0 | 6 | 3.7 | 8 | 4.9 | 101 | 62.3 |

Of the 6,777 guideline cases from the Tenth Circuit, 183 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 (182).

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.

Table 6

**INCARCERATION RATE OF DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES
BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009**

| PRIMARY OFFENSE | TOTAL | National | | | | Tenth Circuit | | | |
|-------------------------------------|---------------|-----------------|-------------|---------------------|-------------|-----------------|-------------|---------------------|-------------|
| | | Prison Sentence | | Non-Prison Sentence | | Prison Sentence | | Non-Prison Sentence | |
| | | N | % | N | % | N | % | N | % |
| TOTAL | 16,832 | 11,441 | 68.0 | 5,391 | 32.0 | 2,098 | 83.6 | 412 | 16.4 |
| Fraud | 2,211 | 1,184 | 53.6 | 1,027 | 46.4 | 43 | 44.8 | 53 | 55.2 |
| Larceny | 968 | 199 | 20.6 | 769 | 79.4 | 15 | 21.7 | 54 | 78.3 |
| Immigration | 9,409 | 8,633 | 91.8 | 776 | 8.2 | 1,941 | 99.1 | 17 | 0.9 |
| Embezzlement | 245 | 41 | 16.7 | 204 | 83.3 | 2 | 11.8 | 15 | 88.2 |
| Drugs - Trafficking | 609 | 363 | 59.6 | 246 | 40.4 | 20 | 43.5 | 26 | 56.5 |
| Drugs - Simple Possession | 445 | 186 | 41.8 | 259 | 58.2 | 20 | 37.7 | 33 | 62.3 |
| Firearms | 272 | 98 | 36.0 | 174 | 64.0 | 11 | 47.8 | 12 | 52.2 |
| Forgery/Counterfeiting | 283 | 108 | 38.2 | 175 | 61.8 | 3 | 23.1 | 10 | 76.9 |
| Other Miscellaneous Offenses | 2,390 | 629 | 26.3 | 1,761 | 73.7 | 43 | 18.3 | 192 | 81.7 |

Of the 81,372 guideline cases, 64,540 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (64,540), or missing sentencing information (24).

Of the 6,777 guideline cases from the Tenth Circuit, 4,267 cases were excluded due to one or both of the following reasons: defendant ineligible for non-prison alternatives (4,267) or missing sentencing information (1).

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.

Table 7

**AVERAGE LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009**

| PRIMARY OFFENSE | National | | | Tenth Circuit | | |
|---|-------------|---------------|---------------|---------------|---------------|--------------|
| | Mean Months | Median Months | Number | Mean Months | Median Months | Number |
| TOTAL | 54.0 | 30.0 | 70,103 | 34.5 | 12.0 | 6,018 |
| Murder | 274.5 | 270.0 | 93 | 253.1 | 216.0 | 14 |
| Manslaughter | 68.7 | 50.0 | 57 | 73.2 | 87.0 | 9 |
| Kidnapping/Hostage Taking | 212.8 | 168.0 | 41 | -- | -- | 2 |
| Sexual Abuse | 96.0 | 60.0 | 460 | 84.3 | 46.0 | 55 |
| Assault | 43.8 | 30.0 | 554 | 33.8 | 30.0 | 67 |
| Robbery | 82.2 | 63.0 | 981 | 73.1 | 63.0 | 86 |
| Arson | 61.1 | 60.0 | 57 | 50.3 | 46.0 | 5 |
| Drugs - Trafficking | 81.2 | 60.0 | 22,867 | 69.1 | 48.0 | 1,313 |
| Drugs - Communication Facility | 42.9 | 46.0 | 383 | 42.6 | 41.0 | 35 |
| Drugs - Simple Possession | 8.5 | 2.0 | 355 | 4.3 | 1.0 | 24 |
| Firearms | 91.5 | 60.0 | 7,663 | 73.2 | 51.0 | 592 |
| Burglary/B&E | 26.7 | 24.0 | 31 | 39.5 | 51.0 | 3 |
| Auto Theft | 64.2 | 35.0 | 63 | -- | -- | 2 |
| Larceny | 16.4 | 12.0 | 609 | 15.1 | 12.0 | 30 |
| Fraud | 28.5 | 18.0 | 5,615 | 25.1 | 21.0 | 220 |
| Embezzlement | 16.5 | 12.0 | 216 | 20.3 | 16.5 | 16 |
| Forgery/Counterfeiting | 21.1 | 17.0 | 619 | 25.0 | 18.0 | 37 |
| Bribery | 26.4 | 21.0 | 128 | 36.6 | 12.0 | 6 |
| Tax | 22.4 | 18.0 | 390 | 18.3 | 12.0 | 16 |
| Money Laundering | 41.8 | 24.0 | 621 | 45.4 | 24.0 | 13 |
| Racketeering/Extortion | 102.7 | 60.0 | 580 | 71.4 | 60.0 | 33 |
| Gambling/Lottery | 10.9 | 6.0 | 28 | -- | -- | 0 |
| Civil Rights | 44.7 | 30.0 | 35 | -- | -- | 0 |
| Immigration | 18.9 | 12.0 | 23,757 | 10.1 | 2.9 | 3,223 |
| Pornography/Prostitution | 121.2 | 78.0 | 1,910 | 80.6 | 65.0 | 111 |
| Prison Offenses | 16.3 | 12.0 | 418 | 16.6 | 12.0 | 16 |
| Administration of Justice Offenses | 23.9 | 15.0 | 600 | 10.9 | 5.0 | 35 |
| Environmental/Wildlife | 12.0 | 10.0 | 60 | -- | -- | 1 |
| National Defense | 53.8 | 34.0 | 58 | -- | -- | 2 |
| Antitrust | 15.2 | 12.0 | 17 | -- | -- | 0 |
| Food & Drug | 14.9 | 10.5 | 14 | -- | -- | 1 |
| Other Miscellaneous Offenses | 18.7 | 10.0 | 823 | 10.7 | 5.8 | 51 |

Of the 81,372 guideline cases, 11,269 cases were excluded for one or more of the following reasons: zero months prison ordered (10,446), or missing or indeterminable sentencing information (823).

Of the 6,777 guideline cases from the Tenth Circuit, 759 cases were excluded due to one of the following reasons: zero prison months ordered (577) or missing or indeterminable sentencing information (182).

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.

Table 8

**COMPARISON OF SENTENCE IMPOSED AND POSITION
RELATIVE TO THE GUIDELINE RANGE
Fiscal Year 2009**

| | National | | Tenth Circuit | |
|---|---------------|--------------|---------------|--------------|
| | N | % | N | % |
| TOTAL CASES¹ | 79,153 | 100.0 | 6,727 | 100.0 |
| CASES SENTENCED WITHIN GUIDELINE RANGE | 44,991 | 56.8 | 4,182 | 62.2 |
| CASES SENTENCED ABOVE GUIDELINE RANGE | 1,496 | 2.0 | 75 | 1.1 |
| DEPARTURE ABOVE GUIDELINE RANGE | 533 | 0.7 | 27 | 0.4 |
| Upward Departure From Guideline Range ² | 382 | 0.5 | 25 | 0.4 |
| Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³ | 151 | 0.2 | 2 | 0.0 |
| OTHERWISE ABOVE GUIDELINE RANGE | 963 | 1.3 | 48 | 0.7 |
| Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴ | 842 | 1.1 | 46 | 0.7 |
| All Remaining Cases Above Guideline Range ⁵ | 121 | 0.2 | 2 | 0.0 |
| GOVERNMENT SPONSORED BELOW RANGE⁶ | 20,011 | 25.3 | 1,722 | 25.7 |
| §5K1.1 Substantial Assistance Departure | 9,855 | 12.5 | 488 | 7.3 |
| §5K3.1 Early Disposition Program Departure | 7,242 | 9.1 | 679 | 10.1 |
| Other Government Sponsored Below Range | 2,914 | 3.7 | 555 | 8.3 |
| NON-GOVERNMENT SPONSORED BELOW RANGE | 12,655 | 15.9 | 748 | 11.2 |
| DEPARTURE BELOW GUIDELINE RANGE | 2,403 | 3.0 | 172 | 2.6 |
| Downward Departure From Guideline Range ² | 1,542 | 1.9 | 128 | 1.9 |
| Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³ | 861 | 1.1 | 44 | 0.7 |
| OTHERWISE BELOW GUIDELINE RANGE | 10,252 | 12.9 | 576 | 8.6 |
| Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴ | 9,358 | 11.8 | 549 | 8.2 |
| All Remaining Cases Below Guideline Range ⁵ | 894 | 1.1 | 27 | 0.4 |

¹This table reflects the 81,372 cases sentenced nationally in Fiscal Year 2009, 6,777 of which were from the Tenth Circuit. Of these, 2,219 cases nationally and 50 cases from the Tenth Circuit were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range.

²All 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*.

³All 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.

⁴All 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.

⁵All 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.

⁶Cases 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, 2009 Datafile, OPAFY09.

Table 9

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT
Fiscal Year 2009**

| 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 | 79,153 | 44,991 | 56.8 | 382 | 0.5 | 151 | 0.2 | 842 | 1.1 | 121 | 0.2 |
| D.C. CIRCUIT | 373 | 147 | 39.4 | 2 | 0.5 | 0 | 0.0 | 1 | 0.3 | 1 | 0.3 |
| District of Columbia | 373 | 147 | 39.4 | 2 | 0.5 | 0 | 0.0 | 1 | 0.3 | 1 | 0.3 |
| FIRST CIRCUIT | 1,773 | 942 | 53.1 | 8 | 0.5 | 1 | 0.1 | 17 | 1.0 | 2 | 0.1 |
| Maine | 227 | 119 | 52.4 | 1 | 0.4 | 0 | 0.0 | 2 | 0.9 | 0 | 0.0 |
| Massachusetts | 516 | 180 | 34.9 | 5 | 1.0 | 0 | 0.0 | 6 | 1.2 | 1 | 0.2 |
| New Hampshire | 205 | 90 | 43.9 | 1 | 0.5 | 0 | 0.0 | 4 | 2.0 | 0 | 0.0 |
| Puerto Rico | 694 | 491 | 70.7 | 1 | 0.1 | 1 | 0.1 | 4 | 0.6 | 1 | 0.1 |
| Rhode Island | 131 | 62 | 47.3 | 0 | 0.0 | 0 | 0.0 | 1 | 0.8 | 0 | 0.0 |
| SECOND CIRCUIT | 4,655 | 2,023 | 43.5 | 7 | 0.2 | 3 | 0.1 | 17 | 0.4 | 1 | 0.0 |
| Connecticut | 406 | 157 | 38.7 | 3 | 0.7 | 0 | 0.0 | 1 | 0.2 | 0 | 0.0 |
| New York | | | | | | | | | | | |
| Eastern | 1,207 | 422 | 35.0 | 1 | 0.1 | 1 | 0.1 | 6 | 0.5 | 0 | 0.0 |
| Northern | 501 | 318 | 63.5 | 0 | 0.0 | 0 | 0.0 | 1 | 0.2 | 0 | 0.0 |
| Southern | 1,631 | 694 | 42.6 | 1 | 0.1 | 1 | 0.1 | 3 | 0.2 | 1 | 0.1 |
| Western | 715 | 372 | 52.0 | 2 | 0.3 | 1 | 0.1 | 5 | 0.7 | 0 | 0.0 |
| Vermont | 195 | 60 | 30.8 | 0 | 0.0 | 0 | 0.0 | 1 | 0.5 | 0 | 0.0 |
| THIRD CIRCUIT | 3,065 | 1,409 | 46.0 | 7 | 0.2 | 5 | 0.2 | 21 | 0.7 | 2 | 0.1 |
| Delaware | 158 | 65 | 41.1 | 0 | 0.0 | 0 | 0.0 | 2 | 1.3 | 0 | 0.0 |
| New Jersey | 886 | 411 | 46.4 | 1 | 0.1 | 1 | 0.1 | 3 | 0.3 | 0 | 0.0 |
| Pennsylvania | | | | | | | | | | | |
| Eastern | 862 | 327 | 37.9 | 4 | 0.5 | 1 | 0.1 | 7 | 0.8 | 1 | 0.1 |
| Middle | 629 | 280 | 44.5 | 2 | 0.3 | 3 | 0.5 | 3 | 0.5 | 1 | 0.2 |
| Western | 460 | 278 | 60.4 | 0 | 0.0 | 0 | 0.0 | 1 | 0.2 | 0 | 0.0 |
| Virgin Islands | 70 | 48 | 68.6 | 0 | 0.0 | 0 | 0.0 | 5 | 7.1 | 0 | 0.0 |
| FOURTH CIRCUIT | 6,467 | 4,059 | 62.8 | 49 | 0.8 | 22 | 0.3 | 64 | 1.0 | 16 | 0.2 |
| Maryland | 714 | 332 | 46.5 | 4 | 0.6 | 4 | 0.6 | 6 | 0.8 | 4 | 0.6 |
| North Carolina | | | | | | | | | | | |
| Eastern | 640 | 360 | 56.3 | 11 | 1.7 | 3 | 0.5 | 7 | 1.1 | 1 | 0.2 |
| Middle | 430 | 303 | 70.5 | 2 | 0.5 | 0 | 0.0 | 2 | 0.5 | 0 | 0.0 |
| Western | 529 | 285 | 53.9 | 3 | 0.6 | 1 | 0.2 | 5 | 0.9 | 1 | 0.2 |
| South Carolina | 1,135 | 733 | 64.6 | 12 | 1.1 | 3 | 0.3 | 2 | 0.2 | 3 | 0.3 |
| Virginia | | | | | | | | | | | |
| Eastern | 1,837 | 1,361 | 74.1 | 13 | 0.7 | 10 | 0.5 | 17 | 0.9 | 6 | 0.3 |
| Western | 498 | 265 | 53.2 | 3 | 0.6 | 1 | 0.2 | 13 | 2.6 | 0 | 0.0 |
| West Virginia | | | | | | | | | | | |
| Northern | 400 | 249 | 62.3 | 0 | 0.0 | 0 | 0.0 | 4 | 1.0 | 0 | 0.0 |
| Southern | 284 | 171 | 60.2 | 1 | 0.4 | 0 | 0.0 | 8 | 2.8 | 1 | 0.4 |

| 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 | 9,855 | 12.5 | 7,242 | 9.1 | 2,914 | 3.7 | 1,542 | 1.9 | 861 | 1.1 | 9,358 | 11.8 | 894 | 1.1 |
| D.C. CIRCUIT | 94 | 25.2 | 0 | 0.0 | 54 | 14.5 | 3 | 0.8 | 10 | 2.7 | 48 | 12.9 | 13 | 3.5 |
| District of Columbia | 94 | 25.2 | 0 | 0.0 | 54 | 14.5 | 3 | 0.8 | 10 | 2.7 | 48 | 12.9 | 13 | 3.5 |
| FIRST CIRCUIT | 209 | 11.8 | 35 | 2.0 | 118 | 6.7 | 33 | 1.9 | 37 | 2.1 | 339 | 19.1 | 32 | 1.8 |
| Maine | 60 | 26.4 | 0 | 0.0 | 1 | 0.4 | 4 | 1.8 | 1 | 0.4 | 38 | 16.7 | 1 | 0.4 |
| Massachusetts | 43 | 8.3 | 0 | 0.0 | 64 | 12.4 | 20 | 3.9 | 17 | 3.3 | 173 | 33.5 | 7 | 1.4 |
| New Hampshire | 51 | 24.9 | 0 | 0.0 | 23 | 11.2 | 1 | 0.5 | 0 | 0.0 | 34 | 16.6 | 1 | 0.5 |
| Puerto Rico | 43 | 6.2 | 35 | 5.0 | 26 | 3.7 | 7 | 1.0 | 19 | 2.7 | 43 | 6.2 | 23 | 3.3 |
| Rhode Island | 12 | 9.2 | 0 | 0.0 | 4 | 3.1 | 1 | 0.8 | 0 | 0.0 | 51 | 38.9 | 0 | 0.0 |
| SECOND CIRCUIT | 954 | 20.5 | 1 | 0.0 | 164 | 3.5 | 121 | 2.6 | 129 | 2.8 | 1,159 | 24.9 | 76 | 1.6 |
| Connecticut | 78 | 19.2 | 0 | 0.0 | 14 | 3.4 | 19 | 4.7 | 26 | 6.4 | 105 | 25.9 | 3 | 0.7 |
| New York | | | | | | | | | | | | | | |
| Eastern | 314 | 26.0 | 1 | 0.1 | 61 | 5.1 | 34 | 2.8 | 36 | 3.0 | 303 | 25.1 | 28 | 2.3 |
| Northern | 79 | 15.8 | 0 | 0.0 | 11 | 2.2 | 17 | 3.4 | 6 | 1.2 | 66 | 13.2 | 3 | 0.6 |
| Southern | 232 | 14.2 | 0 | 0.0 | 39 | 2.4 | 36 | 2.2 | 39 | 2.4 | 552 | 33.8 | 33 | 2.0 |
| Western | 201 | 28.1 | 0 | 0.0 | 26 | 3.6 | 2 | 0.3 | 3 | 0.4 | 95 | 13.3 | 8 | 1.1 |
| Vermont | 50 | 25.6 | 0 | 0.0 | 13 | 6.7 | 13 | 6.7 | 19 | 9.7 | 38 | 19.5 | 1 | 0.5 |
| THIRD CIRCUIT | 784 | 25.6 | 0 | 0.0 | 97 | 3.2 | 39 | 1.3 | 54 | 1.8 | 608 | 19.8 | 39 | 1.3 |
| Delaware | 19 | 12.0 | 0 | 0.0 | 5 | 3.2 | 0 | 0.0 | 2 | 1.3 | 65 | 41.1 | 0 | 0.0 |
| New Jersey | 257 | 29.0 | 0 | 0.0 | 17 | 1.9 | 12 | 1.4 | 3 | 0.3 | 165 | 18.6 | 16 | 1.8 |
| Pennsylvania | | | | | | | | | | | | | | |
| Eastern | 277 | 32.1 | 0 | 0.0 | 18 | 2.1 | 9 | 1.0 | 17 | 2.0 | 189 | 21.9 | 12 | 1.4 |
| Middle | 176 | 28.0 | 0 | 0.0 | 50 | 7.9 | 8 | 1.3 | 4 | 0.6 | 96 | 15.3 | 6 | 1.0 |
| Western | 49 | 10.7 | 0 | 0.0 | 7 | 1.5 | 10 | 2.2 | 24 | 5.2 | 88 | 19.1 | 3 | 0.7 |
| Virgin Islands | 6 | 8.6 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 4 | 5.7 | 5 | 7.1 | 2 | 2.9 |
| FOURTH CIRCUIT | 1,064 | 16.5 | 0 | 0.0 | 174 | 2.7 | 97 | 1.5 | 40 | 0.6 | 822 | 12.7 | 60 | 0.9 |
| Maryland | 176 | 24.6 | 0 | 0.0 | 48 | 6.7 | 12 | 1.7 | 15 | 2.1 | 97 | 13.6 | 16 | 2.2 |
| North Carolina | | | | | | | | | | | | | | |
| Eastern | 209 | 32.7 | 0 | 0.0 | 3 | 0.5 | 4 | 0.6 | 0 | 0.0 | 37 | 5.8 | 5 | 0.8 |
| Middle | 78 | 18.1 | 0 | 0.0 | 1 | 0.2 | 1 | 0.2 | 2 | 0.5 | 40 | 9.3 | 1 | 0.2 |
| Western | 167 | 31.6 | 0 | 0.0 | 4 | 0.8 | 8 | 1.5 | 4 | 0.8 | 45 | 8.5 | 6 | 1.1 |
| South Carolina | 200 | 17.6 | 0 | 0.0 | 34 | 3.0 | 17 | 1.5 | 2 | 0.2 | 121 | 10.7 | 8 | 0.7 |
| Virginia | | | | | | | | | | | | | | |
| Eastern | 71 | 3.9 | 0 | 0.0 | 26 | 1.4 | 32 | 1.7 | 13 | 0.7 | 266 | 14.5 | 22 | 1.2 |
| Western | 113 | 22.7 | 0 | 0.0 | 9 | 1.8 | 17 | 3.4 | 1 | 0.2 | 75 | 15.1 | 1 | 0.2 |
| West Virginia | | | | | | | | | | | | | | |
| Northern | 30 | 7.5 | 0 | 0.0 | 47 | 11.8 | 3 | 0.8 | 0 | 0.0 | 66 | 16.5 | 1 | 0.3 |
| Southern | 20 | 7.0 | 0 | 0.0 | 2 | 0.7 | 3 | 1.1 | 3 | 1.1 | 75 | 26.4 | 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 | % |
| FIFTH CIRCUIT | 19,314 | 13,843 | 71.7 | 109 | 0.6 | 37 | 0.2 | 286 | 1.5 | 28 | 0.1 |
| Louisiana | | | | | | | | | | | |
| Eastern | 439 | 299 | 68.1 | 4 | 0.9 | 4 | 0.9 | 8 | 1.8 | 1 | 0.2 |
| Middle | 176 | 106 | 60.2 | 4 | 2.3 | 3 | 1.7 | 4 | 2.3 | 0 | 0.0 |
| Western | 345 | 271 | 78.6 | 5 | 1.4 | 3 | 0.9 | 13 | 3.8 | 2 | 0.6 |
| Mississippi | | | | | | | | | | | |
| Northern | 135 | 74 | 54.8 | 0 | 0.0 | 0 | 0.0 | 2 | 1.5 | 0 | 0.0 |
| Southern | 327 | 264 | 80.7 | 3 | 0.9 | 0 | 0.0 | 5 | 1.5 | 1 | 0.3 |
| Texas | | | | | | | | | | | |
| Eastern | 924 | 706 | 76.4 | 9 | 1.0 | 0 | 0.0 | 7 | 0.8 | 0 | 0.0 |
| Northern | 1,007 | 656 | 65.1 | 23 | 2.3 | 11 | 1.1 | 35 | 3.5 | 0 | 0.0 |
| Southern | 7,595 | 4,843 | 63.8 | 46 | 0.6 | 10 | 0.1 | 64 | 0.8 | 5 | 0.1 |
| Western | 8,366 | 6,624 | 79.2 | 15 | 0.2 | 6 | 0.1 | 148 | 1.8 | 19 | 0.2 |
| SIXTH CIRCUIT | 5,183 | 2,641 | 51.0 | 29 | 0.6 | 14 | 0.3 | 60 | 1.2 | 9 | 0.2 |
| Kentucky | | | | | | | | | | | |
| Eastern | 702 | 341 | 48.6 | 2 | 0.3 | 1 | 0.1 | 13 | 1.9 | 1 | 0.1 |
| Western | 418 | 278 | 66.5 | 1 | 0.2 | 0 | 0.0 | 3 | 0.7 | 0 | 0.0 |
| Michigan | | | | | | | | | | | |
| Eastern | 715 | 361 | 50.5 | 4 | 0.6 | 0 | 0.0 | 3 | 0.4 | 2 | 0.3 |
| Western | 481 | 294 | 61.1 | 6 | 1.2 | 4 | 0.8 | 13 | 2.7 | 1 | 0.2 |
| Ohio | | | | | | | | | | | |
| Northern | 671 | 338 | 50.4 | 2 | 0.3 | 0 | 0.0 | 5 | 0.7 | 1 | 0.1 |
| Southern | 618 | 206 | 33.3 | 5 | 0.8 | 5 | 0.8 | 6 | 1.0 | 2 | 0.3 |
| Tennessee | | | | | | | | | | | |
| Eastern | 648 | 375 | 57.9 | 4 | 0.6 | 0 | 0.0 | 4 | 0.6 | 2 | 0.3 |
| Middle | 304 | 133 | 43.8 | 2 | 0.7 | 2 | 0.7 | 5 | 1.6 | 0 | 0.0 |
| Western | 626 | 315 | 50.3 | 3 | 0.5 | 2 | 0.3 | 8 | 1.3 | 0 | 0.0 |
| SEVENTH CIRCUIT | 2,913 | 1,532 | 52.6 | 8 | 0.3 | 9 | 0.3 | 63 | 2.2 | 3 | 0.1 |
| Illinois | | | | | | | | | | | |
| Central | 349 | 179 | 51.3 | 0 | 0.0 | 0 | 0.0 | 2 | 0.6 | 0 | 0.0 |
| Northern | 908 | 410 | 45.2 | 1 | 0.1 | 3 | 0.3 | 15 | 1.7 | 2 | 0.2 |
| Southern | 314 | 228 | 72.6 | 2 | 0.6 | 5 | 1.6 | 5 | 1.6 | 0 | 0.0 |
| Indiana | | | | | | | | | | | |
| Northern | 452 | 290 | 64.2 | 0 | 0.0 | 1 | 0.2 | 10 | 2.2 | 0 | 0.0 |
| Southern | 232 | 135 | 58.2 | 4 | 1.7 | 0 | 0.0 | 10 | 4.3 | 0 | 0.0 |
| Wisconsin | | | | | | | | | | | |
| Eastern | 467 | 177 | 37.9 | 1 | 0.2 | 0 | 0.0 | 17 | 3.6 | 1 | 0.2 |
| Western | 191 | 113 | 59.2 | 0 | 0.0 | 0 | 0.0 | 4 | 2.1 | 0 | 0.0 |
| EIGHTH CIRCUIT | 5,424 | 3,096 | 57.1 | 31 | 0.6 | 16 | 0.3 | 55 | 1.0 | 9 | 0.2 |
| Arkansas | | | | | | | | | | | |
| Eastern | 414 | 262 | 63.3 | 2 | 0.5 | 3 | 0.7 | 9 | 2.2 | 2 | 0.5 |
| Western | 254 | 194 | 76.4 | 0 | 0.0 | 0 | 0.0 | 3 | 1.2 | 0 | 0.0 |
| Iowa | | | | | | | | | | | |
| Northern | 349 | 180 | 51.6 | 12 | 3.4 | 1 | 0.3 | 4 | 1.1 | 3 | 0.9 |
| Southern | 469 | 243 | 51.8 | 0 | 0.0 | 0 | 0.0 | 10 | 2.1 | 0 | 0.0 |
| Minnesota | 624 | 200 | 32.1 | 1 | 0.2 | 0 | 0.0 | 1 | 0.2 | 1 | 0.2 |
| Missouri | | | | | | | | | | | |
| Eastern | 1,048 | 608 | 58.0 | 1 | 0.1 | 0 | 0.0 | 7 | 0.7 | 0 | 0.0 |
| Western | 827 | 489 | 59.1 | 2 | 0.2 | 2 | 0.2 | 9 | 1.1 | 1 | 0.1 |
| Nebraska | 650 | 401 | 61.7 | 7 | 1.1 | 1 | 0.2 | 3 | 0.5 | 2 | 0.3 |
| North Dakota | 277 | 160 | 57.8 | 0 | 0.0 | 1 | 0.4 | 2 | 0.7 | 0 | 0.0 |
| South Dakota | 512 | 359 | 70.1 | 6 | 1.2 | 8 | 1.6 | 7 | 1.4 | 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 | 1,351 | 7.0 | 1,252 | 6.5 | 446 | 2.3 | 531 | 2.7 | 47 | 0.2 | 1,215 | 6.3 | 169 | 0.9 |
| Louisiana | | | | | | | | | | | | | | |
| Eastern | 54 | 12.3 | 0 | 0.0 | 19 | 4.3 | 16 | 3.6 | 1 | 0.2 | 28 | 6.4 | 5 | 1.1 |
| Middle | 44 | 25.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 2 | 1.1 | 13 | 7.4 | 0 | 0.0 |
| Western | 12 | 3.5 | 0 | 0.0 | 2 | 0.6 | 2 | 0.6 | 3 | 0.9 | 27 | 7.8 | 5 | 1.4 |
| Mississippi | | | | | | | | | | | | | | |
| Northern | 38 | 28.1 | 0 | 0.0 | 7 | 5.2 | 1 | 0.7 | 0 | 0.0 | 11 | 8.1 | 2 | 1.5 |
| Southern | 18 | 5.5 | 0 | 0.0 | 1 | 0.3 | 4 | 1.2 | 0 | 0.0 | 25 | 7.6 | 6 | 1.8 |
| Texas | | | | | | | | | | | | | | |
| Eastern | 67 | 7.3 | 0 | 0.0 | 57 | 6.2 | 16 | 1.7 | 6 | 0.6 | 49 | 5.3 | 7 | 0.8 |
| Northern | 146 | 14.5 | 0 | 0.0 | 11 | 1.1 | 4 | 0.4 | 5 | 0.5 | 109 | 10.8 | 7 | 0.7 |
| Southern | 444 | 5.8 | 1,107 | 14.6 | 230 | 3.0 | 336 | 4.4 | 10 | 0.1 | 477 | 6.3 | 23 | 0.3 |
| Western | 528 | 6.3 | 145 | 1.7 | 119 | 1.4 | 152 | 1.8 | 20 | 0.2 | 476 | 5.7 | 114 | 1.4 |
| SIXTH CIRCUIT | 1,260 | 24.3 | 0 | 0.0 | 149 | 2.9 | 83 | 1.6 | 105 | 2.0 | 769 | 14.8 | 64 | 1.2 |
| Kentucky | | | | | | | | | | | | | | |
| Eastern | 264 | 37.6 | 0 | 0.0 | 7 | 1.0 | 4 | 0.6 | 1 | 0.1 | 64 | 9.1 | 4 | 0.6 |
| Western | 61 | 14.6 | 0 | 0.0 | 24 | 5.7 | 5 | 1.2 | 4 | 1.0 | 36 | 8.6 | 6 | 1.4 |
| Michigan | | | | | | | | | | | | | | |
| Eastern | 142 | 19.9 | 0 | 0.0 | 21 | 2.9 | 15 | 2.1 | 10 | 1.4 | 150 | 21.0 | 7 | 1.0 |
| Western | 62 | 12.9 | 0 | 0.0 | 8 | 1.7 | 6 | 1.2 | 12 | 2.5 | 72 | 15.0 | 3 | 0.6 |
| Ohio | | | | | | | | | | | | | | |
| Northern | 158 | 23.5 | 0 | 0.0 | 15 | 2.2 | 12 | 1.8 | 12 | 1.8 | 113 | 16.8 | 15 | 2.2 |
| Southern | 190 | 30.7 | 0 | 0.0 | 37 | 6.0 | 22 | 3.6 | 40 | 6.5 | 95 | 15.4 | 10 | 1.6 |
| Tennessee | | | | | | | | | | | | | | |
| Eastern | 182 | 28.1 | 0 | 0.0 | 3 | 0.5 | 7 | 1.1 | 3 | 0.5 | 62 | 9.6 | 6 | 0.9 |
| Middle | 62 | 20.4 | 0 | 0.0 | 10 | 3.3 | 6 | 2.0 | 18 | 5.9 | 64 | 21.1 | 2 | 0.7 |
| Western | 139 | 22.2 | 0 | 0.0 | 24 | 3.8 | 6 | 1.0 | 5 | 0.8 | 113 | 18.1 | 11 | 1.8 |
| SEVENTH CIRCUIT | 485 | 16.6 | 0 | 0.0 | 97 | 3.3 | 47 | 1.6 | 105 | 3.6 | 509 | 17.5 | 55 | 1.9 |
| Illinois | | | | | | | | | | | | | | |
| Central | 91 | 26.1 | 0 | 0.0 | 11 | 3.2 | 3 | 0.9 | 4 | 1.1 | 57 | 16.3 | 2 | 0.6 |
| Northern | 142 | 15.6 | 0 | 0.0 | 17 | 1.9 | 30 | 3.3 | 81 | 8.9 | 184 | 20.3 | 23 | 2.5 |
| Southern | 29 | 9.2 | 0 | 0.0 | 7 | 2.2 | 3 | 1.0 | 10 | 3.2 | 19 | 6.1 | 6 | 1.9 |
| Indiana | | | | | | | | | | | | | | |
| Northern | 76 | 16.8 | 0 | 0.0 | 11 | 2.4 | 7 | 1.5 | 7 | 1.5 | 40 | 8.8 | 10 | 2.2 |
| Southern | 31 | 13.4 | 0 | 0.0 | 11 | 4.7 | 2 | 0.9 | 0 | 0.0 | 38 | 16.4 | 1 | 0.4 |
| Wisconsin | | | | | | | | | | | | | | |
| Eastern | 91 | 19.5 | 0 | 0.0 | 39 | 8.4 | 1 | 0.2 | 2 | 0.4 | 125 | 26.8 | 13 | 2.8 |
| Western | 25 | 13.1 | 0 | 0.0 | 1 | 0.5 | 1 | 0.5 | 1 | 0.5 | 46 | 24.1 | 0 | 0.0 |
| EIGHTH CIRCUIT | 849 | 15.7 | 28 | 0.5 | 169 | 3.1 | 85 | 1.6 | 60 | 1.1 | 970 | 17.9 | 56 | 1.0 |
| Arkansas | | | | | | | | | | | | | | |
| Eastern | 49 | 11.8 | 0 | 0.0 | 15 | 3.6 | 7 | 1.7 | 7 | 1.7 | 54 | 13.0 | 4 | 1.0 |
| Western | 33 | 13.0 | 0 | 0.0 | 1 | 0.4 | 4 | 1.6 | 0 | 0.0 | 17 | 6.7 | 2 | 0.8 |
| Iowa | | | | | | | | | | | | | | |
| Northern | 69 | 19.8 | 0 | 0.0 | 5 | 1.4 | 1 | 0.3 | 0 | 0.0 | 74 | 21.2 | 0 | 0.0 |
| Southern | 81 | 17.3 | 0 | 0.0 | 13 | 2.8 | 3 | 0.6 | 3 | 0.6 | 110 | 23.5 | 6 | 1.3 |
| Minnesota | | | | | | | | | | | | | | |
| Northern | 193 | 30.9 | 0 | 0.0 | 10 | 1.6 | 18 | 2.9 | 14 | 2.2 | 176 | 28.2 | 10 | 1.6 |
| Missouri | | | | | | | | | | | | | | |
| Eastern | 145 | 13.8 | 0 | 0.0 | 42 | 4.0 | 21 | 2.0 | 16 | 1.5 | 192 | 18.3 | 16 | 1.5 |
| Western | 178 | 21.5 | 0 | 0.0 | 25 | 3.0 | 1 | 0.1 | 3 | 0.4 | 106 | 12.8 | 11 | 1.3 |
| Nebraska | | | | | | | | | | | | | | |
| Northern | 17 | 2.6 | 28 | 4.3 | 37 | 5.7 | 7 | 1.1 | 5 | 0.8 | 137 | 21.1 | 5 | 0.8 |
| North Dakota | | | | | | | | | | | | | | |
| Northern | 63 | 22.7 | 0 | 0.0 | 6 | 2.2 | 6 | 2.2 | 3 | 1.1 | 35 | 12.6 | 1 | 0.4 |
| South Dakota | | | | | | | | | | | | | | |
| Northern | 21 | 4.1 | 0 | 0.0 | 15 | 2.9 | 17 | 3.3 | 9 | 1.8 | 69 | 13.5 | 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 | 16,161 | 6,463 | 40.0 | 94 | 0.6 | 29 | 0.2 | 113 | 0.7 | 34 | 0.2 |
| Alaska | 182 | 90 | 49.5 | 1 | 0.5 | 2 | 1.1 | 1 | 0.5 | 0 | 0.0 |
| Arizona | 3,811 | 1,061 | 27.8 | 53 | 1.4 | 4 | 0.1 | 15 | 0.4 | 8 | 0.2 |
| California | | | | | | | | | | | |
| Central | 1,920 | 620 | 32.3 | 8 | 0.4 | 8 | 0.4 | 19 | 1.0 | 6 | 0.3 |
| Eastern | 1,031 | 454 | 44.0 | 3 | 0.3 | 0 | 0.0 | 7 | 0.7 | 1 | 0.1 |
| Northern | 888 | 459 | 51.7 | 2 | 0.2 | 6 | 0.7 | 17 | 1.9 | 3 | 0.3 |
| Southern | 4,825 | 2,006 | 41.6 | 13 | 0.3 | 2 | 0.0 | 10 | 0.2 | 12 | 0.2 |
| Guam | 60 | 41 | 68.3 | 0 | 0.0 | 1 | 1.7 | 1 | 1.7 | 0 | 0.0 |
| Hawaii | 301 | 142 | 47.2 | 0 | 0.0 | 0 | 0.0 | 3 | 1.0 | 0 | 0.0 |
| Idaho | 332 | 153 | 46.1 | 2 | 0.6 | 1 | 0.3 | 3 | 0.9 | 1 | 0.3 |
| Montana | 401 | 284 | 70.8 | 1 | 0.2 | 3 | 0.7 | 8 | 2.0 | 2 | 0.5 |
| Nevada | 406 | 269 | 66.3 | 1 | 0.2 | 0 | 0.0 | 4 | 1.0 | 0 | 0.0 |
| Northern Mariana Islands | 26 | 24 | 92.3 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Oregon | 625 | 281 | 45.0 | 2 | 0.3 | 0 | 0.0 | 3 | 0.5 | 1 | 0.2 |
| Washington | | | | | | | | | | | |
| Eastern | 429 | 183 | 42.7 | 5 | 1.2 | 2 | 0.5 | 16 | 3.7 | 0 | 0.0 |
| Western | 924 | 396 | 42.9 | 3 | 0.3 | 0 | 0.0 | 6 | 0.6 | 0 | 0.0 |
| TENTH CIRCUIT | 6,727 | 4,182 | 62.2 | 25 | 0.4 | 2 | 0.0 | 46 | 0.7 | 2 | 0.0 |
| Colorado | 517 | 285 | 55.1 | 1 | 0.2 | 1 | 0.2 | 6 | 1.2 | 0 | 0.0 |
| Kansas | 724 | 411 | 56.8 | 4 | 0.6 | 0 | 0.0 | 21 | 2.9 | 0 | 0.0 |
| New Mexico | 3,425 | 2,190 | 63.9 | 10 | 0.3 | 0 | 0.0 | 2 | 0.1 | 1 | 0.0 |
| Oklahoma | | | | | | | | | | | |
| Eastern | 98 | 63 | 64.3 | 2 | 2.0 | 0 | 0.0 | 1 | 1.0 | 0 | 0.0 |
| Northern | 218 | 153 | 70.2 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Western | 483 | 384 | 79.5 | 0 | 0.0 | 0 | 0.0 | 9 | 1.9 | 1 | 0.2 |
| Utah | 833 | 439 | 52.7 | 4 | 0.5 | 0 | 0.0 | 3 | 0.4 | 0 | 0.0 |
| Wyoming | 429 | 257 | 59.9 | 4 | 0.9 | 1 | 0.2 | 4 | 0.9 | 0 | 0.0 |
| ELEVENTH CIRCUIT | 7,098 | 4,654 | 65.6 | 13 | 0.2 | 13 | 0.2 | 99 | 1.4 | 14 | 0.2 |
| Alabama | | | | | | | | | | | |
| Middle | 235 | 134 | 57.0 | 1 | 0.4 | 1 | 0.4 | 6 | 2.6 | 0 | 0.0 |
| Northern | 478 | 290 | 60.7 | 0 | 0.0 | 0 | 0.0 | 9 | 1.9 | 0 | 0.0 |
| Southern | 429 | 268 | 62.5 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Florida | | | | | | | | | | | |
| Middle | 1,634 | 943 | 57.7 | 5 | 0.3 | 1 | 0.1 | 18 | 1.1 | 3 | 0.2 |
| Northern | 397 | 270 | 68.0 | 1 | 0.3 | 1 | 0.3 | 6 | 1.5 | 0 | 0.0 |
| Southern | 2,291 | 1,604 | 70.0 | 2 | 0.1 | 6 | 0.3 | 26 | 1.1 | 7 | 0.3 |
| Georgia | | | | | | | | | | | |
| Middle | 309 | 236 | 76.4 | 1 | 0.3 | 1 | 0.3 | 6 | 1.9 | 1 | 0.3 |
| Northern | 767 | 473 | 61.7 | 0 | 0.0 | 3 | 0.4 | 7 | 0.9 | 3 | 0.4 |
| Southern | 558 | 436 | 78.1 | 3 | 0.5 | 0 | 0.0 | 21 | 3.8 | 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 | % |
| NINTH CIRCUIT | 1,268 | 7.8 | 5,227 | 32.3 | 819 | 5.1 | 317 | 2.0 | 168 | 1.0 | 1,386 | 8.6 | 243 | 1.5 |
| Alaska | 25 | 13.7 | 0 | 0.0 | 17 | 9.3 | 1 | 0.5 | 20 | 11.0 | 15 | 8.2 | 10 | 5.5 |
| Arizona | 182 | 4.8 | 2,094 | 54.9 | 99 | 2.6 | 52 | 1.4 | 27 | 0.7 | 183 | 4.8 | 33 | 0.9 |
| California | | | | | | | | | | | | | | |
| Central | 215 | 11.2 | 477 | 24.8 | 122 | 6.4 | 62 | 3.2 | 43 | 2.2 | 267 | 13.9 | 73 | 3.8 |
| Eastern | 125 | 12.1 | 290 | 28.1 | 37 | 3.6 | 15 | 1.5 | 7 | 0.7 | 86 | 8.3 | 6 | 0.6 |
| Northern | 55 | 6.2 | 117 | 13.2 | 104 | 11.7 | 10 | 1.1 | 13 | 1.5 | 88 | 9.9 | 14 | 1.6 |
| Southern | 186 | 3.9 | 2,049 | 42.5 | 93 | 1.9 | 133 | 2.8 | 28 | 0.6 | 216 | 4.5 | 77 | 1.6 |
| Guam | 10 | 16.7 | 0 | 0.0 | 1 | 1.7 | 0 | 0.0 | 1 | 1.7 | 5 | 8.3 | 0 | 0.0 |
| Hawaii | 102 | 33.9 | 0 | 0.0 | 0 | 0.0 | 1 | 0.3 | 0 | 0.0 | 50 | 16.6 | 3 | 1.0 |
| Idaho | 67 | 20.2 | 38 | 11.4 | 10 | 3.0 | 4 | 1.2 | 4 | 1.2 | 42 | 12.7 | 7 | 2.1 |
| Montana | 39 | 9.7 | 0 | 0.0 | 3 | 0.7 | 6 | 1.5 | 3 | 0.7 | 49 | 12.2 | 3 | 0.7 |
| Nevada | 25 | 6.2 | 0 | 0.0 | 24 | 5.9 | 3 | 0.7 | 1 | 0.2 | 70 | 17.2 | 9 | 2.2 |
| Northern Mariana Islands | 2 | 7.7 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Oregon | 108 | 17.3 | 41 | 6.6 | 79 | 12.6 | 8 | 1.3 | 4 | 0.6 | 93 | 14.9 | 5 | 0.8 |
| Washington | | | | | | | | | | | | | | |
| Eastern | 24 | 5.6 | 79 | 18.4 | 31 | 7.2 | 8 | 1.9 | 3 | 0.7 | 78 | 18.2 | 0 | 0.0 |
| Western | 103 | 11.1 | 42 | 4.5 | 199 | 21.5 | 14 | 1.5 | 14 | 1.5 | 144 | 15.6 | 3 | 0.3 |
| TENTH CIRCUIT | 488 | 7.3 | 679 | 10.1 | 555 | 8.3 | 128 | 1.9 | 44 | 0.7 | 549 | 8.2 | 27 | 0.4 |
| Colorado | 98 | 19.0 | 0 | 0.0 | 18 | 3.5 | 17 | 3.3 | 3 | 0.6 | 84 | 16.2 | 4 | 0.8 |
| Kansas | 142 | 19.6 | 0 | 0.0 | 73 | 10.1 | 1 | 0.1 | 2 | 0.3 | 69 | 9.5 | 1 | 0.1 |
| New Mexico | 65 | 1.9 | 506 | 14.8 | 396 | 11.6 | 79 | 2.3 | 15 | 0.4 | 153 | 4.5 | 8 | 0.2 |
| Oklahoma | | | | | | | | | | | | | | |
| Eastern | 13 | 13.3 | 0 | 0.0 | 1 | 1.0 | 2 | 2.0 | 1 | 1.0 | 14 | 14.3 | 1 | 1.0 |
| Northern | 40 | 18.3 | 0 | 0.0 | 1 | 0.5 | 0 | 0.0 | 1 | 0.5 | 23 | 10.6 | 0 | 0.0 |
| Western | 31 | 6.4 | 0 | 0.0 | 3 | 0.6 | 0 | 0.0 | 2 | 0.4 | 52 | 10.8 | 1 | 0.2 |
| Utah | 45 | 5.4 | 167 | 20.0 | 38 | 4.6 | 22 | 2.6 | 4 | 0.5 | 102 | 12.2 | 9 | 1.1 |
| Wyoming | 54 | 12.6 | 6 | 1.4 | 25 | 5.8 | 7 | 1.6 | 16 | 3.7 | 52 | 12.1 | 3 | 0.7 |
| ELEVENTH CIRCUIT | 1,049 | 14.8 | 20 | 0.3 | 72 | 1.0 | 58 | 0.8 | 62 | 0.9 | 984 | 13.9 | 60 | 0.8 |
| Alabama | | | | | | | | | | | | | | |
| Middle | 62 | 26.4 | 0 | 0.0 | 2 | 0.9 | 0 | 0.0 | 1 | 0.4 | 25 | 10.6 | 3 | 1.3 |
| Northern | 107 | 22.4 | 0 | 0.0 | 1 | 0.2 | 1 | 0.2 | 2 | 0.4 | 64 | 13.4 | 4 | 0.8 |
| Southern | 102 | 23.8 | 0 | 0.0 | 0 | 0.0 | 2 | 0.5 | 2 | 0.5 | 54 | 12.6 | 1 | 0.2 |
| Florida | | | | | | | | | | | | | | |
| Middle | 319 | 19.5 | 19 | 1.2 | 14 | 0.9 | 25 | 1.5 | 18 | 1.1 | 255 | 15.6 | 14 | 0.9 |
| Northern | 85 | 21.4 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 1 | 0.3 | 30 | 7.6 | 3 | 0.8 |
| Southern | 188 | 8.2 | 0 | 0.0 | 28 | 1.2 | 10 | 0.4 | 19 | 0.8 | 377 | 16.5 | 24 | 1.0 |
| Georgia | | | | | | | | | | | | | | |
| Middle | 32 | 10.4 | 0 | 0.0 | 3 | 1.0 | 1 | 0.3 | 1 | 0.3 | 26 | 8.4 | 1 | 0.3 |
| Northern | 114 | 14.9 | 1 | 0.1 | 18 | 2.3 | 14 | 1.8 | 17 | 2.2 | 109 | 14.2 | 8 | 1.0 |
| Southern | 40 | 7.2 | 0 | 0.0 | 6 | 1.1 | 5 | 0.9 | 1 | 0.2 | 44 | 7.9 | 2 | 0.4 |

Of the 81,372 cases, 2,219 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: Middle Georgia (27.0%), Arizona (20.3%), Eastern Virginia (13.2%), Maryland (10.9%), Southern Mississippi (8.7%), Northern New York (8.4%), Southern Florida (5.3%), and Middle Tennessee (5.0%).

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.

Table 10

**GUIDELINE DEPARTURE RATE BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009**

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 | 79,153 | 44,991 | 56.8 | 382 | 0.5 | 151 | 0.2 | 842 | 1.1 | 121 | 0.2 |
| Robbery | 1,006 | 598 | 59.4 | 14 | 1.4 | 3 | 0.3 | 26 | 2.6 | 3 | 0.3 |
| Drugs - Trafficking | 23,899 | 11,087 | 46.4 | 56 | 0.2 | 15 | 0.1 | 93 | 0.4 | 24 | 0.1 |
| Drugs - Simple Possession | 530 | 477 | 90.0 | 3 | 0.6 | 1 | 0.2 | 13 | 2.5 | 3 | 0.6 |
| Firearms | 8,225 | 5,064 | 61.6 | 76 | 0.9 | 38 | 0.5 | 135 | 1.6 | 22 | 0.3 |
| Larceny | 1,510 | 1,128 | 74.7 | 6 | 0.4 | 2 | 0.1 | 10 | 0.7 | 5 | 0.3 |
| Fraud | 7,016 | 4,107 | 58.5 | 39 | 0.6 | 15 | 0.2 | 109 | 1.6 | 14 | 0.2 |
| Embezzlement | 466 | 316 | 67.8 | 0 | 0.0 | 1 | 0.2 | 4 | 0.9 | 0 | 0.0 |
| Forgery/Counterfeiting | 882 | 600 | 68.0 | 8 | 0.9 | 2 | 0.2 | 13 | 1.5 | 5 | 0.6 |
| Immigration | 25,385 | 15,860 | 62.5 | 106 | 0.4 | 37 | 0.1 | 278 | 1.1 | 26 | 0.1 |
| Other Miscellaneous Offenses | 10,234 | 5,754 | 56.2 | 74 | 0.7 | 37 | 0.4 | 161 | 1.6 | 19 | 0.2 |

Tenth 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 | 6,727 | 4,182 | 62.2 | 25 | 0.4 | 2 | 0.0 | 46 | 0.7 | 2 | 0.0 |
| Robbery | 89 | 56 | 62.9 | 1 | 1.1 | 0 | 0.0 | 3 | 3.4 | 0 | 0.0 |
| Drugs - Trafficking | 1,372 | 621 | 45.3 | 0 | 0.0 | 0 | 0.0 | 5 | 0.4 | 0 | 0.0 |
| Drugs - Simple Possession | 74 | 69 | 93.2 | 1 | 1.4 | 0 | 0.0 | 2 | 2.7 | 1 | 1.4 |
| Firearms | 637 | 404 | 63.4 | 7 | 1.1 | 0 | 0.0 | 8 | 1.3 | 0 | 0.0 |
| Larceny | 95 | 80 | 84.2 | 0 | 0.0 | 0 | 0.0 | 1 | 1.1 | 0 | 0.0 |
| Fraud | 306 | 181 | 59.2 | 2 | 0.7 | 0 | 0.0 | 5 | 1.6 | 0 | 0.0 |
| Embezzlement | 37 | 27 | 73.0 | 0 | 0.0 | 0 | 0.0 | 1 | 2.7 | 0 | 0.0 |
| Forgery/Counterfeiting | 56 | 40 | 71.4 | 0 | 0.0 | 0 | 0.0 | 1 | 1.8 | 0 | 0.0 |
| Immigration | 3,259 | 2,187 | 67.1 | 2 | 0.1 | 0 | 0.0 | 13 | 0.4 | 0 | 0.0 |
| Other Miscellaneous Offenses | 802 | 517 | 64.5 | 12 | 1.5 | 2 | 0.2 | 7 | 0.9 | 1 | 0.1 |

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 | 9,855 | 12.5 | 7,242 | 9.1 | 2,914 | 3.7 | 1,542 | 1.9 | 861 | 1.1 | 9,358 | 11.8 | 894 | 1.1 |
| Robbery | 113 | 11.2 | 1 | 0.1 | 34 | 3.4 | 24 | 2.4 | 26 | 2.6 | 159 | 15.8 | 5 | 0.5 |
| Drugs - Trafficking | 6,192 | 25.9 | 1,438 | 6.0 | 867 | 3.6 | 409 | 1.7 | 297 | 1.2 | 3,223 | 13.5 | 198 | 0.8 |
| Drugs - Simple Possession | 10 | 1.9 | 0 | 0.0 | 4 | 0.8 | 5 | 0.9 | 0 | 0.0 | 9 | 1.7 | 5 | 0.9 |
| Firearms | 955 | 11.6 | 17 | 0.2 | 299 | 3.6 | 155 | 1.9 | 101 | 1.2 | 1,272 | 15.5 | 91 | 1.1 |
| Larceny | 88 | 5.8 | 1 | 0.1 | 35 | 2.3 | 19 | 1.3 | 15 | 1.0 | 165 | 10.9 | 36 | 2.4 |
| Fraud | 1,050 | 15.0 | 8 | 0.1 | 231 | 3.3 | 107 | 1.5 | 92 | 1.3 | 1,118 | 15.9 | 126 | 1.8 |
| Embezzlement | 14 | 3.0 | 0 | 0.0 | 11 | 2.4 | 9 | 1.9 | 10 | 2.1 | 88 | 18.9 | 13 | 2.8 |
| Forgery/Counterfeiting | 101 | 11.5 | 1 | 0.1 | 15 | 1.7 | 9 | 1.0 | 11 | 1.2 | 105 | 11.9 | 12 | 1.4 |
| Immigration | 317 | 1.2 | 5,753 | 22.7 | 713 | 2.8 | 591 | 2.3 | 126 | 0.5 | 1,336 | 5.3 | 242 | 1.0 |
| Other Miscellaneous Offenses | 1,015 | 9.9 | 23 | 0.2 | 705 | 6.9 | 214 | 2.1 | 183 | 1.8 | 1,883 | 18.4 | 166 | 1.6 |

Tenth 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 | 488 | 7.3 | 679 | 10.1 | 555 | 8.3 | 128 | 1.9 | 44 | 0.7 | 549 | 8.2 | 27 | 0.4 |
| Robbery | 10 | 11.2 | 0 | 0.0 | 4 | 4.5 | 2 | 2.2 | 0 | 0.0 | 13 | 14.6 | 0 | 0.0 |
| Drugs - Trafficking | 301 | 21.9 | 168 | 12.2 | 71 | 5.2 | 25 | 1.8 | 10 | 0.7 | 163 | 11.9 | 8 | 0.6 |
| Drugs - Simple Possession | 1 | 1.4 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Firearms | 64 | 10.0 | 0 | 0.0 | 43 | 6.8 | 14 | 2.2 | 3 | 0.5 | 88 | 13.8 | 6 | 0.9 |
| Larceny | 6 | 6.3 | 0 | 0.0 | 1 | 1.1 | 0 | 0.0 | 0 | 0.0 | 7 | 7.4 | 0 | 0.0 |
| Fraud | 50 | 16.3 | 0 | 0.0 | 15 | 4.9 | 7 | 2.3 | 0 | 0.0 | 44 | 14.4 | 2 | 0.7 |
| Embezzlement | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 1 | 2.7 | 0 | 0.0 | 8 | 21.6 | 0 | 0.0 |
| Forgery/Counterfeiting | 6 | 10.7 | 0 | 0.0 | 1 | 1.8 | 0 | 0.0 | 1 | 1.8 | 6 | 10.7 | 1 | 1.8 |
| Immigration | 8 | 0.2 | 511 | 15.7 | 352 | 10.8 | 71 | 2.2 | 15 | 0.5 | 95 | 2.9 | 5 | 0.2 |
| Other Miscellaneous Offenses | 42 | 5.2 | 0 | 0.0 | 68 | 8.5 | 8 | 1.0 | 15 | 1.9 | 125 | 15.6 | 5 | 0.6 |

Of the 81,372 guideline cases, 2,219 cases were excluded due to missing information from the submitted documents that prevented the comparison of the sentence and the guideline range.

Of the 6,777 guideline cases from the Tenth Circuit, 50 cases were excluded due to missing information needed to determine the relationship between the sentence imposed and the guideline range.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, OPAFY09.