

# United States Sentencing Commission



## *Statistical Information Packet*

*Fiscal Year 2011*

*Western District of New York*

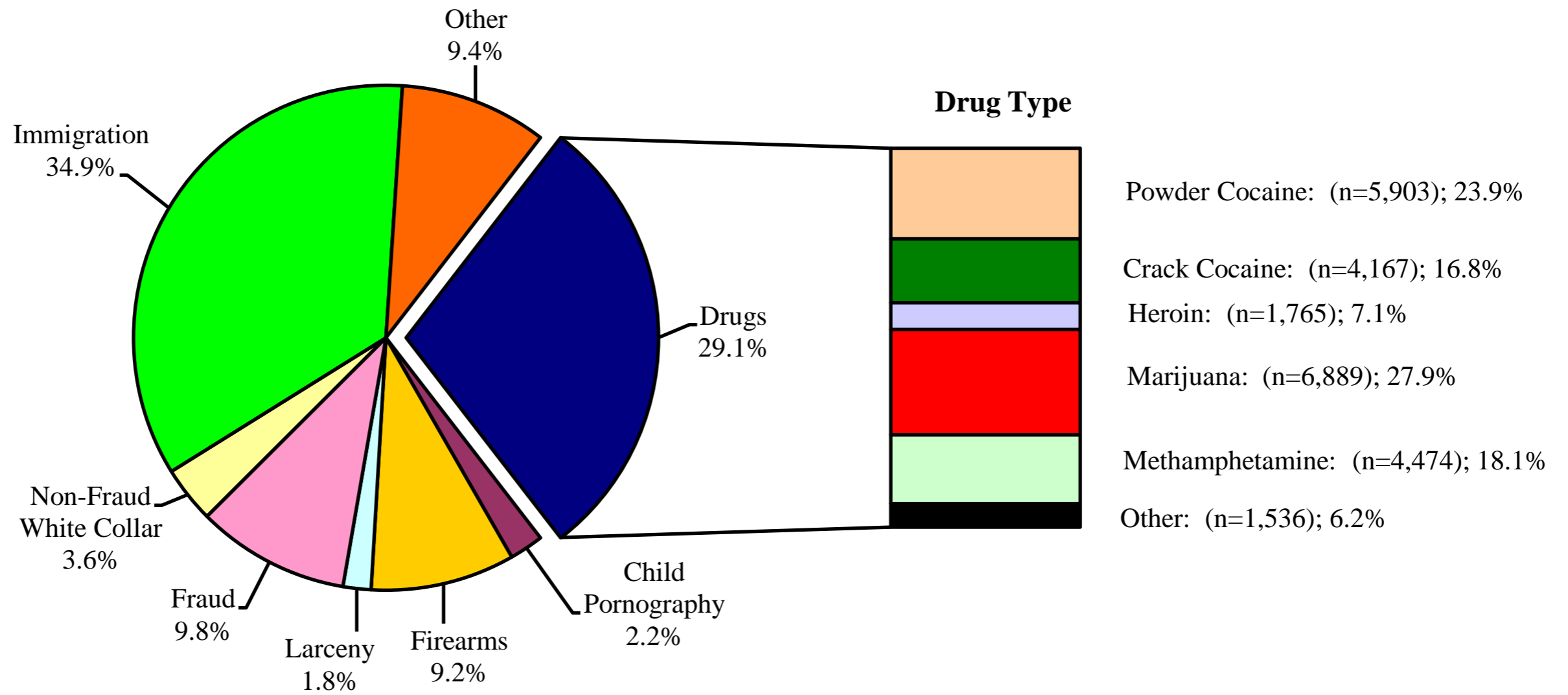
## TABLE OF CONTENTS

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

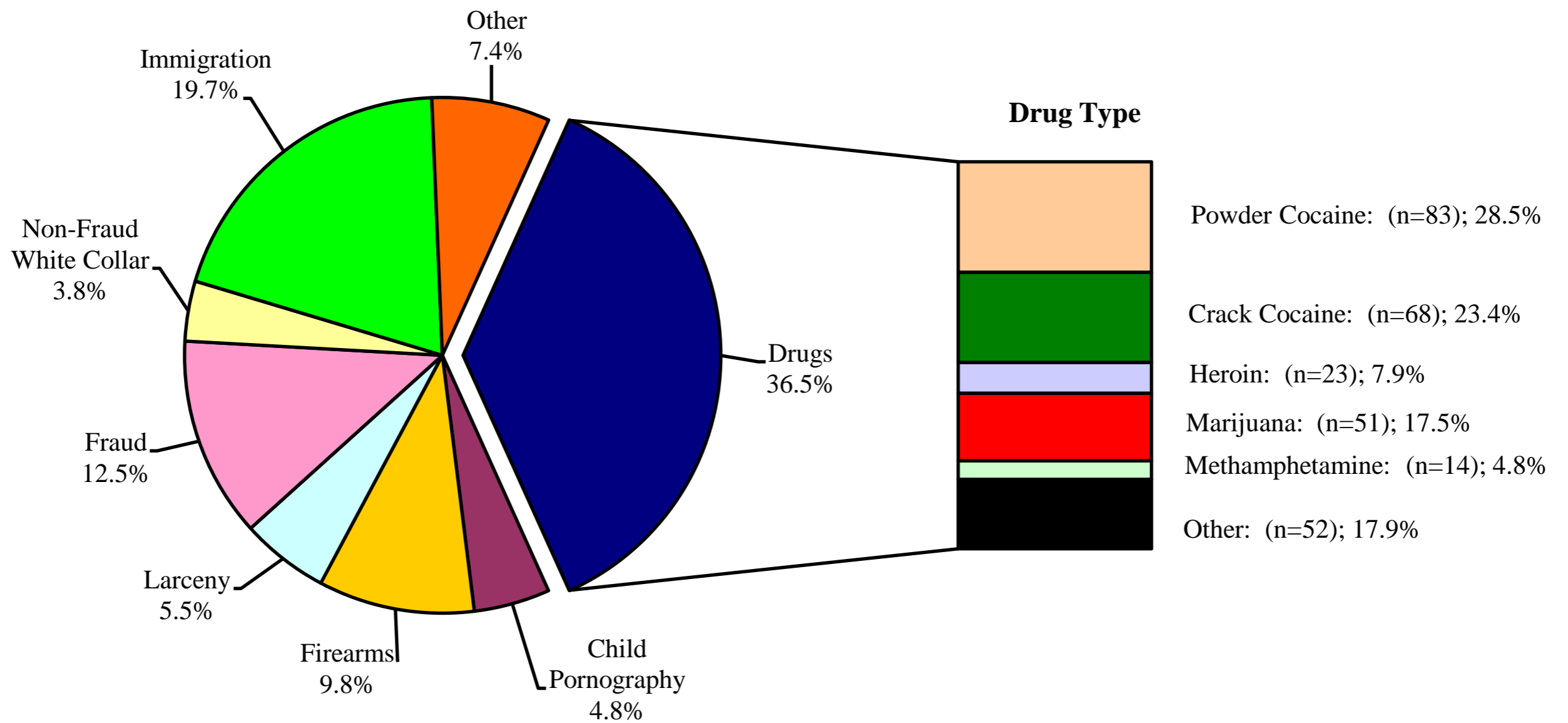
**Figure A**

**OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Fiscal Year 2011**

**National**



**Western New York**



<sup>1</sup> Of the 86,201 guideline cases, 1,079 cases were excluded due to missing drug type.

Of the 803 guideline cases from the Western District of New York, six cases were excluded due to missing drug type.

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

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

**Table 1**

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

PRIMARY OFFENSE	National		Western New York	
	N	%	N	%
<b>TOTAL</b>	<b>86,201</b>	<b>100.0</b>	<b>803</b>	<b>100.0</b>
Murder	74	0.1	1	0.1
Manslaughter	65	0.1	0	0.0
Kidnapping/Hostage Taking	69	0.1	0	0.0
Sexual Abuse	395	0.5	6	0.7
Assault	680	0.8	0	0.0
Robbery	957	1.1	1	0.1
Arson	55	0.1	0	0.0
Drugs - Trafficking	24,442	28.4	256	31.9
Drugs - Communication Facility	469	0.5	28	3.5
Drugs - Simple Possession	902	1.0	13	1.6
Firearms	7,858	9.1	78	9.7
Burglary/B&E	52	0.1	0	0.0
Auto Theft	85	0.1	0	0.0
Larceny	1,528	1.8	44	5.5
Fraud	8,332	9.7	100	12.5
Embezzlement	391	0.5	1	0.1
Forgery/Counterfeiting	941	1.1	7	0.9
Bribery	221	0.3	1	0.1
Tax	677	0.8	10	1.2
Money Laundering	844	1.0	11	1.4
Racketeering/Extortion	731	0.8	7	0.9
Gambling/Lottery	80	0.1	0	0.0
Civil Rights	59	0.1	2	0.2
Immigration	29,717	34.5	157	19.6
Child Pornography	1,855	2.2	38	4.7
Prison Offenses	419	0.5	2	0.2
Administration of Justice Offenses	1,188	1.4	19	2.4
Environmental/Wildlife	201	0.2	1	0.1
National Defense	88	0.1	0	0.0
Antitrust	10	0.0	0	0.0
Food & Drug	55	0.1	0	0.0
Other Miscellaneous Offenses	2,761	3.2	20	2.5

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

Of the 803 guideline cases from the Western District of New York, no cases were excluded due to missing information on primary offense category.

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

Table 2

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

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

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

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

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

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

**Table 3**

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

PRIMARY OFFENSE	TOTAL	National				Western New York			
		PLEA		TRIAL		PLEA		TRIAL	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>86,200</b>	<b>83,509</b>	<b>96.9</b>	<b>2,691</b>	<b>3.1</b>	<b>788</b>	<b>98.1</b>	<b>15</b>	<b>1.9</b>
<b>Murder</b>	<b>74</b>	55	74.3	19	25.7	1	100.0	0	0.0
<b>Manslaughter</b>	<b>65</b>	61	93.8	4	6.2	0	--	0	--
<b>Kidnapping/Hostage Taking</b>	<b>69</b>	51	73.9	18	26.1	0	--	0	--
<b>Sexual Abuse</b>	<b>395</b>	345	87.3	50	12.7	5	83.3	1	16.7
<b>Assault</b>	<b>680</b>	608	89.4	72	10.6	0	--	0	--
<b>Robbery</b>	<b>957</b>	920	96.1	37	3.9	1	100.0	0	0.0
<b>Arson</b>	<b>55</b>	51	92.7	4	7.3	0	--	0	--
<b>Drugs - Trafficking</b>	<b>24,442</b>	23,632	96.7	810	3.3	251	98.0	5	2.0
<b>Drugs - Communication Facility</b>	<b>469</b>	469	100.0	0	0.0	28	100.0	0	0.0
<b>Drugs - Simple Possession</b>	<b>902</b>	890	98.7	12	1.3	13	100.0	0	0.0
<b>Firearms</b>	<b>7,858</b>	7,357	93.6	501	6.4	76	97.4	2	2.6
<b>Burglary/B&amp;E</b>	<b>52</b>	49	94.2	3	5.8	0	--	0	--
<b>Auto Theft</b>	<b>85</b>	77	90.6	8	9.4	0	--	0	--
<b>Larceny</b>	<b>1,528</b>	1,491	97.6	37	2.4	43	97.7	1	2.3
<b>Fraud</b>	<b>8,332</b>	7,876	94.5	456	5.5	97	97.0	3	3.0
<b>Embezzlement</b>	<b>391</b>	384	98.2	7	1.8	1	100.0	0	0.0
<b>Forgery/Counterfeiting</b>	<b>941</b>	924	98.2	17	1.8	7	100.0	0	0.0
<b>Bribery</b>	<b>221</b>	209	94.6	12	5.4	1	100.0	0	0.0
<b>Tax</b>	<b>677</b>	617	91.1	60	8.9	10	100.0	0	0.0
<b>Money Laundering</b>	<b>844</b>	806	95.5	38	4.5	11	100.0	0	0.0
<b>Racketeering/Extortion</b>	<b>731</b>	668	91.4	63	8.6	7	100.0	0	0.0
<b>Gambling/Lottery</b>	<b>80</b>	78	97.5	2	2.5	0	--	0	--
<b>Civil Rights</b>	<b>59</b>	49	83.1	10	16.9	2	100.0	0	0.0
<b>Immigration</b>	<b>29,717</b>	29,553	99.4	164	0.6	156	99.4	1	0.6
<b>Child Pornography</b>	<b>1,855</b>	1,797	96.9	58	3.1	38	100.0	0	0.0
<b>Prison Offenses</b>	<b>419</b>	411	98.1	8	1.9	2	100.0	0	0.0
<b>Administration of Justice Offenses</b>	<b>1,188</b>	1,126	94.8	62	5.2	18	94.7	1	5.3
<b>Environmental/Wildlife</b>	<b>201</b>	188	93.5	13	6.5	0	0.0	1	100.0
<b>National Defense</b>	<b>88</b>	80	90.9	8	9.1	0	--	0	--
<b>Antitrust</b>	<b>10</b>	10	100.0	0	0.0	0	--	0	--
<b>Food &amp; Drug</b>	<b>55</b>	55	100.0	0	0.0	0	--	0	--
<b>Other Miscellaneous Offenses</b>	<b>2,760</b>	2,622	95.0	138	5.0	20	100.0	0	0.0

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

Of the 803 guideline cases from the Western District of New York, no cases were excluded due to missing information on mode of conviction.

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



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

**National**

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

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

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

**Table 5**

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2011**

**Western New York**

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>797</b>	<b>586</b>	<b>73.5</b>	<b>22</b>	<b>2.8</b>	<b>45</b>	<b>5.6</b>	<b>144</b>	<b>18.1</b>
Murder	1	1	100.0	0	0.0	0	0.0	0	0.0
Manslaughter	0	0	--	0	--	0	--	0	--
Kidnapping/Hostage Taking	0	0	--	0	--	0	--	0	--
Sexual Abuse	6	6	100.0	0	0.0	0	0.0	0	0.0
Assault	0	0	--	0	--	0	--	0	--
Robbery	1	0	0.0	1	100.0	0	0.0	0	0.0
Arson	0	0	--	0	--	0	--	0	--
Drugs - Trafficking	256	200	78.1	3	1.2	17	6.6	36	14.1
Drugs - Communication Facility	28	9	32.1	3	10.7	1	3.6	15	53.6
Drugs - Simple Possession	13	3	23.1	0	0.0	1	7.7	9	69.2
Firearms	78	72	92.3	1	1.3	3	3.8	2	2.6
Burglary/B&E	0	0	--	0	--	0	--	0	--
Auto Theft	0	0	--	0	--	0	--	0	--
Larceny	42	2	4.8	2	4.8	7	16.7	31	73.8
Fraud	97	61	62.9	7	7.2	5	5.2	24	24.7
Embezzlement	1	1	100.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	7	2	28.6	1	14.3	2	28.6	2	28.6
Bribery	0	0	--	0	--	0	--	0	--
Tax	10	4	40.0	0	0.0	3	30.0	3	30.0
Money Laundering	11	6	54.5	0	0.0	2	18.2	3	27.3
Racketeering/Extortion	7	6	85.7	0	0.0	1	14.3	0	0.0
Gambling/Lottery	0	0	--	0	--	0	--	0	--
Civil Rights	2	0	0.0	1	50.0	0	0.0	1	50.0
Immigration	157	154	98.1	0	0.0	0	0.0	3	1.9
Child Pornography	38	38	100.0	0	0.0	0	0.0	0	0.0
Prison Offenses	2	2	100.0	0	0.0	0	0.0	0	0.0
Administration of Justice Offenses	19	10	52.6	1	5.3	2	10.5	6	31.6
Environmental/Wildlife	1	1	100.0	0	0.0	0	0.0	0	0.0
National Defense	0	0	--	0	--	0	--	0	--
Antitrust	0	0	--	0	--	0	--	0	--
Food & Drug	0	0	--	0	--	0	--	0	--
Other Miscellaneous Offenses	20	8	40.0	2	10.0	1	5.0	9	45.0

Of the 803 guideline cases from the Western District of New York, six cases were excluded due to cases in which the defendant received no imprisonment or probation.

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

**Table 6**

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

PRIMARY OFFENSE	TOTAL	National				Western New York			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>5,541</b>	<b>1,851</b>	<b>33.4</b>	<b>3,690</b>	<b>66.6</b>	<b>27</b>	<b>20.9</b>	<b>102</b>	<b>79.1</b>
<b>Fraud</b>	<b>1,329</b>	479	36.0	850	64.0	11	44.0	14	56.0
<b>Larceny</b>	<b>731</b>	136	18.6	595	81.4	0	0.0	33	100.0
<b>Immigration</b>	<b>469</b>	237	50.5	232	49.5	1	50.0	1	50.0
<b>Embezzlement</b>	<b>189</b>	43	22.8	146	77.2	0	--	0	--
<b>Drugs - Trafficking</b>	<b>426</b>	162	38.0	264	62.0	4	21.1	15	78.9
<b>Drugs - Simple Possession</b>	<b>333</b>	163	48.9	170	51.1	2	16.7	10	83.3
<b>Firearms</b>	<b>191</b>	79	41.4	112	58.6	2	66.7	1	33.3
<b>Forgery/Counterfeiting</b>	<b>257</b>	103	40.1	154	59.9	0	0.0	2	100.0
<b>Other Miscellaneous Offenses</b>	<b>1,616</b>	449	27.8	1,167	72.2	7	21.2	26	78.8

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

Of the 803 guideline cases from the Western District of New York, a U.S. Citizen was the defendant in 583 cases. Of these, 454 cases were excluded because the defendant was ineligible for a non-prison sentence.

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

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

**Table 7**

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

PRIMARY OFFENSE	National			Western New York		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
<b>TOTAL</b>	<b>49</b>	<b>27</b>	<b>73,891</b>	<b>50</b>	<b>30</b>	<b>522</b>
<b>Murder</b>	241	210	73	--	--	1
<b>Manslaughter</b>	57	39	60	--	--	0
<b>Kidnapping/Hostage Taking</b>	226	188	69	--	--	0
<b>Sexual Abuse</b>	125	108	389	98	86	6
<b>Assault</b>	44	30	559	--	--	0
<b>Robbery</b>	85	65	931	--	--	1
<b>Arson</b>	64	60	52	--	--	0
<b>Drugs - Trafficking</b>	74	60	23,129	64	48	198
<b>Drugs - Communication Facility</b>	40	41	362	13	12	6
<b>Drugs - Simple Possession</b>	5	3	494	--	--	2
<b>Firearms</b>	89	60	7,350	72	60	71
<b>Burglary/B&amp;E</b>	24	23	46	--	--	0
<b>Auto Theft</b>	77	27	60	--	--	0
<b>Larceny</b>	18	12	566	16	12	3
<b>Fraud</b>	30	18	6,064	29	12	54
<b>Embezzlement</b>	17	12	184	--	--	1
<b>Forgery/Counterfeiting</b>	23	18	669	15	18	3
<b>Bribery</b>	25	18	153	--	--	0
<b>Tax</b>	23	18	406	31	24	4
<b>Money Laundering</b>	37	24	629	25	24	5
<b>Racketeering/Extortion</b>	89	60	671	66	60	6
<b>Gambling/Lottery</b>	11	12	22	--	--	0
<b>Civil Rights</b>	46	24	37	--	--	0
<b>Immigration</b>	18	12	26,808	8	5	102
<b>Child Pornography</b>	121	84	1,817	94	72	38
<b>Prison Offenses</b>	15	12	394	--	--	2
<b>Administration of Justice Offenses</b>	25	18	845	17	18	9
<b>Environmental/Wildlife</b>	12	6	52	--	--	1
<b>National Defense</b>	70	37	78	--	--	0
<b>Antitrust</b>	14	10	8	--	--	0
<b>Food &amp; Drug</b>	28	16	18	--	--	0
<b>Other Miscellaneous Offenses</b>	34	12	896	49	12	9

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

Of the 803 guideline cases from the Western District of New York, 281 cases were excluded due to one of the following reasons: zero months of prison ordered (275) or missing or indeterminable sentencing information (6).

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

**Table 8**

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

	National		Western New York	
	N	%	N	%
<b>TOTAL CASES<sup>1</sup></b>	<b>84,744</b>	<b>100.0</b>	<b>803</b>	<b>100.0</b>
<b>CASES SENTENCED WITHIN GUIDELINE RANGE</b>	<b>46,160</b>	<b>54.5</b>	<b>403</b>	<b>50.2</b>
<b>CASES SENTENCED ABOVE GUIDELINE RANGE</b>	<b>1,527</b>	<b>1.8</b>	<b>7</b>	<b>0.9</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>488</b>	<b>0.6</b>	<b>5</b>	<b>0.6</b>
Upward Departure From Guideline Range <sup>2</sup>	379	0.4	5	0.6
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	109	0.1	0	0.0
<b>OTHERWISE ABOVE GUIDELINE RANGE</b>	<b>1,039</b>	<b>1.2</b>	<b>2</b>	<b>0.2</b>
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	947	1.1	1	0.1
All Remaining Cases Above Guideline Range <sup>5</sup>	92	0.1	1	0.1
<b>GOVERNMENT SPONSORED BELOW RANGE<sup>6</sup></b>	<b>22,295</b>	<b>26.3</b>	<b>256</b>	<b>31.9</b>
§5K1.1 Substantial Assistance Departure	9,522	11.2	218	27.1
§5K3.1 Early Disposition Program Departure	9,057	10.7	0	0.0
Other Government Sponsored Below Range	3,716	4.4	38	4.7
<b>NON-GOVERNMENT SPONSORED BELOW RANGE</b>	<b>14,762</b>	<b>17.4</b>	<b>137</b>	<b>17.1</b>
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>2,893</b>	<b>3.4</b>	<b>9</b>	<b>1.1</b>
Downward Departure From Guideline Range <sup>2</sup>	1,976	2.3	3	0.4
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	917	1.1	6	0.7
<b>OTHERWISE BELOW GUIDELINE RANGE</b>	<b>11,869</b>	<b>14.0</b>	<b>128</b>	<b>15.9</b>
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	11,371	13.4	123	15.3
All Remaining Cases Below Guideline Range <sup>5</sup>	498	0.6	5	0.6

<sup>1</sup> This table reflects the 86,201 cases sentenced nationally in Fiscal Year 2011, 803 of which were from the Western District of New York. Of these, 1,457 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.

<sup>2</sup> 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*.

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

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

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

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

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

**Table 9**

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

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

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>9,522</b>	<b>11.2</b>	<b>9,057</b>	<b>10.7</b>	<b>3,716</b>	<b>4.4</b>	<b>1,976</b>	<b>2.3</b>	<b>917</b>	<b>1.1</b>	<b>11,371</b>	<b>13.4</b>	<b>498</b>	<b>0.6</b>
<b>D.C. CIRCUIT</b>	<b>84</b>	<b>23.4</b>	<b>0</b>	<b>0.0</b>	<b>57</b>	<b>15.9</b>	<b>12</b>	<b>3.3</b>	<b>20</b>	<b>5.6</b>	<b>33</b>	<b>9.2</b>	<b>7</b>	<b>1.9</b>
District of Columbia	84	23.4	0	0.0	57	15.9	12	3.3	20	5.6	33	9.2	7	1.9
<b>FIRST CIRCUIT</b>	<b>247</b>	<b>10.6</b>	<b>17</b>	<b>0.7</b>	<b>205</b>	<b>8.8</b>	<b>59</b>	<b>2.5</b>	<b>26</b>	<b>1.1</b>	<b>362</b>	<b>15.5</b>	<b>20</b>	<b>0.9</b>
Maine	62	32.1	0	0.0	2	1.0	9	4.7	3	1.6	32	16.6	0	0.0
Massachusetts	68	12.0	2	0.4	96	17.0	16	2.8	6	1.1	147	26.0	5	0.9
New Hampshire	34	16.7	0	0.0	26	12.7	4	2.0	6	2.9	40	19.6	0	0.0
Puerto Rico	71	6.1	15	1.3	75	6.5	29	2.5	11	1.0	54	4.7	15	1.3
Rhode Island	12	5.7	0	0.0	6	2.9	1	0.5	0	0.0	89	42.4	0	0.0
<b>SECOND CIRCUIT</b>	<b>871</b>	<b>18.9</b>	<b>0</b>	<b>0.0</b>	<b>120</b>	<b>2.6</b>	<b>142</b>	<b>3.1</b>	<b>148</b>	<b>3.2</b>	<b>1,443</b>	<b>31.3</b>	<b>39</b>	<b>0.8</b>
Connecticut	52	15.2	0	0.0	5	1.5	22	6.5	14	4.1	99	29.0	1	0.3
New York														
Eastern	232	20.2	0	0.0	38	3.3	41	3.6	60	5.2	395	34.4	13	1.1
Northern	119	20.8	0	0.0	7	1.2	18	3.1	11	1.9	111	19.4	4	0.7
Southern	228	14.4	0	0.0	18	1.1	34	2.2	37	2.3	687	43.5	16	1.0
Western	218	27.1	0	0.0	38	4.7	3	0.4	6	0.7	123	15.3	5	0.6
Vermont	22	13.7	0	0.0	14	8.7	24	14.9	20	12.4	28	17.4	0	0.0
<b>THIRD CIRCUIT</b>	<b>729</b>	<b>24.7</b>	<b>0</b>	<b>0.0</b>	<b>147</b>	<b>5.0</b>	<b>39</b>	<b>1.3</b>	<b>55</b>	<b>1.9</b>	<b>574</b>	<b>19.4</b>	<b>25</b>	<b>0.8</b>
Delaware	19	15.7	0	0.0	12	9.9	0	0.0	0	0.0	40	33.1	2	1.7
New Jersey	219	27.3	0	0.0	25	3.1	10	1.2	11	1.4	146	18.2	3	0.4
Pennsylvania														
Eastern	303	30.9	0	0.0	38	3.9	10	1.0	6	0.6	197	20.1	16	1.6
Middle	92	18.4	0	0.0	59	11.8	12	2.4	11	2.2	88	17.6	0	0.0
Western	88	18.0	0	0.0	12	2.4	6	1.2	27	5.5	101	20.6	2	0.4
Virgin Islands	8	12.9	0	0.0	1	1.6	1	1.6	0	0.0	2	3.2	2	3.2
<b>FOURTH CIRCUIT</b>	<b>1,060</b>	<b>15.6</b>	<b>0</b>	<b>0.0</b>	<b>242</b>	<b>3.6</b>	<b>100</b>	<b>1.5</b>	<b>65</b>	<b>1.0</b>	<b>1,028</b>	<b>15.1</b>	<b>33</b>	<b>0.5</b>
Maryland	213	25.0	0	0.0	78	9.1	17	2.0	23	2.7	137	16.1	6	0.7
North Carolina														
Eastern	263	32.7	0	0.0	2	0.2	6	0.7	3	0.4	59	7.3	2	0.2
Middle	59	11.2	0	0.0	1	0.2	6	1.1	1	0.2	72	13.7	0	0.0
Western	121	22.0	0	0.0	28	5.1	6	1.1	5	0.9	69	12.5	1	0.2
South Carolina	186	17.8	0	0.0	27	2.6	12	1.1	7	0.7	175	16.8	8	0.8
Virginia														
Eastern	72	3.6	0	0.0	42	2.1	42	2.1	20	1.0	284	14.1	13	0.6
Western	82	21.9	0	0.0	24	6.4	8	2.1	3	0.8	67	17.9	1	0.3
West Virginia														
Northern	28	9.0	0	0.0	36	11.6	0	0.0	1	0.3	62	19.9	1	0.3
Southern	36	11.6	0	0.0	4	1.3	3	1.0	2	0.6	103	33.2	1	0.3

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
<b>FIFTH CIRCUIT</b>	<b>19,363</b>	<b>13,662</b>	<b>70.6</b>	<b>98</b>	<b>0.5</b>	<b>22</b>	<b>0.1</b>	<b>319</b>	<b>1.6</b>	<b>22</b>	<b>0.1</b>
<b>Louisiana</b>											
Eastern	347	242	69.7	5	1.4	5	1.4	7	2.0	1	0.3
Middle	138	75	54.3	3	2.2	2	1.4	5	3.6	0	0.0
Western	285	205	71.9	4	1.4	1	0.4	15	5.3	2	0.7
<b>Mississippi</b>											
Northern	183	120	65.6	0	0.0	0	0.0	9	4.9	0	0.0
Southern	306	246	80.4	1	0.3	0	0.0	2	0.7	0	0.0
<b>Texas</b>											
Eastern	1,008	700	69.4	7	0.7	0	0.0	8	0.8	1	0.1
Northern	914	554	60.6	15	1.6	8	0.9	61	6.7	0	0.0
Southern	8,302	5,477	66.0	50	0.6	4	0.0	58	0.7	0	0.0
Western	7,880	6,043	76.7	13	0.2	2	0.0	154	2.0	18	0.2
<b>SIXTH CIRCUIT</b>	<b>5,608</b>	<b>2,831</b>	<b>50.5</b>	<b>31</b>	<b>0.6</b>	<b>4</b>	<b>0.1</b>	<b>69</b>	<b>1.2</b>	<b>5</b>	<b>0.1</b>
<b>Kentucky</b>											
Eastern	607	293	48.3	0	0.0	0	0.0	9	1.5	0	0.0
Western	431	219	50.8	3	0.7	0	0.0	1	0.2	1	0.2
<b>Michigan</b>											
Eastern	825	404	49.0	2	0.2	1	0.1	5	0.6	1	0.1
Western	499	325	65.1	5	1.0	1	0.2	10	2.0	2	0.4
<b>Ohio</b>											
Northern	628	300	47.8	1	0.2	0	0.0	8	1.3	0	0.0
Southern	741	255	34.4	3	0.4	2	0.3	8	1.1	1	0.1
<b>Tennessee</b>											
Eastern	912	559	61.3	6	0.7	0	0.0	8	0.9	0	0.0
Middle	335	140	41.8	3	0.9	0	0.0	6	1.8	0	0.0
Western	630	336	53.3	8	1.3	0	0.0	14	2.2	0	0.0
<b>SEVENTH CIRCUIT</b>	<b>3,037</b>	<b>1,481</b>	<b>48.8</b>	<b>18</b>	<b>0.6</b>	<b>5</b>	<b>0.2</b>	<b>54</b>	<b>1.8</b>	<b>1</b>	<b>0.0</b>
<b>Illinois</b>											
Central	358	196	54.7	2	0.6	0	0.0	3	0.8	0	0.0
Northern	921	417	45.3	4	0.4	0	0.0	7	0.8	0	0.0
Southern	332	253	76.2	4	1.2	1	0.3	4	1.2	0	0.0
<b>Indiana</b>											
Northern	451	269	59.6	2	0.4	2	0.4	7	1.6	1	0.2
Southern	288	146	50.7	2	0.7	0	0.0	25	8.7	0	0.0
<b>Wisconsin</b>											
Eastern	500	123	24.6	2	0.4	1	0.2	7	1.4	0	0.0
Western	187	77	41.2	2	1.1	1	0.5	1	0.5	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>4,760</b>	<b>2,613</b>	<b>54.9</b>	<b>37</b>	<b>0.8</b>	<b>16</b>	<b>0.3</b>	<b>69</b>	<b>1.4</b>	<b>6</b>	<b>0.1</b>
<b>Arkansas</b>											
Eastern	325	204	62.8	2	0.6	1	0.3	8	2.5	0	0.0
Western	318	243	76.4	0	0.0	0	0.0	0	0.0	2	0.6
<b>Iowa</b>											
Northern	520	327	62.9	13	2.5	4	0.8	16	3.1	0	0.0
Southern	407	154	37.8	3	0.7	0	0.0	5	1.2	0	0.0
Minnesota	451	141	31.3	1	0.2	5	1.1	1	0.2	0	0.0
<b>Missouri</b>											
Eastern	817	400	49.0	3	0.4	3	0.4	11	1.3	3	0.4
Western	654	360	55.0	2	0.3	1	0.2	18	2.8	1	0.2
Nebraska	561	339	60.4	5	0.9	0	0.0	3	0.5	0	0.0
North Dakota	275	153	55.6	0	0.0	2	0.7	5	1.8	0	0.0
South Dakota	432	292	67.6	8	1.9	0	0.0	2	0.5	0	0.0



CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
<b>FIFTH CIRCUIT</b>	<b>1,371</b>	<b>7.1</b>	<b>851</b>	<b>4.4</b>	<b>365</b>	<b>1.9</b>	<b>741</b>	<b>3.8</b>	<b>56</b>	<b>0.3</b>	<b>1,728</b>	<b>8.9</b>	<b>128</b>	<b>0.7</b>
<b>Louisiana</b>														
Eastern	37	10.7	0	0.0	7	2.0	5	1.4	5	1.4	30	8.6	3	0.9
Middle	30	21.7	0	0.0	2	1.4	1	0.7	1	0.7	19	13.8	0	0.0
Western	25	8.8	0	0.0	1	0.4	1	0.4	0	0.0	29	10.2	2	0.7
<b>Mississippi</b>														
Northern	32	17.5	0	0.0	4	2.2	0	0.0	0	0.0	18	9.8	0	0.0
Southern	26	8.5	0	0.0	0	0.0	3	1.0	0	0.0	20	6.5	8	2.6
<b>Texas</b>														
Eastern	94	9.3	0	0.0	104	10.3	30	3.0	10	1.0	51	5.1	3	0.3
Northern	118	12.9	0	0.0	18	2.0	4	0.4	1	0.1	134	14.7	1	0.1
Southern	436	5.3	842	10.1	123	1.5	517	6.2	18	0.2	765	9.2	12	0.1
Western	573	7.3	9	0.1	106	1.3	180	2.3	21	0.3	662	8.4	99	1.3
<b>SIXTH CIRCUIT</b>	<b>1,296</b>	<b>23.1</b>	<b>1</b>	<b>0.0</b>	<b>236</b>	<b>4.2</b>	<b>125</b>	<b>2.2</b>	<b>106</b>	<b>1.9</b>	<b>862</b>	<b>15.4</b>	<b>42</b>	<b>0.7</b>
<b>Kentucky</b>														
Eastern	228	37.6	0	0.0	12	2.0	0	0.0	3	0.5	61	10.0	1	0.2
Western	98	22.7	0	0.0	45	10.4	13	3.0	3	0.7	47	10.9	1	0.2
<b>Michigan</b>														
Eastern	147	17.8	1	0.1	27	3.3	16	1.9	12	1.5	205	24.8	4	0.5
Western	58	11.6	0	0.0	2	0.4	10	2.0	7	1.4	76	15.2	3	0.6
<b>Ohio</b>														
Northern	167	26.6	0	0.0	18	2.9	15	2.4	7	1.1	106	16.9	6	1.0
Southern	220	29.7	0	0.0	53	7.2	36	4.9	44	5.9	104	14.0	15	2.0
<b>Tennessee</b>														
Eastern	220	24.1	0	0.0	14	1.5	11	1.2	5	0.5	82	9.0	7	0.8
Middle	54	16.1	0	0.0	47	14.0	13	3.9	5	1.5	67	20.0	0	0.0
Western	104	16.5	0	0.0	18	2.9	11	1.7	20	3.2	114	18.1	5	0.8
<b>SEVENTH CIRCUIT</b>	<b>501</b>	<b>16.5</b>	<b>1</b>	<b>0.0</b>	<b>147</b>	<b>4.8</b>	<b>73</b>	<b>2.4</b>	<b>104</b>	<b>3.4</b>	<b>619</b>	<b>20.4</b>	<b>33</b>	<b>1.1</b>
<b>Illinois</b>														
Central	53	14.8	0	0.0	17	4.7	1	0.3	3	0.8	81	22.6	2	0.6
Northern	133	14.4	0	0.0	14	1.5	19	2.1	72	7.8	238	25.8	17	1.8
Southern	23	6.9	0	0.0	11	3.3	4	1.2	6	1.8	23	6.9	3	0.9
<b>Indiana</b>														
Northern	98	21.7	0	0.0	21	4.7	15	3.3	5	1.1	31	6.9	0	0.0
Southern	32	11.1	0	0.0	20	6.9	8	2.8	1	0.3	54	18.8	0	0.0
<b>Wisconsin</b>														
Eastern	146	29.2	0	0.0	64	12.8	3	0.6	0	0.0	143	28.6	11	2.2
Western	16	8.6	1	0.5	0	0.0	23	12.3	17	9.1	49	26.2	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>658</b>	<b>13.8</b>	<b>37</b>	<b>0.8</b>	<b>199</b>	<b>4.2</b>	<b>109</b>	<b>2.3</b>	<b>64</b>	<b>1.3</b>	<b>929</b>	<b>19.5</b>	<b>23</b>	<b>0.5</b>
<b>Arkansas</b>														
Eastern	33	10.2	0	0.0	11	3.4	6	1.8	4	1.2	53	16.3	3	0.9
Western	36	11.3	0	0.0	1	0.3	1	0.3	3	0.9	31	9.7	1	0.3
<b>Iowa</b>														
Northern	100	19.2	0	0.0	5	1.0	3	0.6	0	0.0	52	10.0	0	0.0
Southern	84	20.6	0	0.0	42	10.3	2	0.5	5	1.2	110	27.0	2	0.5
Minnesota	94	20.8	1	0.2	7	1.6	15	3.3	10	2.2	176	39.0	0	0.0
<b>Missouri</b>														
Eastern	105	12.9	0	0.0	53	6.5	10	1.2	20	2.4	202	24.7	7	0.9
Western	124	19.0	0	0.0	22	3.4	12	1.8	6	0.9	106	16.2	2	0.3
Nebraska	15	2.7	36	6.4	36	6.4	10	1.8	5	0.9	106	18.9	6	1.1
North Dakota	57	20.7	0	0.0	13	4.7	13	4.7	2	0.7	29	10.5	1	0.4
South Dakota	10	2.3	0	0.0	9	2.1	37	8.6	9	2.1	64	14.8	1	0.2

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

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

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

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

**Table 10**

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

**National**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>84,744</b>	<b>46,160</b>	<b>54.5</b>	<b>379</b>	<b>0.4</b>	<b>109</b>	<b>0.1</b>	<b>947</b>	<b>1.1</b>	<b>92</b>	<b>0.1</b>
Robbery	957	576	60.2	9	0.9	5	0.5	24	2.5	1	0.1
Drugs - Trafficking	24,401	11,283	46.2	62	0.3	11	0.0	130	0.5	18	0.1
Drugs - Simple Possession	764	725	94.9	5	0.7	3	0.4	7	0.9	1	0.1
Firearms	7,837	4,640	59.2	85	1.1	13	0.2	183	2.3	12	0.2
Larceny	1,472	1,083	73.6	4	0.3	4	0.3	15	1.0	2	0.1
Fraud	7,887	4,304	54.6	33	0.4	24	0.3	106	1.3	11	0.1
Embezzlement	385	246	63.9	0	0.0	0	0.0	2	0.5	1	0.3
Forgery/Counterfeiting	937	601	64.1	3	0.3	2	0.2	16	1.7	1	0.1
Immigration	29,327	16,913	57.7	97	0.3	24	0.1	291	1.0	21	0.1
Other Miscellaneous Offenses	10,777	5,789	53.7	81	0.8	23	0.2	173	1.6	24	0.2

**Western New York**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>803</b>	<b>403</b>	<b>50.2</b>	<b>5</b>	<b>0.6</b>	<b>0</b>	<b>0.0</b>	<b>1</b>	<b>0.1</b>	<b>1</b>	<b>0.1</b>
Robbery	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	256	74	28.9	3	1.2	0	0.0	1	0.4	0	0.0
Drugs - Simple Possession	13	10	76.9	1	7.7	0	0.0	0	0.0	0	0.0
Firearms	78	34	43.6	1	1.3	0	0.0	0	0.0	1	1.3
Larceny	44	30	68.2	0	0.0	0	0.0	0	0.0	0	0.0
Fraud	100	47	47.0	0	0.0	0	0.0	0	0.0	0	0.0
Embezzlement	1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	7	4	57.1	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	157	144	91.7	0	0.0	0	0.0	0	0.0	0	0.0
Other Miscellaneous Offenses	146	59	40.4	0	0.0	0	0.0	0	0.0	0	0.0

### National

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>9,522</b>	<b>11.2</b>	<b>9,057</b>	<b>10.7</b>	<b>3,716</b>	<b>4.4</b>	<b>1,976</b>	<b>2.3</b>	<b>917</b>	<b>1.1</b>	<b>11,371</b>	<b>13.4</b>	<b>498</b>	<b>0.6</b>
Robbery	104	10.9	3	0.3	40	4.2	25	2.6	12	1.3	155	16.2	3	0.3
Drugs - Trafficking	5,766	23.6	1,364	5.6	1,199	4.9	502	2.1	305	1.2	3,653	15.0	108	0.4
Drugs - Simple Possession	5	0.7	0	0.0	3	0.4	2	0.3	0	0.0	11	1.4	2	0.3
Firearms	894	11.4	12	0.2	418	5.3	167	2.1	103	1.3	1,272	16.2	38	0.5
Larceny	65	4.4	2	0.1	62	4.2	24	1.6	11	0.7	184	12.5	16	1.1
Fraud	1,281	16.2	10	0.1	333	4.2	141	1.8	145	1.8	1,418	18.0	81	1.0
Embezzlement	15	3.9	1	0.3	16	4.2	7	1.8	5	1.3	87	22.6	5	1.3
Forgery/Counterfeiting	112	12.0	1	0.1	27	2.9	15	1.6	8	0.9	143	15.3	8	0.9
Immigration	281	1.0	7,626	26.0	668	2.3	828	2.8	141	0.5	2,296	7.8	141	0.5
Other Miscellaneous Offenses	999	9.3	38	0.4	950	8.8	265	2.5	187	1.7	2,152	20.0	96	0.9

### Western New York

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>218</b>	<b>27.1</b>	<b>0</b>	<b>0.0</b>	<b>38</b>	<b>4.7</b>	<b>3</b>	<b>0.4</b>	<b>6</b>	<b>0.7</b>	<b>123</b>	<b>15.3</b>	<b>5</b>	<b>0.6</b>
Robbery	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	131	51.2	0	0.0	10	3.9	1	0.4	3	1.2	31	12.1	2	0.8
Drugs - Simple Possession	1	7.7	0	0.0	0	0.0	0	0.0	0	0.0	1	7.7	0	0.0
Firearms	24	30.8	0	0.0	3	3.8	0	0.0	1	1.3	14	17.9	0	0.0
Larceny	1	2.3	0	0.0	2	4.5	0	0.0	0	0.0	10	22.7	1	2.3
Fraud	26	26.0	0	0.0	1	1.0	1	1.0	1	1.0	22	22.0	2	2.0
Embezzlement	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1	100.0	0	0.0
Forgery/Counterfeiting	0	0.0	0	0.0	1	14.3	1	14.3	0	0.0	1	14.3	0	0.0
Immigration	1	0.6	0	0.0	2	1.3	0	0.0	0	0.0	10	6.4	0	0.0
Other Miscellaneous Offenses	34	23.3	0	0.0	19	13.0	0	0.0	1	0.7	33	22.6	0	0.0

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

Of the 803 guideline cases from the Western District of New York, no cases were excluded.

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