

**United
States
Sentencing
Commission**



Statistical Information Packet

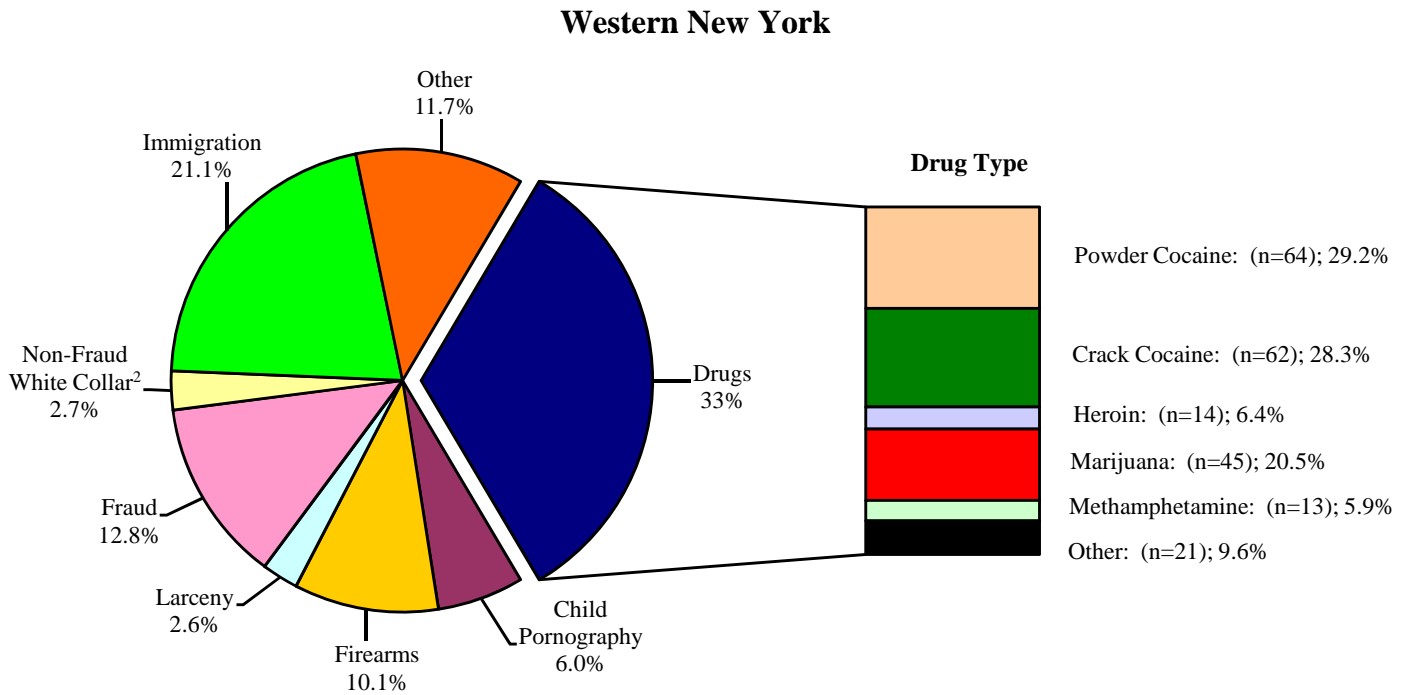
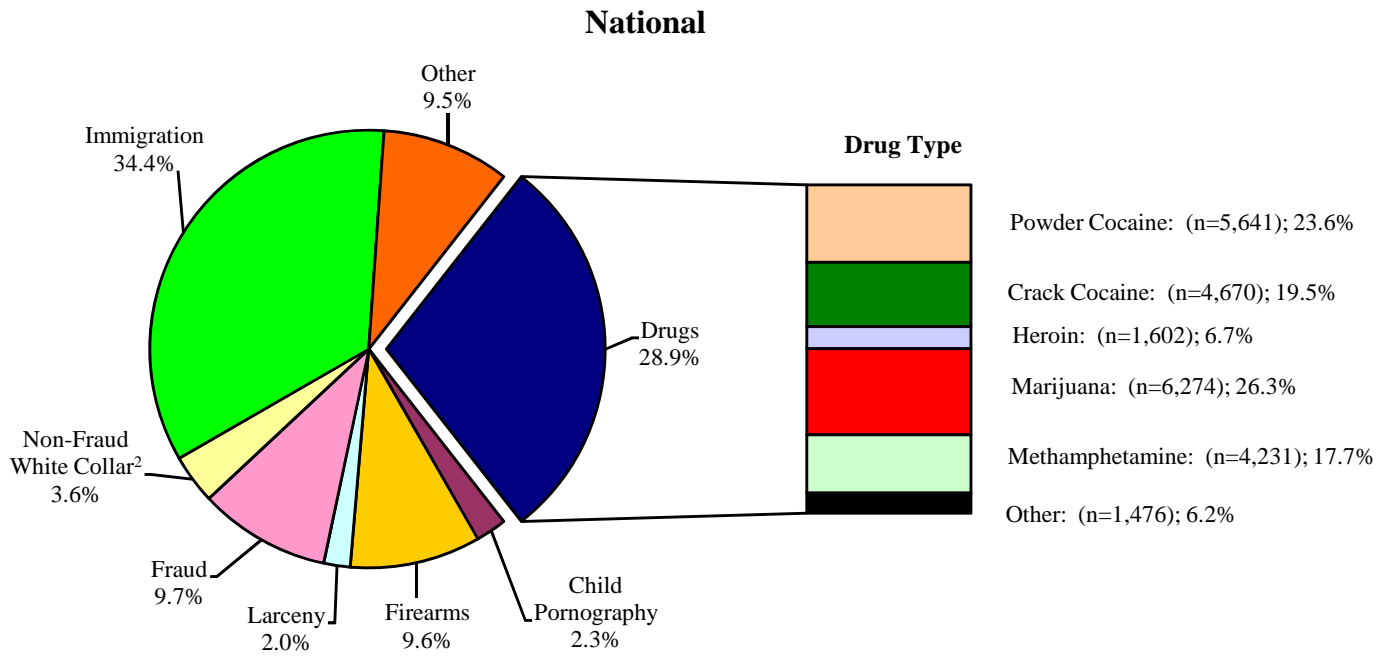
Fiscal Year 2010

Western District of New York

TABLE OF CONTENTS

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

Figure A
OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2010



¹ Of the 83,946 guideline cases, 1,149 cases were excluded due to missing drug type.
 Of the 667 guideline cases from the Western District of New York, three cases were excluded due to missing drug type.

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

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 1

**DISTRIBUTION OF GUIDELINE OFFENDERS IN EACH
PRIMARY OFFENSE CATEGORY
Fiscal Year 2010**

PRIMARY OFFENSE	National		Western New York	
	N	%	N	%
TOTAL	83,946	100.0	667	100.0
Murder	66	0.1	0	0.0
Manslaughter	64	0.1	0	0.0
Kidnapping/Hostage Taking	39	0.0	0	0.0
Sexual Abuse	384	0.5	3	0.4
Assault	631	0.8	3	0.4
Robbery	1,081	1.3	3	0.4
Arson	75	0.1	2	0.3
Drugs - Trafficking	23,506	28.0	178	26.7
Drugs - Communication Facility	512	0.6	22	3.3
Drugs - Simple Possession	1,025	1.2	22	3.3
Firearms	7,986	9.5	67	10.0
Burglary/B&E	36	0.0	0	0.0
Auto Theft	91	0.1	0	0.0
Larceny	1,621	1.9	17	2.5
Fraud	8,067	9.6	85	12.7
Embezzlement	435	0.5	2	0.3
Forgery/Counterfeiting	880	1.0	2	0.3
Bribery	224	0.3	1	0.1
Tax	665	0.8	5	0.7
Money Laundering	806	1.0	8	1.2
Racketeering/Extortion	675	0.8	6	0.9
Gambling/Lottery	76	0.1	1	0.1
Civil Rights	61	0.1	0	0.0
Immigration	28,504	34.0	140	21.0
Child Pornography	1,886	2.2	40	6.0
Prison Offenses	424	0.5	0	0.0
Administration of Justice Offenses	1,157	1.4	34	5.1
Environmental/Wildlife	188	0.2	3	0.4
National Defense	70	0.1	0	0.0
Antitrust	16	0.0	0	0.0
Food & Drug	84	0.1	0	0.0
Other Miscellaneous Offenses	2,611	3.1	23	3.4

Of the 83,946 guideline cases, no cases were excluded due to missing information on primary offense category.

Of the 667 guideline cases from the Western District of New York, no case was excluded.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 2

**GUILTY PLEAS AND TRIALS IN EACH CIRCUIT AND DISTRICT
Fiscal Year 2010**

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	83,941	81,217	96.8	2,724	3.2
D.C. CIRCUIT	394	370	93.9	24	6.1
District of Columbia	394	370	93.9	24	6.1
FIRST CIRCUIT	1,889	1,780	94.2	109	5.8
Maine	169	159	94.1	10	5.9
Massachusetts	449	415	92.4	34	7.6
New Hampshire	231	222	96.1	9	3.9
Puerto Rico	881	833	94.6	48	5.4
Rhode Island	159	151	95.0	8	5.0
SECOND CIRCUIT	4,399	4,191	95.3	208	4.7
Connecticut	428	406	94.9	22	5.1
New York					
Eastern	1,176	1,095	93.1	81	6.9
Northern	515	494	95.9	21	4.1
Southern	1,435	1,361	94.8	74	5.2
Western	667	658	98.7	9	1.3
Vermont	178	177	99.4	1	0.6
THIRD CIRCUIT	2,954	2,766	93.6	188	6.4
Delaware	131	120	91.6	11	8.4
New Jersey	818	791	96.7	27	3.3
Pennsylvania					
Eastern	936	850	90.8	86	9.2
Middle	495	463	93.5	32	6.5
Western	498	477	95.8	21	4.2
Virgin Islands	76	65	85.5	11	14.5
FOURTH CIRCUIT	6,833	6,458	94.5	375	5.5
Maryland	794	734	92.4	60	7.6
North Carolina					
Eastern	766	727	94.9	39	5.1
Middle	552	528	95.7	24	4.3
Western	502	471	93.8	31	6.2
South Carolina	1,250	1,197	95.8	53	4.2
Virginia					
Eastern	2,072	1,941	93.7	131	6.3
Western	369	348	94.3	21	5.7
West Virginia					
Northern	286	278	97.2	8	2.8
Southern	242	234	96.7	8	3.3

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
FIFTH CIRCUIT	20,623	20,267	98.3	356	1.7
Louisiana					
Eastern	414	400	96.6	14	3.4
Middle	202	190	94.1	12	5.9
Western	397	357	89.9	40	10.1
Mississippi					
Northern	172	156	90.7	16	9.3
Southern	332	322	97.0	10	3.0
Texas					
Eastern	848	827	97.5	21	2.5
Northern	931	877	94.2	54	5.8
Southern	8,494	8,393	98.8	101	1.2
Western	8,833	8,745	99.0	88	1.0
SIXTH CIRCUIT	5,622	5,424	96.5	198	3.5
Kentucky					
Eastern	637	614	96.4	23	3.6
Western	508	491	96.7	17	3.3
Michigan					
Eastern	750	720	96.0	30	4.0
Western	544	524	96.3	20	3.7
Ohio					
Northern	667	643	96.4	24	3.6
Southern	682	662	97.1	20	2.9
Tennessee					
Eastern	847	810	95.6	37	4.4
Middle	309	301	97.4	8	2.6
Western	678	659	97.2	19	2.8
SEVENTH CIRCUIT	3,053	2,884	94.5	169	5.5
Illinois					
Central	376	351	93.4	25	6.6
Northern	882	805	91.3	77	8.7
Southern	318	303	95.3	15	4.7
Indiana					
Northern	464	448	96.6	16	3.4
Southern	331	315	95.2	16	4.8
Wisconsin					
Eastern	472	458	97.0	14	3.0
Western	210	204	97.1	6	2.9
EIGHTH CIRCUIT	4,929	4,748	96.3	181	3.7
Arkansas					
Eastern	392	379	96.7	13	3.3
Western	258	251	97.3	7	2.7
Iowa					
Northern	344	330	95.9	14	4.1
Southern	456	423	92.8	33	7.2
Minnesota	505	486	96.2	19	3.8
Missouri					
Eastern	1,048	1,028	98.1	20	1.9
Western	659	640	97.1	19	2.9
Nebraska	602	582	96.7	20	3.3
North Dakota	261	245	93.9	16	6.1
South Dakota	404	384	95.0	20	5.0

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
NINTH CIRCUIT	19,014	18,593	97.8	421	2.2
Alaska	158	144	91.1	14	8.9
Arizona	6,792	6,745	99.3	47	0.7
California					
Central	2,127	2,032	95.5	95	4.5
Eastern	1,004	966	96.2	38	3.8
Northern	884	863	97.6	21	2.4
Southern	4,586	4,512	98.4	74	1.6
Guam	58	53	91.4	5	8.6
Hawaii	166	160	96.4	6	3.6
Idaho	301	292	97.0	9	3.0
Montana	378	346	91.5	32	8.5
Nevada	620	594	95.8	26	4.2
Northern Mariana Islands	28	23	82.1	5	17.9
Oregon	633	620	97.9	13	2.1
Washington					
Eastern	404	398	98.5	6	1.5
Western	875	845	96.6	30	3.4
TENTH CIRCUIT	6,986	6,850	98.1	136	1.9
Colorado	531	515	97.0	16	3.0
Kansas	728	694	95.3	34	4.7
New Mexico	3,723	3,708	99.6	15	0.4
Oklahoma					
Eastern	113	106	93.8	7	6.2
Northern	155	142	91.6	13	8.4
Western	419	402	95.9	17	4.1
Utah	900	878	97.6	22	2.4
Wyoming	417	405	97.1	12	2.9
ELEVENTH CIRCUIT	7,245	6,886	95.0	359	5.0
Alabama					
Middle	243	225	92.6	18	7.4
Northern	432	416	96.3	16	3.7
Southern	307	291	94.8	16	5.2
Florida					
Middle	1,678	1,594	95.0	84	5.0
Northern	396	356	89.9	40	10.1
Southern	2,355	2,237	95.0	118	5.0
Georgia					
Middle	421	414	98.3	7	1.7
Northern	703	654	93.0	49	7.0
Southern	710	699	98.5	11	1.5

Of the 83,946 guideline cases, five cases were excluded due to missing information on mode of conviction.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 3

**GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY
Fiscal Year 2010**

PRIMARY OFFENSE	TOTAL	National				Western New York			
		PLEA		TRIAL		PLEA		TRIAL	
		N	%	N	%	N	%	N	%
TOTAL	83,941	81,217	96.8	2,724	3.2	658	98.7	9	1.3
Murder	66	45	68.2	21	31.8	0	--	0	--
Manslaughter	64	60	93.8	4	6.3	0	--	0	--
Kidnapping/Hostage Taking	39	36	92.3	3	7.7	0	--	0	--
Sexual Abuse	384	336	87.5	48	12.5	3	100.0	0	0.0
Assault	631	568	90.0	63	10.0	3	100.0	0	0.0
Robbery	1,081	1,040	96.2	41	3.8	3	100.0	0	0.0
Arson	75	65	86.7	10	13.3	2	100.0	0	0.0
Drugs - Trafficking	23,506	22,649	96.4	857	3.6	175	98.3	3	1.7
Drugs - Communication Facility	512	511	99.8	1	0.2	22	100.0	0	0.0
Drugs - Simple Possession	1,024	1,004	98.0	20	2.0	22	100.0	0	0.0
Firearms	7,986	7,485	93.7	501	6.3	66	98.5	1	1.5
Burglary/B&E	36	36	100.0	0	0.0	0	--	0	--
Auto Theft	91	89	97.8	2	2.2	0	--	0	--
Larceny	1,621	1,579	97.4	42	2.6	17	100.0	0	0.0
Fraud	8,067	7,675	95.1	392	4.9	81	95.3	4	4.7
Embezzlement	435	417	95.9	18	4.1	2	100.0	0	0.0
Forgery/Counterfeiting	880	873	99.2	7	0.8	2	100.0	0	0.0
Bribery	224	204	91.1	20	8.9	1	100.0	0	0.0
Tax	665	602	90.5	63	9.5	5	100.0	0	0.0
Money Laundering	806	750	93.1	56	6.9	8	100.0	0	0.0
Racketeering/Extortion	675	623	92.3	52	7.7	5	83.3	1	16.7
Gambling/Lottery	76	73	96.1	3	3.9	1	100.0	0	0.0
Civil Rights	61	51	83.6	10	16.4	0	--	0	--
Immigration	28,504	28,321	99.4	183	0.6	140	100.0	0	0.0
Child Pornography	1,886	1,801	95.5	85	4.5	40	100.0	0	0.0
Prison Offenses	424	419	98.8	5	1.2	0	--	0	--
Administration of Justice Offenses	1,157	1,090	94.2	67	5.8	34	100.0	0	0.0
Environmental/Wildlife	188	176	93.6	12	6.4	3	100.0	0	0.0
National Defense	70	64	91.4	6	8.6	0	--	0	--
Antitrust	16	15	93.8	1	6.3	0	--	0	--
Food & Drug	84	80	95.2	4	4.8	0	--	0	--
Other Miscellaneous Offenses	2,607	2,480	95.1	127	4.9	23	100.0	0	0.0

Of the 83,946 guideline cases, five cases were excluded due to missing mode of conviction.

Of the 667 guideline cases from the Western District of New York, no case was excluded.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 4
TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2010

National

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
TOTAL	83,120	72,615	87.4	2,045	2.5	2,356	2.8	6,104	7.3
Murder	66	64	97.0	1	1.5	0	0.0	1	1.5
Manslaughter	64	61	95.3	2	3.1	1	1.6	0	0.0
Kidnapping/Hostage Taking	38	38	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	383	364	95.0	7	1.8	7	1.8	5	1.3
Assault	622	492	79.1	26	4.2	23	3.7	81	13.0
Robbery	1,080	1,002	92.8	35	3.2	20	1.9	23	2.1
Arson	75	68	90.7	4	5.3	1	1.3	2	2.7
Drugs - Trafficking	23,499	22,081	94.0	582	2.5	319	1.4	517	2.2
Drugs - Communication Facility	512	413	80.7	10	2.0	29	5.7	60	11.7
Drugs - Simple Possession	986	676	68.6	1	0.1	24	2.4	285	28.9
Firearms	7,976	7,344	92.1	187	2.3	186	2.3	259	3.2
Burglary/B&E	36	27	75.0	0	0.0	5	13.9	4	11.1
Auto Theft	91	68	74.7	2	2.2	8	8.8	13	14.3
Larceny	1,506	542	36.0	70	4.6	225	14.9	669	44.4
Fraud	8,028	5,766	71.8	467	5.8	625	7.8	1,170	14.6
Embezzlement	423	149	35.2	41	9.7	52	12.3	181	42.8
Forgery/Counterfeiting	879	581	66.1	53	6.0	80	9.1	165	18.8
Bribery	223	148	66.4	15	6.7	26	11.7	34	15.2
Tax	661	355	53.7	61	9.2	115	17.4	130	19.7
Money Laundering	806	584	72.5	36	4.5	53	6.6	133	16.5
Racketeering/Extortion	674	589	87.4	18	2.7	17	2.5	50	7.4
Gambling/Lottery	76	23	30.3	1	1.3	19	25.0	33	43.4
Civil Rights	59	40	67.8	1	1.7	8	13.6	10	16.9
Immigration	28,499	27,258	95.6	223	0.8	170	0.6	848	3.0
Child Pornography	1,884	1,821	96.7	36	1.9	11	0.6	16	0.8
Prison Offenses	423	383	90.5	20	4.7	6	1.4	14	3.3
Administration of Justice Offenses	1,137	747	65.7	65	5.7	88	7.7	237	20.8
Environmental/Wildlife	143	36	25.2	7	4.9	14	9.8	86	60.1
National Defense	69	60	87.0	1	1.4	3	4.3	5	7.2
Antitrust	15	10	66.7	2	13.3	1	6.7	2	13.3
Food & Drug	73	21	28.8	5	6.8	5	6.8	42	57.5
Other Miscellaneous Offenses	2,114	804	38.0	66	3.1	215	10.2	1,029	48.7

Of the 83,946 guideline cases, 826 cases were excluded due to one or more of the following reasons: missing sentencing information (12), or cases in which the defendant received no imprisonment or probation (814).

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2010**

Western New York

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
TOTAL	660	508	77.0	21	3.2	23	3.5	108	16.4
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	3	3	100.0	0	0.0	0	0.0	0	0.0
Robbery	3	2	66.7	0	0.0	1	33.3	0	0.0
Arson	2	2	100.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	178	144	80.9	8	4.5	8	4.5	18	10.1
Drugs - Communication Facility	22	8	36.4	3	13.6	1	4.5	10	45.5
Drugs - Simple Possession	21	3	14.3	0	0.0	2	9.5	16	76.2
Firearms	67	60	89.6	3	4.5	1	1.5	3	4.5
Burglary/B&E	0	0	--	0	--	0	--	0	--
Auto Theft	0	0	--	0	--	0	--	0	--
Larceny	16	2	12.5	0	0.0	2	12.5	12	75.0
Fraud	83	62	74.7	3	3.6	1	1.2	17	20.5
Embezzlement	2	1	50.0	0	0.0	0	0.0	1	50.0
Forgery/Counterfeiting	2	1	50.0	0	0.0	1	50.0	0	0.0
Bribery	1	1	100.0	0	0.0	0	0.0	0	0.0
Tax	5	1	20.0	1	20.0	1	20.0	2	40.0
Money Laundering	8	7	87.5	0	0.0	1	12.5	0	0.0
Racketeering/Extortion	6	6	100.0	0	0.0	0	0.0	0	0.0
Gambling/Lottery	1	1	100.0	0	0.0	0	0.0	0	0.0
Civil Rights	0	0	--	0	--	0	--	0	--
Immigration	140	136	97.1	0	0.0	0	0.0	4	2.9
Child Pornography	40	39	97.5	1	2.5	0	0.0	0	0.0
Prison Offenses	0	0	--	0	--	0	--	0	--
Administration of Justice Offenses	34	19	55.9	0	0.0	3	8.8	12	35.3
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	0	0	--	0	--	0	--	0	--
Other Miscellaneous Offenses	22	7	31.8	2	9.1	1	4.5	12	54.5

Of the 667 guideline cases from the Western District of New York, seven cases were excluded due to cases in which the defendant received no imprisonment or probation.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 6

**INCARCERATION RATE OF U.S. CITIZEN DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES
BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2010**

PRIMARY OFFENSE	TOTAL	National				Western New York			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		N	%	N	%	N	%	N	%
TOTAL	4,958	1,434	28.9	3,524	71.1	15	16.0	79	84.0
Fraud	1,260	367	29.1	893	70.9	5	31.3	11	68.8
Larceny	724	140	19.3	584	80.7	0	0.0	13	100.0
Immigration	336	161	47.9	175	52.1	1	100.0	0	0.0
Embezzlement	220	25	11.4	195	88.6	0	0.0	1	100.0
Drugs - Trafficking	340	118	34.7	222	65.3	2	12.5	14	87.5
Drugs - Simple Possession	275	115	41.8	160	58.2	2	9.5	19	90.5
Firearms	195	79	40.5	116	59.5	1	100.0	0	0.0
Forgery/Counterfeiting	263	99	37.6	164	62.4	0	--	0	--
Other Miscellaneous Offenses	1,345	330	24.5	1,015	75.5	4	16.0	21	84.0

Of the 83,946 guideline cases, a U.S. Citizen was the defendant in 42,685 cases. Of these, 37,727 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison sentence (37,727), or missing sentencing information (7).

Of the 667 guideline cases from the Western District of New York, a U.S. Citizen was the defendant in 455 cases. Of these, 361 cases were excluded because the defendant was ineligible for a non-prison sentence.

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

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 7

**LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2010**

PRIMARY OFFENSE	National			Western New York		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
TOTAL	51.1	30.0	72,170	49.1	27.0	447
Murder	284.7	262.0	64	--	--	0
Manslaughter	73.5	46.0	63	--	--	0
Kidnapping/Hostage Taking	167.0	147.5	38	--	--	0
Sexual Abuse	113.1	108.0	368	82.3	70.0	3
Assault	47.0	30.0	499	--	--	2
Robbery	80.3	63.0	1,030	--	--	2
Arson	81.3	60.0	72	--	--	2
Drugs - Trafficking	78.4	60.0	22,355	61.0	39.2	142
Drugs - Communication Facility	41.2	40.0	419	18.5	21.0	8
Drugs - Simple Possession	5.4	4.0	632	--	--	2
Firearms	90.7	60.0	7,455	66.1	50.5	60
Burglary/B&E	22.1	22.5	26	--	--	0
Auto Theft	65.7	31.0	70	--	--	0
Larceny	18.0	12.0	594	--	--	1
Fraud	30.5	18.0	5,926	24.6	12.0	63
Embezzlement	15.5	12.0	183	--	--	0
Forgery/Counterfeiting	19.8	15.0	603	--	--	1
Bribery	25.8	20.0	160	--	--	1
Tax	23.5	18.0	410	--	--	2
Money Laundering	39.7	24.0	606	19.2	17.7	7
Racketeering/Extortion	86.4	51.0	596	102.0	97.5	6
Gambling/Lottery	14.1	12.0	24	--	--	1
Civil Rights	32.5	18.0	41	--	--	0
Immigration	18.3	12.0	25,954	9.0	5.3	77
Child Pornography	120.1	82.0	1,849	119.7	97.0	39
Prison Offenses	16.3	12.0	394	--	--	0
Administration of Justice Offenses	25.9	18.0	778	27.3	18.0	19
Environmental/Wildlife	11.4	10.0	38	--	--	0
National Defense	62.0	46.0	59	--	--	0
Antitrust	7.8	9.0	12	--	--	0
Food & Drug	33.0	13.0	25	--	--	0
Other Miscellaneous Offenses	31.3	12.0	827	11.6	12.0	9

Of the 83,946 guideline cases, 11,776 cases were excluded for one or more of the following reasons: zero months prison ordered (10,934), or missing or indeterminable sentencing information (842).

Of the 667 guideline cases from the Western District of New York, 220 cases were excluded due to one of the following reasons: zero months prison ordered (213) or missing or indeterminable sentencing information (7).

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 8

**COMPARISON OF SENTENCE IMPOSED AND POSITION
RELATIVE TO THE GUIDELINE RANGE
Fiscal Year 2010**

	National		Western New York	
	N	%	N	%
TOTAL CASES¹	81,859	100.0	667	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	45,028	55.0	362	54.3
CASES SENTENCED ABOVE GUIDELINE RANGE	1,512	1.8	11	1.6
DEPARTURE ABOVE GUIDELINE RANGE	469	0.6	6	0.9
Upward Departure From Guideline Range ²	350	0.4	5	0.7
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	119	0.1	1	0.1
OTHERWISE ABOVE GUIDELINE RANGE	1,043	1.3	5	0.7
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	916	1.1	3	0.4
All Remaining Cases Above Guideline Range ⁵	127	0.2	2	0.3
GOVERNMENT SPONSORED BELOW RANGE⁶	20,754	25.4	195	29.2
§5K1.1 Substantial Assistance Departure	9,421	11.5	164	24.6
§5K3.1 Early Disposition Program Departure	8,119	9.9	0	0.0
Other Government Sponsored Below Range	3,214	3.9	31	4.6
NON-GOVERNMENT SPONSORED BELOW RANGE	14,565	17.8	99	14.8
DEPARTURE BELOW GUIDELINE RANGE	2,552	3.1	5	0.7
Downward Departure From Guideline Range ²	1,687	2.1	3	0.4
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	865	1.1	2	0.3
OTHERWISE BELOW GUIDELINE RANGE	12,013	14.7	94	14.1
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	11,116	13.6	88	13.2
All Remaining Cases Below Guideline Range ⁵	897	1.1	6	0.9

¹ This table reflects the 83,946 cases sentenced nationally in Fiscal Year 2010, 667 of which were from the Western District of New York. Of these, 2,087 cases nationally were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range, while none from the Western District of New York were excluded.

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

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

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

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

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

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 9

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT
Fiscal Year 2010**

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	81,859	45,028	55.0	350	0.4	119	0.1	916	1.1	127	0.2
D.C. CIRCUIT	380	127	33.4	4	1.1	2	0.5	3	0.8	0	0.0
District of Columbia	380	127	33.4	4	1.1	2	0.5	3	0.8	0	0.0
FIRST CIRCUIT	1,880	1,029	54.7	5	0.3	1	0.1	17	0.9	7	0.4
Maine	169	75	44.4	0	0.0	1	0.6	2	1.2	0	0.0
Massachusetts	442	142	32.1	3	0.7	0	0.0	5	1.1	3	0.7
New Hampshire	231	98	42.4	1	0.4	0	0.0	5	2.2	0	0.0
Puerto Rico	879	642	73.0	1	0.1	0	0.0	4	0.5	4	0.5
Rhode Island	159	72	45.3	0	0.0	0	0.0	1	0.6	0	0.0
SECOND CIRCUIT	4,380	1,743	39.8	11	0.3	3	0.1	25	0.6	5	0.1
Connecticut	425	159	37.4	1	0.2	1	0.2	4	0.9	0	0.0
New York											
Eastern	1,175	372	31.7	2	0.2	0	0.0	13	1.1	1	0.1
Northern	505	304	60.2	1	0.2	0	0.0	0	0.0	1	0.2
Southern	1,431	467	32.6	1	0.1	1	0.1	5	0.3	1	0.1
Western	667	362	54.3	5	0.7	1	0.1	3	0.4	2	0.3
Vermont	177	79	44.6	1	0.6	0	0.0	0	0.0	0	0.0
THIRD CIRCUIT	2,936	1,301	44.3	8	0.3	2	0.1	22	0.7	5	0.2
Delaware	131	42	32.1	0	0.0	0	0.0	6	4.6	0	0.0
New Jersey	818	402	49.1	2	0.2	0	0.0	5	0.6	0	0.0
Pennsylvania											
Eastern	928	346	37.3	1	0.1	0	0.0	5	0.5	2	0.2
Middle	494	210	42.5	4	0.8	1	0.2	1	0.2	0	0.0
Western	492	261	53.0	0	0.0	0	0.0	4	0.8	3	0.6
Virgin Islands	73	40	54.8	1	1.4	1	1.4	1	1.4	0	0.0
FOURTH CIRCUIT	6,621	4,090	61.8	42	0.6	15	0.2	91	1.4	6	0.1
Maryland	732	338	46.2	11	1.5	4	0.5	12	1.6	3	0.4
North Carolina											
Eastern	739	396	53.6	9	1.2	3	0.4	3	0.4	0	0.0
Middle	552	404	73.2	1	0.2	1	0.2	14	2.5	0	0.0
Western	502	285	56.8	3	0.6	0	0.0	5	1.0	0	0.0
South Carolina	1,237	750	60.6	7	0.6	2	0.2	10	0.8	3	0.2
Virginia											
Eastern	1,971	1,453	73.7	8	0.4	4	0.2	25	1.3	0	0.0
Western	363	181	49.9	0	0.0	1	0.3	18	5.0	0	0.0
West Virginia											
Northern	283	155	54.8	1	0.4	0	0.0	3	1.1	0	0.0
Southern	242	128	52.9	2	0.8	0	0.0	1	0.4	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	%
TOTAL	9,421	11.5	8,119	9.9	3,214	3.9	1,687	2.1	865	1.1	11,116	13.6	897	1.1
D.C. CIRCUIT	115	30.3	0	0.0	47	12.4	10	2.6	8	2.1	57	15.0	7	1.8
District of Columbia	115	30.3	0	0.0	47	12.4	10	2.6	8	2.1	57	15.0	7	1.8
FIRST CIRCUIT	254	13.5	31	1.6	131	7.0	30	1.6	21	1.1	338	18.0	16	0.9
Maine	61	36.1	0	0.0	1	0.6	2	1.2	0	0.0	27	16.0	0	0.0
Massachusetts	49	11.1	0	0.0	82	18.6	13	2.9	8	1.8	133	30.1	4	0.9
New Hampshire	61	26.4	0	0.0	22	9.5	2	0.9	4	1.7	36	15.6	2	0.9
Puerto Rico	66	7.5	31	3.5	25	2.8	13	1.5	7	0.8	76	8.6	10	1.1
Rhode Island	17	10.7	0	0.0	1	0.6	0	0.0	2	1.3	66	41.5	0	0.0
SECOND CIRCUIT	846	19.3	0	0.0	115	2.6	120	2.7	122	2.8	1,315	30.0	75	1.7
Connecticut	67	15.8	0	0.0	10	2.4	33	7.8	23	5.4	123	28.9	4	0.9
New York														
Eastern	263	22.4	0	0.0	30	2.6	47	4.0	45	3.8	382	32.5	20	1.7
Northern	103	20.4	0	0.0	9	1.8	7	1.4	6	1.2	73	14.5	1	0.2
Southern	228	15.9	0	0.0	27	1.9	21	1.5	37	2.6	600	41.9	43	3.0
Western	164	24.6	0	0.0	31	4.6	3	0.4	2	0.3	88	13.2	6	0.9
Vermont	21	11.9	0	0.0	8	4.5	9	5.1	9	5.1	49	27.7	1	0.6
THIRD CIRCUIT	733	25.0	0	0.0	94	3.2	47	1.6	50	1.7	634	21.6	40	1.4
Delaware	24	18.3	0	0.0	1	0.8	1	0.8	1	0.8	52	39.7	4	3.1
New Jersey	225	27.5	0	0.0	13	1.6	15	1.8	7	0.9	142	17.4	7	0.9
Pennsylvania														
Eastern	297	32.0	0	0.0	22	2.4	8	0.9	19	2.0	209	22.5	19	2.0
Middle	97	19.6	0	0.0	47	9.5	12	2.4	11	2.2	110	22.3	1	0.2
Western	75	15.2	0	0.0	7	1.4	10	2.0	12	2.4	115	23.4	5	1.0
Virgin Islands	15	20.5	0	0.0	4	5.5	1	1.4	0	0.0	6	8.2	4	5.5
FOURTH CIRCUIT	1,012	15.3	0	0.0	207	3.1	92	1.4	46	0.7	949	14.3	71	1.1
Maryland	163	22.3	0	0.0	69	9.4	12	1.6	15	2.0	96	13.1	9	1.2
North Carolina														
Eastern	262	35.5	0	0.0	2	0.3	3	0.4	1	0.1	54	7.3	6	0.8
Middle	60	10.9	0	0.0	1	0.2	4	0.7	2	0.4	62	11.2	3	0.5
Western	140	27.9	0	0.0	6	1.2	7	1.4	1	0.2	51	10.2	4	0.8
South Carolina	190	15.4	0	0.0	42	3.4	17	1.4	7	0.6	192	15.5	17	1.4
Virginia														
Eastern	81	4.1	0	0.0	39	2.0	42	2.1	18	0.9	273	13.9	28	1.4
Western	64	17.6	0	0.0	16	4.4	5	1.4	2	0.6	74	20.4	2	0.6
West Virginia														
Northern	26	9.2	0	0.0	32	11.3	1	0.4	0	0.0	63	22.3	2	0.7
Southern	26	10.7	0	0.0	0	0.0	1	0.4	0	0.0	84	34.7	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	19,869	14,170	71.3	85	0.4	30	0.2	301	1.5	27	0.1
Louisiana											
Eastern	413	285	69.0	2	0.5	7	1.7	10	2.4	0	0.0
Middle	202	121	59.9	8	4.0	1	0.5	4	2.0	0	0.0
Western	368	262	71.2	4	1.1	5	1.4	9	2.4	6	1.6
Mississippi											
Northern	169	102	60.4	0	0.0	0	0.0	13	7.7	0	0.0
Southern	324	234	72.2	0	0.0	0	0.0	7	2.2	1	0.3
Texas											
Eastern	848	663	78.2	4	0.5	0	0.0	4	0.5	2	0.2
Northern	931	596	64.0	15	1.6	10	1.1	44	4.7	3	0.3
Southern	8,479	5,481	64.6	36	0.4	4	0.0	79	0.9	4	0.0
Western	8,135	6,426	79.0	16	0.2	3	0.0	131	1.6	11	0.1
SIXTH CIRCUIT	5,577	2,779	49.8	24	0.4	11	0.2	69	1.2	7	0.1
Kentucky											
Eastern	636	274	43.1	2	0.3	1	0.2	11	1.7	0	0.0
Western	505	270	53.5	1	0.2	0	0.0	3	0.6	0	0.0
Michigan											
Eastern	749	333	44.5	2	0.3	0	0.0	5	0.7	0	0.0
Western	541	320	59.1	11	2.0	3	0.6	14	2.6	0	0.0
Ohio											
Northern	665	371	55.8	1	0.2	1	0.2	12	1.8	4	0.6
Southern	679	265	39.0	0	0.0	3	0.4	9	1.3	2	0.3
Tennessee											
Eastern	839	477	56.9	1	0.1	2	0.2	6	0.7	1	0.1
Middle	294	127	43.2	5	1.7	1	0.3	4	1.4	0	0.0
Western	669	342	51.1	1	0.1	0	0.0	5	0.7	0	0.0
SEVENTH CIRCUIT	3,043	1,458	47.9	20	0.7	13	0.4	53	1.7	8	0.3
Illinois											
Central	375	207	55.2	1	0.3	0	0.0	3	0.8	0	0.0
Northern	880	364	41.4	7	0.8	2	0.2	15	1.7	1	0.1
Southern	318	215	67.6	9	2.8	9	2.8	5	1.6	1	0.3
Indiana											
Northern	460	258	56.1	1	0.2	0	0.0	9	2.0	5	1.1
Southern	329	167	50.8	1	0.3	1	0.3	11	3.3	0	0.0
Wisconsin											
Eastern	471	140	29.7	0	0.0	0	0.0	9	1.9	1	0.2
Western	210	107	51.0	1	0.5	1	0.5	1	0.5	0	0.0
EIGHTH CIRCUIT	4,907	2,614	53.3	39	0.8	8	0.2	70	1.4	5	0.1
Arkansas											
Eastern	391	242	61.9	3	0.8	1	0.3	10	2.6	0	0.0
Western	258	194	75.2	0	0.0	0	0.0	1	0.4	0	0.0
Iowa											
Northern	344	192	55.8	9	2.6	2	0.6	11	3.2	2	0.6
Southern	452	190	42.0	3	0.7	0	0.0	5	1.1	0	0.0
Minnesota	504	149	29.6	2	0.4	2	0.4	4	0.8	0	0.0
Missouri											
Eastern	1,039	492	47.4	8	0.8	0	0.0	9	0.9	0	0.0
Western	654	343	52.4	2	0.3	0	0.0	21	3.2	1	0.2
Nebraska	601	360	59.9	3	0.5	0	0.0	2	0.3	1	0.2
North Dakota	261	169	64.8	0	0.0	1	0.4	1	0.4	1	0.4
South Dakota	403	283	70.2	9	2.2	2	0.5	6	1.5	0	0.0

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
FIFTH CIRCUIT	1,224	6.2	1,139	5.7	315	1.6	696	3.5	63	0.3	1,628	8.2	191	1.0
Louisiana														
Eastern	28	6.8	0	0.0	8	1.9	6	1.5	4	1.0	55	13.3	8	1.9
Middle	28	13.9	0	0.0	0	0.0	0	0.0	1	0.5	38	18.8	1	0.5
Western	33	9.0	0	0.0	3	0.8	4	1.1	6	1.6	22	6.0	14	3.8
Mississippi														
Northern	39	23.1	0	0.0	1	0.6	0	0.0	1	0.6	9	5.3	4	2.4
Southern	34	10.5	0	0.0	4	1.2	2	0.6	1	0.3	33	10.2	8	2.5
Texas														
Eastern	59	7.0	0	0.0	48	5.7	14	1.7	4	0.5	45	5.3	5	0.6
Northern	130	14.0	0	0.0	8	0.9	5	0.5	5	0.5	110	11.8	5	0.5
Southern	403	4.8	1,084	12.8	125	1.5	495	5.8	13	0.2	727	8.6	28	0.3
Western	470	5.8	55	0.7	118	1.5	170	2.1	28	0.3	589	7.2	118	1.5
SIXTH CIRCUIT	1,276	22.9	2	0.0	208	3.7	78	1.4	105	1.9	945	16.9	73	1.3
Kentucky														
Eastern	259	40.7	0	0.0	11	1.7	3	0.5	2	0.3	70	11.0	3	0.5
Western	110	21.8	0	0.0	47	9.3	3	0.6	2	0.4	64	12.7	5	1.0
Michigan														
Eastern	169	22.6	1	0.1	19	2.5	11	1.5	14	1.9	191	25.5	4	0.5
Western	70	12.9	0	0.0	1	0.2	12	2.2	9	1.7	96	17.7	5	0.9
Ohio														
Northern	112	16.8	1	0.2	9	1.4	13	2.0	13	2.0	117	17.6	11	1.7
Southern	177	26.1	0	0.0	64	9.4	17	2.5	30	4.4	90	13.3	22	3.2
Tennessee														
Eastern	209	24.9	0	0.0	6	0.7	6	0.7	4	0.5	115	13.7	12	1.4
Middle	42	14.3	0	0.0	32	10.9	6	2.0	9	3.1	66	22.4	2	0.7
Western	128	19.1	0	0.0	19	2.8	7	1.0	22	3.3	136	20.3	9	1.3
SEVENTH CIRCUIT	462	15.2	1	0.0	124	4.1	63	2.1	97	3.2	694	22.8	50	1.6
Illinois														
Central	72	19.2	0	0.0	8	2.1	6	1.6	4	1.1	71	18.9	3	0.8
Northern	124	14.1	1	0.1	10	1.1	24	2.7	68	7.7	252	28.6	12	1.4
Southern	16	5.0	0	0.0	6	1.9	8	2.5	10	3.1	28	8.8	11	3.5
Indiana														
Northern	84	18.3	0	0.0	21	4.6	10	2.2	7	1.5	59	12.8	6	1.3
Southern	52	15.8	0	0.0	25	7.6	4	1.2	1	0.3	65	19.8	2	0.6
Wisconsin														
Eastern	99	21.0	0	0.0	54	11.5	7	1.5	3	0.6	142	30.1	16	3.4
Western	15	7.1	0	0.0	0	0.0	4	1.9	4	1.9	77	36.7	0	0.0
EIGHTH CIRCUIT	760	15.5	31	0.6	194	4.0	63	1.3	66	1.3	1,007	20.5	50	1.0
Arkansas														
Eastern	38	9.7	0	0.0	19	4.9	10	2.6	3	0.8	57	14.6	8	2.0
Western	26	10.1	0	0.0	0	0.0	1	0.4	2	0.8	33	12.8	1	0.4
Iowa														
Northern	76	22.1	0	0.0	8	2.3	1	0.3	2	0.6	41	11.9	0	0.0
Southern	103	22.8	0	0.0	32	7.1	1	0.2	3	0.7	113	25.0	2	0.4
Minnesota	123	24.4	0	0.0	9	1.8	12	2.4	22	4.4	179	35.5	2	0.4
Missouri														
Eastern	198	19.1	0	0.0	48	4.6	2	0.2	12	1.2	258	24.8	12	1.2
Western	125	19.1	0	0.0	25	3.8	6	0.9	3	0.5	119	18.2	9	1.4
Nebraska	17	2.8	31	5.2	37	6.2	12	2.0	4	0.7	123	20.5	11	1.8
North Dakota	47	18.0	0	0.0	8	3.1	7	2.7	3	1.1	21	8.0	3	1.1
South Dakota	7	1.7	0	0.0	8	2.0	11	2.7	12	3.0	63	15.6	2	0.5

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	18,330	7,357	40.1	71	0.4	18	0.1	113	0.6	29	0.2
Alaska	156	64	41.0	2	1.3	0	0.0	0	0.0	0	0.0
Arizona	6,198	2,698	43.5	44	0.7	5	0.1	25	0.4	4	0.1
California											
Central	2,110	721	34.2	3	0.1	5	0.2	19	0.9	7	0.3
Eastern	995	403	40.5	1	0.1	2	0.2	12	1.2	3	0.3
Northern	876	432	49.3	3	0.3	1	0.1	10	1.1	5	0.6
Southern	4,580	1,396	30.5	4	0.1	1	0.0	5	0.1	8	0.2
Guam	55	39	70.9	0	0.0	2	3.6	0	0.0	0	0.0
Hawaii	166	62	37.3	0	0.0	0	0.0	3	1.8	0	0.0
Idaho	300	128	42.7	0	0.0	0	0.0	1	0.3	0	0.0
Montana	376	259	68.9	2	0.5	0	0.0	11	2.9	1	0.3
Nevada	618	385	62.3	4	0.6	0	0.0	8	1.3	1	0.2
Northern Mariana Islands	28	21	75.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	609	246	40.4	0	0.0	0	0.0	7	1.1	0	0.0
Washington											
Eastern	403	145	36.0	2	0.5	2	0.5	7	1.7	0	0.0
Western	860	358	41.6	6	0.7	0	0.0	5	0.6	0	0.0
TENTH CIRCUIT	6,947	4,110	59.2	21	0.3	3	0.0	45	0.6	13	0.2
Colorado	523	301	57.6	0	0.0	1	0.2	6	1.1	1	0.2
Kansas	708	389	54.9	6	0.8	2	0.3	18	2.5	1	0.1
New Mexico	3,719	2,284	61.4	9	0.2	0	0.0	4	0.1	6	0.2
Oklahoma											
Eastern	113	72	63.7	0	0.0	0	0.0	1	0.9	0	0.0
Northern	155	101	65.2	0	0.0	0	0.0	1	0.6	0	0.0
Western	415	295	71.1	0	0.0	0	0.0	8	1.9	0	0.0
Utah	897	407	45.4	5	0.6	0	0.0	4	0.4	3	0.3
Wyoming	417	261	62.6	1	0.2	0	0.0	3	0.7	2	0.5
ELEVENTH CIRCUIT	6,989	4,250	60.8	20	0.3	13	0.2	107	1.5	15	0.2
Alabama											
Middle	243	141	58.0	0	0.0	0	0.0	4	1.6	0	0.0
Northern	423	268	63.4	1	0.2	1	0.2	4	0.9	1	0.2
Southern	307	185	60.3	0	0.0	2	0.7	6	2.0	1	0.3
Florida											
Middle	1,677	877	52.3	4	0.2	1	0.1	29	1.7	2	0.1
Northern	390	262	67.2	1	0.3	2	0.5	4	1.0	1	0.3
Southern	2,269	1,432	63.1	4	0.2	3	0.1	25	1.1	8	0.4
Georgia											
Middle	298	221	74.2	2	0.7	2	0.7	8	2.7	2	0.7
Northern	673	321	47.7	2	0.3	2	0.3	8	1.2	0	0.0
Southern	709	543	76.6	6	0.8	0	0.0	19	2.7	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	1,328	7.2	6,050	33.0	1,016	5.5	288	1.6	169	0.9	1,638	8.9	253	1.4
Alaska	20	12.8	1	0.6	23	14.7	2	1.3	5	3.2	36	23.1	3	1.9
Arizona	176	2.8	2,660	42.9	143	2.3	77	1.2	31	0.5	290	4.7	45	0.7
California														
Central	243	11.5	419	19.9	179	8.5	57	2.7	51	2.4	315	14.9	91	4.3
Eastern	95	9.5	309	31.1	49	4.9	15	1.5	5	0.5	93	9.3	8	0.8
Northern	65	7.4	94	10.7	96	11.0	13	1.5	22	2.5	128	14.6	7	0.8
Southern	276	6.0	2,386	52.1	106	2.3	91	2.0	27	0.6	231	5.0	49	1.1
Guam	7	12.7	0	0.0	2	3.6	0	0.0	0	0.0	4	7.3	1	1.8
Hawaii	49	29.5	0	0.0	3	1.8	0	0.0	0	0.0	48	28.9	1	0.6
Idaho	74	24.7	33	11.0	6	2.0	1	0.3	3	1.0	49	16.3	5	1.7
Montana	48	12.8	0	0.0	8	2.1	4	1.1	3	0.8	39	10.4	1	0.3
Nevada	50	8.1	0	0.0	43	7.0	7	1.1	1	0.2	99	16.0	20	3.2
Northern Mariana Islands	1	3.6	0	0.0	1	3.6	0	0.0	2	7.1	3	10.7	0	0.0
Oregon	92	15.1	43	7.1	102	16.7	6	1.0	8	1.3	96	15.8	9	1.5
Washington														
Eastern	50	12.4	67	16.6	35	8.7	7	1.7	3	0.7	81	20.1	4	1.0
Western	82	9.5	38	4.4	220	25.6	8	0.9	8	0.9	126	14.7	9	1.0
TENTH CIRCUIT	421	6.1	865	12.5	638	9.2	122	1.8	47	0.7	639	9.2	23	0.3
Colorado	82	15.7	0	0.0	21	4.0	15	2.9	5	1.0	87	16.6	4	0.8
Kansas	122	17.2	0	0.0	93	13.1	1	0.1	1	0.1	74	10.5	1	0.1
New Mexico	70	1.9	659	17.7	439	11.8	72	1.9	20	0.5	148	4.0	8	0.2
Oklahoma														
Eastern	25	22.1	0	0.0	1	0.9	0	0.0	0	0.0	14	12.4	0	0.0
Northern	25	16.1	0	0.0	0	0.0	0	0.0	0	0.0	28	18.1	0	0.0
Western	31	7.5	0	0.0	4	1.0	0	0.0	4	1.0	72	17.3	1	0.2
Utah	32	3.6	203	22.6	45	5.0	26	2.9	8	0.9	158	17.6	6	0.7
Wyoming	34	8.2	3	0.7	35	8.4	8	1.9	9	2.2	58	13.9	3	0.7
ELEVENTH CIRCUIT	990	14.2	0	0.0	125	1.8	78	1.1	71	1.0	1,272	18.2	48	0.7
Alabama														
Middle	62	25.5	0	0.0	6	2.5	0	0.0	1	0.4	29	11.9	0	0.0
Northern	85	20.1	0	0.0	4	0.9	1	0.2	0	0.0	56	13.2	2	0.5
Southern	50	16.3	0	0.0	4	1.3	2	0.7	1	0.3	53	17.3	3	1.0
Florida														
Middle	323	19.3	0	0.0	27	1.6	16	1.0	23	1.4	364	21.7	11	0.7
Northern	65	16.7	0	0.0	1	0.3	5	1.3	5	1.3	44	11.3	0	0.0
Southern	195	8.6	0	0.0	38	1.7	22	1.0	27	1.2	489	21.6	26	1.1
Georgia														
Middle	41	13.8	0	0.0	8	2.7	0	0.0	1	0.3	12	4.0	1	0.3
Northern	97	14.4	0	0.0	28	4.2	25	3.7	13	1.9	173	25.7	4	0.6
Southern	72	10.2	0	0.0	9	1.3	7	1.0	0	0.0	52	7.3	1	0.1

Of the 83,946 cases, 2,087 were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. The information needed to determine the relationship between the sentence imposed and the guideline range was missing in five percent or more of the cases received from: Middle Georgia (29.2%), Arizona (8.7%), Western Texas (7.9%), Maryland (7.8%), Western Louisiana (7.3%), Guam (5.2%), and Eastern Virginia (5.0%).

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 10

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY SELECTED PRIMARY OFFENSE CATEGORY
Fiscal Year 2010**

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	81,859	45,028	55.0	350	0.4	119	0.1	916	1.1	127	0.2
Robbery	1,079	621	57.6	15	1.4	5	0.5	30	2.8	5	0.5
Drugs - Trafficking	23,458	10,530	44.9	63	0.3	16	0.1	110	0.5	23	0.1
Drugs - Simple Possession	746	708	94.9	5	0.7	1	0.1	4	0.5	0	0.0
Firearms	7,969	4,667	58.6	71	0.9	24	0.3	169	2.1	33	0.4
Larceny	1,541	1,097	71.2	6	0.4	4	0.3	21	1.4	6	0.4
Fraud	7,471	4,149	55.5	24	0.3	19	0.3	112	1.5	16	0.2
Embezzlement	432	301	69.7	1	0.2	0	0.0	0	0.0	1	0.2
Forgery/Counterfeiting	877	577	65.8	8	0.9	3	0.3	22	2.5	1	0.1
Immigration	27,922	16,763	60.0	77	0.3	19	0.1	272	1.0	23	0.1
Other Miscellaneous Offenses	10,364	5,615	54.2	80	0.8	28	0.3	176	1.7	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	%
TOTAL	667	362	54.3	5	0.7	1	0.1	3	0.4	2	0.3
Robbery	3	1	33.3	1	33.3	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	178	48	27.0	1	0.6	0	0.0	1	0.6	1	0.6
Drugs - Simple Possession	22	21	95.5	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	67	23	34.3	2	3.0	1	1.5	1	1.5	0	0.0
Larceny	17	13	76.5	0	0.0	0	0.0	0	0.0	0	0.0
Fraud	85	57	67.1	1	1.2	0	0.0	0	0.0	0	0.0
Embezzlement	2	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	2	1	50.0	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	140	120	85.7	0	0.0	0	0.0	0	0.0	1	0.7
Other Miscellaneous Offenses	151	78	51.7	0	0.0	0	0.0	1	0.7	0	0.0

National

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	9,421	11.5	8,119	9.9	3,214	3.9	1,687	2.1	865	1.1	11,116	13.6	897	1.1
Robbery	100	9.3	2	0.2	39	3.6	36	3.3	31	2.9	188	17.4	7	0.6
Drugs - Trafficking	5,768	24.6	1,336	5.7	986	4.2	361	1.5	296	1.3	3,764	16.0	205	0.9
Drugs - Simple Possession	7	0.9	3	0.4	4	0.5	1	0.1	0	0.0	7	0.9	6	0.8
Firearms	911	11.4	9	0.1	384	4.8	132	1.7	98	1.2	1,368	17.2	103	1.3
Larceny	81	5.3	3	0.2	41	2.7	21	1.4	10	0.6	218	14.1	33	2.1
Fraud	1,196	16.0	4	0.1	286	3.8	120	1.6	106	1.4	1,322	17.7	117	1.6
Embezzlement	15	3.5	3	0.7	19	4.4	7	1.6	7	1.6	70	16.2	8	1.9
Forgery/Counterfeiting	84	9.6	2	0.2	25	2.9	12	1.4	8	0.9	121	13.8	14	1.6
Immigration	288	1.0	6,716	24.1	672	2.4	782	2.8	128	0.5	1,947	7.0	235	0.8
Other Miscellaneous Offenses	971	9.4	41	0.4	758	7.3	215	2.1	181	1.7	2,111	20.4	169	1.6

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	%
TOTAL	164	24.6	0	0.0	31	4.6	3	0.4	2	0.3	88	13.2	6	0.9
Robbery	1	33.3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	102	57.3	0	0.0	8	4.5	1	0.6	1	0.6	14	7.9	1	0.6
Drugs - Simple Possession	1	4.5	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	21	31.3	0	0.0	7	10.4	0	0.0	0	0.0	12	17.9	0	0.0
Larceny	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	3	17.6	1	5.9
Fraud	9	10.6	0	0.0	3	3.5	1	1.2	0	0.0	13	15.3	1	1.2
Embezzlement	0	0.0	0	0.0	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	1	50.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	1	0.7	0	0.0	3	2.1	0	0.0	0	0.0	14	10.0	1	0.7
Other Miscellaneous Offenses	28	18.5	0	0.0	8	5.3	1	0.7	1	0.7	32	21.2	2	1.3

Of the 83,946 guideline cases, 2,087 cases were excluded due to missing information from the submitted documents that prevented the comparison of the sentence and the guideline range.

Of the 667 guideline cases from the Western District of New York, no case was excluded.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.