

United States Sentencing Commission



Statistical Information Packet

Fiscal Year 2012

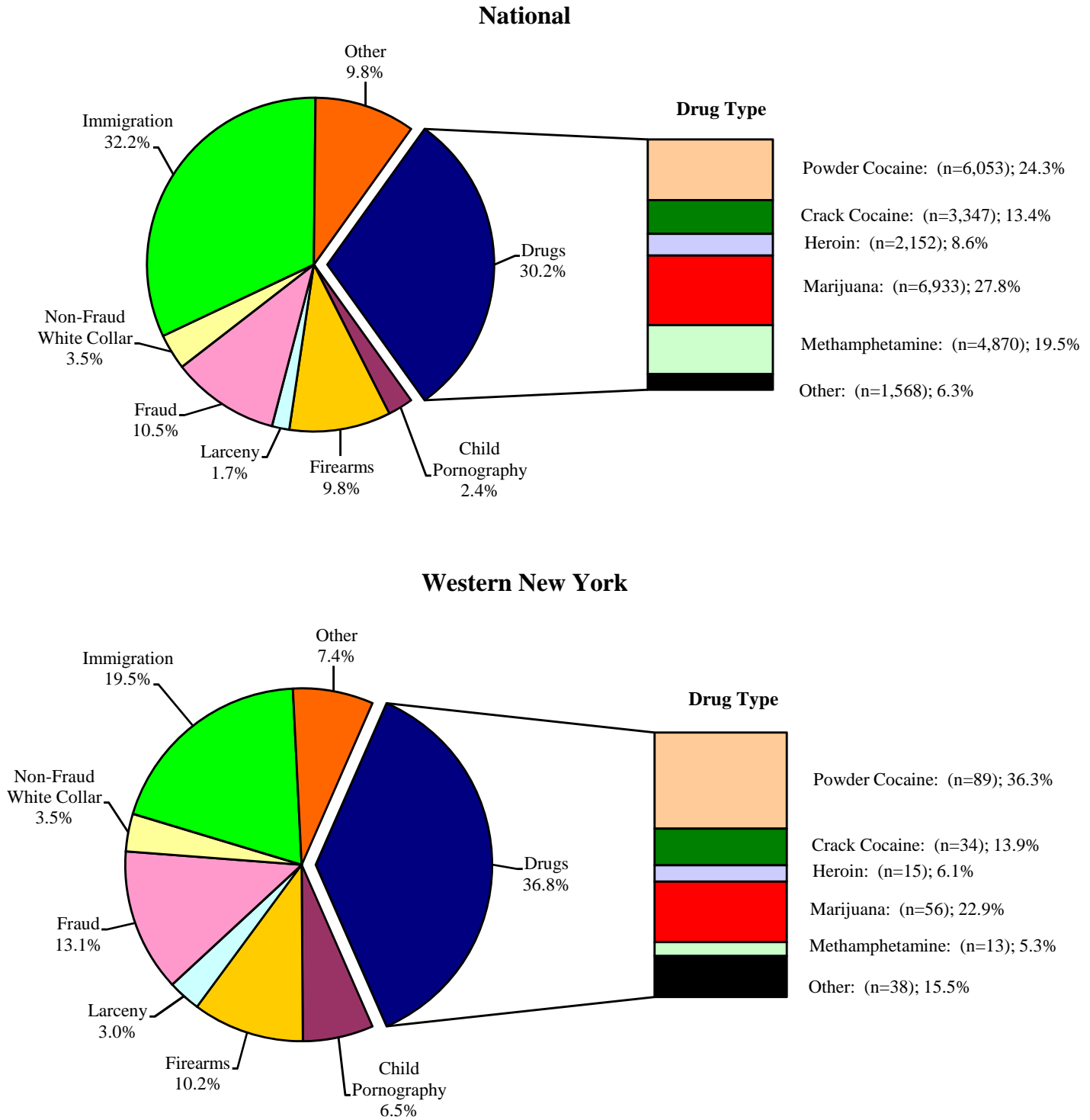
Western District of New York

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Figure A

OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2012



¹ Of the 26,560 drug cases, 1,637 were excluded from the drug type analysis due to one of the following reasons: cases sentenced under §2D1.11 involving a listed chemical (255) and cases missing drug type (1,382).
 Of the 665 guideline cases from the Western District of New York, no cases were excluded.

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

Table 1

**DISTRIBUTION OF GUIDELINE OFFENDERS IN EACH
PRIMARY OFFENSE CATEGORY
Fiscal Year 2012**

PRIMARY OFFENSE	National		Western New York	
	N	%	N	%
TOTAL	84,173	100.0	665	100.0
Murder	65	0.1	0	0.0
Manslaughter	50	0.1	0	0.0
Kidnapping/Hostage Taking	49	0.1	0	0.0
Sexual Abuse	428	0.5	2	0.3
Assault	714	0.8	2	0.3
Robbery	852	1.0	3	0.5
Arson	48	0.1	1	0.2
Drugs - Trafficking	24,736	29.4	221	33.2
Drugs - Communication Facility	373	0.4	15	2.3
Drugs - Simple Possession	1,451	1.7	9	1.4
Firearms	8,105	9.6	68	10.2
Burglary/B&E	42	0.0	0	0.0
Auto Theft	61	0.1	0	0.0
Larceny	1,397	1.7	20	3.0
Fraud	8,634	10.3	87	13.1
Embezzlement	326	0.4	4	0.6
Forgery/Counterfeiting	876	1.0	3	0.5
Bribery	229	0.3	4	0.6
Tax	608	0.7	7	1.1
Money Laundering	822	1.0	5	0.8
Racketeering/Extortion	912	1.1	5	0.8
Gambling/Lottery	45	0.1	0	0.0
Civil Rights	53	0.1	0	0.0
Immigration	26,548	31.5	130	19.5
Child Pornography	2,014	2.4	43	6.5
Prison Offenses	429	0.5	2	0.3
Administration of Justice Offenses	1,338	1.6	14	2.1
Environmental/Wildlife	204	0.2	2	0.3
National Defense	114	0.1	0	0.0
Antitrust	20	0.0	0	0.0
Food & Drug	60	0.1	2	0.3
Other Miscellaneous Offenses	2,570	3.1	16	2.4

Of the 84,173 guideline cases, none were excluded due to missing information on primary offense category.

Of the 665 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, 2012 Datafile, USSCFY12.

Table 2

**GUILTY PLEAS AND TRIALS IN EACH CIRCUIT AND DISTRICT
Fiscal Year 2012**

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	84,169	81,647	97.0	2,522	3.0
D.C. CIRCUIT	355	336	94.6	19	5.4
District of Columbia	355	336	94.6	19	5.4
FIRST CIRCUIT	2,515	2,419	96.2	96	3.8
Maine	191	183	95.8	8	4.2
Massachusetts	519	473	91.1	46	8.9
New Hampshire	158	154	97.5	4	2.5
Puerto Rico	1,450	1,417	97.7	33	2.3
Rhode Island	197	192	97.5	5	2.5
SECOND CIRCUIT	4,467	4,283	95.9	184	4.1
Connecticut	446	426	95.5	20	4.5
New York					
Eastern	965	926	96.0	39	4.0
Northern	622	600	96.5	22	3.5
Southern	1,540	1,459	94.7	81	5.3
Western	665	652	98.0	13	2.0
Vermont	229	220	96.1	9	3.9
THIRD CIRCUIT	2,858	2,690	94.1	168	5.9
Delaware	93	88	94.6	5	5.4
New Jersey	854	825	96.6	29	3.4
Pennsylvania					
Eastern	826	748	90.6	78	9.4
Middle	504	485	96.2	19	3.8
Western	516	500	96.9	16	3.1
Virgin Islands	65	44	67.7	21	32.3
FOURTH CIRCUIT	6,556	6,301	96.1	255	3.9
Maryland	1,059	1,006	95.0	53	5.0
North Carolina					
Eastern	816	787	96.4	29	3.6
Middle	421	405	96.2	16	3.8
Western	435	418	96.1	17	3.9
South Carolina	925	906	97.9	19	2.1
Virginia					
Eastern	1,893	1,796	94.9	97	5.1
Western	378	367	97.1	11	2.9
West Virginia					
Northern	324	319	98.5	5	1.5
Southern	305	297	97.4	8	2.6

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
FIFTH CIRCUIT	19,327	18,982	98.2	345	1.8
Louisiana					
Eastern	361	345	95.6	16	4.4
Middle	230	209	90.9	21	9.1
Western	435	414	95.2	21	4.8
Mississippi					
Northern	171	158	92.4	13	7.6
Southern	289	280	96.9	9	3.1
Texas					
Eastern	922	890	96.5	32	3.5
Northern	1,005	981	97.6	24	2.4
Southern	6,586	6,466	98.2	120	1.8
Western	9,328	9,239	99.0	89	1.0
SIXTH CIRCUIT	5,599	5,404	96.5	195	3.5
Kentucky					
Eastern	501	480	95.8	21	4.2
Western	411	397	96.6	14	3.4
Michigan					
Eastern	908	869	95.7	39	4.3
Western	466	448	96.1	18	3.9
Ohio					
Northern	909	874	96.1	35	3.9
Southern	630	623	98.9	7	1.1
Tennessee					
Eastern	862	833	96.6	29	3.4
Middle	332	317	95.5	15	4.5
Western	580	563	97.1	17	2.9
SEVENTH CIRCUIT	3,171	3,042	95.9	129	4.1
Illinois					
Central	417	409	98.1	8	1.9
Northern	845	779	92.2	66	7.8
Southern	413	403	97.6	10	2.4
Indiana					
Northern	407	393	96.6	14	3.4
Southern	433	420	97.0	13	3.0
Wisconsin					
Eastern	500	487	97.4	13	2.6
Western	156	151	96.8	5	3.2
EIGHTH CIRCUIT	4,909	4,741	96.6	168	3.4
Arkansas					
Eastern	397	372	93.7	25	6.3
Western	328	320	97.6	8	2.4
Iowa					
Northern	390	379	97.2	11	2.8
Southern	426	413	96.9	13	3.1
Minnesota	446	422	94.6	24	5.4
Missouri					
Eastern	790	778	98.5	12	1.5
Western	783	750	95.8	33	4.2
Nebraska	602	585	97.2	17	2.8
North Dakota	288	282	97.9	6	2.1
South Dakota	459	440	95.9	19	4.1

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
NINTH CIRCUIT	21,325	20,873	97.9	452	2.1
Alaska	211	198	93.8	13	6.2
Arizona	8,919	8,837	99.1	82	0.9
California					
Central	1,798	1,726	96.0	72	4.0
Eastern	1,035	1,006	97.2	29	2.8
Northern	752	713	94.8	39	5.2
Southern	5,309	5,228	98.5	81	1.5
Guam	59	56	94.9	3	5.1
Hawaii	242	234	96.7	8	3.3
Idaho	285	274	96.1	11	3.9
Montana	390	355	91.0	35	9.0
Nevada	621	595	95.8	26	4.2
Northern Mariana Islands	15	12	80.0	3	20.0
Oregon	651	642	98.6	9	1.4
Washington					
Eastern	305	292	95.7	13	4.3
Western	733	705	96.2	28	3.8
TENTH CIRCUIT	6,105	5,963	97.7	142	2.3
Colorado	567	545	96.1	22	3.9
Kansas	722	684	94.7	38	5.3
New Mexico	3,052	3,025	99.1	27	0.9
Oklahoma					
Eastern	92	91	98.9	1	1.1
Northern	203	192	94.6	11	5.4
Western	518	498	96.1	20	3.9
Utah	675	662	98.1	13	1.9
Wyoming	276	266	96.4	10	3.6
ELEVENTH CIRCUIT	6,982	6,613	94.7	369	5.3
Alabama					
Middle	211	194	91.9	17	8.1
Northern	449	424	94.4	25	5.6
Southern	452	433	95.8	19	4.2
Florida					
Middle	1,691	1,587	93.8	104	6.2
Northern	358	322	89.9	36	10.1
Southern	2,175	2,064	94.9	111	5.1
Georgia					
Middle	454	440	96.9	14	3.1
Northern	665	629	94.6	36	5.4
Southern	527	520	98.7	7	1.3

Of the 84,173 guideline cases, four cases were excluded due to missing information on mode of conviction.

SOURCE: U.S. Sentencing Commission, 2012 Datafile, USSCFY12.

Table 3

**GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY
Fiscal Year 2012**

PRIMARY OFFENSE	TOTAL	National				Western New York			
		PLEA		TRIAL		PLEA		TRIAL	
		N	%	N	%	N	%	N	%
TOTAL	84,169	81,647	97.0	2,522	3.0	652	98.0	13	2.0
Murder	65	48	73.8	17	26.2	0	--	0	--
Manslaughter	50	48	96.0	2	4.0	0	--	0	--
Kidnapping/Hostage Taking	49	45	91.8	4	8.2	0	--	0	--
Sexual Abuse	428	372	86.9	56	13.1	2	100.0	0	0.0
Assault	714	656	91.9	58	8.1	2	100.0	0	0.0
Robbery	852	824	96.7	28	3.3	3	100.0	0	0.0
Arson	48	46	95.8	2	4.2	1	100.0	0	0.0
Drugs - Trafficking	24,736	23,988	97.0	748	3.0	213	96.4	8	3.6
Drugs - Communication Facility	373	373	100.0	0	0.0	15	100.0	0	0.0
Drugs - Simple Possession	1,450	1,438	99.2	12	0.8	9	100.0	0	0.0
Firearms	8,105	7,595	93.7	510	6.3	66	97.1	2	2.9
Burglary/B&E	42	41	97.6	1	2.4	0	--	0	--
Auto Theft	61	58	95.1	3	4.9	0	--	0	--
Larceny	1,396	1,370	98.1	26	1.9	20	100.0	0	0.0
Fraud	8,634	8,164	94.6	470	5.4	86	98.9	1	1.1
Embezzlement	326	319	97.9	7	2.1	4	100.0	0	0.0
Forgery/Counterfeiting	876	864	98.6	12	1.4	3	100.0	0	0.0
Bribery	229	215	93.9	14	6.1	4	100.0	0	0.0
Tax	608	571	93.9	37	6.1	6	85.7	1	14.3
Money Laundering	822	768	93.4	54	6.6	5	100.0	0	0.0
Racketeering/Extortion	912	857	94.0	55	6.0	5	100.0	0	0.0
Gambling/Lottery	45	44	97.8	1	2.2	0	--	0	--
Civil Rights	53	43	81.1	10	18.9	0	--	0	--
Immigration	26,547	26,389	99.4	158	0.6	129	99.2	1	0.8
Child Pornography	2,014	1,935	96.1	79	3.9	43	100.0	0	0.0
Prison Offenses	429	422	98.4	7	1.6	2	100.0	0	0.0
Administration of Justice Offenses	1,338	1,288	96.3	50	3.7	14	100.0	0	0.0
Environmental/Wildlife	204	198	97.1	6	2.9	2	100.0	0	0.0
National Defense	114	112	98.2	2	1.8	0	--	0	--
Antitrust	20	18	90.0	2	10.0	0	--	0	--
Food & Drug	60	58	96.7	2	3.3	2	100.0	0	0.0
Other Miscellaneous Offenses	2,569	2,480	96.5	89	3.5	16	100.0	0	0.0

Of the 84,173 guideline cases, four cases were excluded due to missing information on mode of conviction.

Of the 665 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, 2012 Datafile, USSCFY12.

Table 4
TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2012

National

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
TOTAL	83,443	72,774	87.2	2,351	2.8	2,402	2.9	5,916	7.1
Murder	65	64	98.5	1	1.5	0	0.0	0	0.0
Manslaughter	50	48	96.0	2	4.0	0	0.0	0	0.0
Kidnapping/Hostage Taking	49	49	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	428	401	93.7	18	4.2	2	0.5	7	1.6
Assault	705	566	80.3	44	6.2	20	2.8	75	10.6
Robbery	850	803	94.5	18	2.1	13	1.5	16	1.9
Arson	48	45	93.8	1	2.1	0	0.0	2	4.2
Drugs - Trafficking	24,729	23,147	93.6	706	2.9	371	1.5	505	2.0
Drugs - Communication Facility	373	299	80.2	14	3.8	26	7.0	34	9.1
Drugs - Simple Possession	1,402	1,130	80.6	4	0.3	11	0.8	257	18.3
Firearms	8,097	7,472	92.3	217	2.7	174	2.1	234	2.9
Burglary/B&E	42	36	85.7	3	7.1	1	2.4	2	4.8
Auto Theft	60	51	85.0	3	5.0	4	6.7	2	3.3
Larceny	1,293	497	38.4	70	5.4	193	14.9	533	41.2
Fraud	8,598	5,883	68.4	552	6.4	748	8.7	1,415	16.5
Embezzlement	318	116	36.5	38	11.9	52	16.4	112	35.2
Forgery/Counterfeiting	876	617	70.4	56	6.4	77	8.8	126	14.4
Bribery	228	157	68.9	20	8.8	21	9.2	30	13.2
Tax	605	328	54.2	61	10.1	98	16.2	118	19.5
Money Laundering	821	611	74.4	39	4.8	69	8.4	102	12.4
Racketeering/Extortion	910	835	91.8	30	3.3	18	2.0	27	3.0
Gambling/Lottery	45	7	15.6	5	11.1	7	15.6	26	57.8
Civil Rights	53	39	73.6	2	3.8	2	3.8	10	18.9
Immigration	26,531	25,247	95.2	204	0.8	137	0.5	943	3.6
Child Pornography	2,013	1,953	97.0	36	1.8	9	0.4	15	0.7
Prison Offenses	429	387	90.2	13	3.0	14	3.3	15	3.5
Administration of Justice Offenses	1,327	933	70.3	90	6.8	89	6.7	215	16.2
Environmental/Wildlife	188	33	17.6	7	3.7	18	9.6	130	69.1
National Defense	114	101	88.6	6	5.3	1	0.9	6	5.3
Antitrust	20	17	85.0	2	10.0	1	5.0	0	0.0
Food & Drug	57	19	33.3	1	1.8	5	8.8	32	56.1
Other Miscellaneous Offenses	2,119	883	41.7	88	4.2	221	10.4	927	43.7

Of the 84,173 guideline cases, 730 cases were excluded due to one or both of the following reasons: missing sentencing information (12), or cases in which the defendant received no imprisonment or probation (718).

SOURCE: U.S. Sentencing Commission, 2012 Datafile, USSCFY12.

Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2012**

Western New York

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
TOTAL	657	514	78.2	20	3.0	26	4.0	97	14.8
Murder	0	0	--	0	--	0	--	0	--
Manslaughter	0	0	--	0	--	0	--	0	--
Kidnapping/Hostage Taking	0	0	--	0	--	0	--	0	--
Sexual Abuse	2	2	100.0	0	0.0	0	0.0	0	0.0
Assault	2	1	50.0	0	0.0	0	0.0	1	50.0
Robbery	3	1	33.3	1	33.3	0	0.0	1	33.3
Arson	1	1	100.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	221	175	79.2	8	3.6	12	5.4	26	11.8
Drugs - Communication Facility	15	10	66.7	0	0.0	1	6.7	4	26.7
Drugs - Simple Possession	9	3	33.3	0	0.0	0	0.0	6	66.7
Firearms	68	66	97.1	1	1.5	0	0.0	1	1.5
Burglary/B&E	0	0	--	0	--	0	--	0	--
Auto Theft	0	0	--	0	--	0	--	0	--
Larceny	18	2	11.1	0	0.0	2	11.1	14	77.8
Fraud	83	50	60.2	7	8.4	6	7.2	20	24.1
Embezzlement	4	0	0.0	0	0.0	1	25.0	3	75.0
Forgery/Counterfeiting	3	2	66.7	0	0.0	0	0.0	1	33.3
Bribery	4	2	50.0	1	25.0	0	0.0	1	25.0
Tax	7	2	28.6	0	0.0	2	28.6	3	42.9
Money Laundering	5	3	60.0	0	0.0	0	0.0	2	40.0
Racketeering/Extortion	5	4	80.0	0	0.0	1	20.0	0	0.0
Gambling/Lottery	0	0	--	0	--	0	--	0	--
Civil Rights	0	0	--	0	--	0	--	0	--
Immigration	130	128	98.5	1	0.8	0	0.0	1	0.8
Child Pornography	43	43	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	14	8	57.1	1	7.1	0	0.0	5	35.7
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	1	1	100.0	0	0.0	0	0.0	0	0.0
Other Miscellaneous Offenses	16	8	50.0	0	0.0	1	6.3	7	43.8

Of the 665 guideline cases from the Western District of New York, eight cases were excluded due to cases in which the defendant received no imprisonment or probation.

SOURCE: U.S. Sentencing Commission, 2012 Datafile, USSCFY12.

Table 6

**INCARCERATION RATE OF U.S. CITIZEN DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES
BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2012**

PRIMARY OFFENSE	TOTAL	National				Western New York			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		N	%	N	%	N	%	N	%
TOTAL	5,121	1,797	35.1	3,324	64.9	15	17.9	69	82.1
Fraud	1,386	434	31.3	952	68.7	7	31.8	15	68.2
Larceny	600	129	21.5	471	78.5	0	0.0	14	100.0
Immigration	349	180	51.6	169	48.4	0	--	0	--
Embezzlement	149	30	20.1	119	79.9	0	0.0	1	100.0
Drugs - Trafficking	468	197	42.1	271	57.9	1	6.7	14	93.3
Drugs - Simple Possession	264	122	46.2	142	53.8	3	37.5	5	62.5
Firearms	200	95	47.5	105	52.5	1	100.0	0	0.0
Forgery/Counterfeiting	250	123	49.2	127	50.8	0	0.0	1	100.0
Other Miscellaneous Offenses	1,455	487	33.5	968	66.5	3	13.6	19	86.4

Of the 84,173 guideline cases, a U.S. Citizen was the defendant in 43,861 cases. Of these, 38,740 cases were excluded due to one or both of the following reasons: defendant ineligible for non-prison sentence (38,740), or missing sentencing information (7).

Of the 665 guideline cases from the Western District of New York, a U.S. Citizen was the defendant in 463 cases. Of these, 379 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, 2012 Datafile, USSCFY12.

Table 7

**LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2012**

PRIMARY OFFENSE	National			Western New York		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
TOTAL	51	30	72,008	53	30	481
Murder	252	216	65	--	--	0
Manslaughter	61	46	49	--	--	0
Kidnapping/Hostage Taking	197	168	49	--	--	0
Sexual Abuse	129	120	419	--	--	2
Assault	38	27	588	--	--	1
Robbery	80	63	812	--	--	2
Arson	80	60	46	--	--	1
Drugs - Trafficking	72	57	23,469	68	41	176
Drugs - Communication Facility	40	41	304	22	23	10
Drugs - Simple Possession	5	6	1,064	--	--	2
Firearms	89	60	7,623	77	61	66
Burglary/B&E	21	19	38	--	--	0
Auto Theft	70	32	54	--	--	0
Larceny	20	12	544	--	--	2
Fraud	33	24	5,960	17	11	48
Embezzlement	15	12	144	--	--	0
Forgery/Counterfeiting	23	18	663	--	--	2
Bribery	23	18	173	12	12	3
Tax	24	18	383	--	--	2
Money Laundering	42	30	619	71	96	3
Racketeering/Extortion	93	60	852	196	189	4
Gambling/Lottery	14	11	12	--	--	0
Civil Rights	55	18	41	--	--	0
Immigration	18	12	23,590	9	5	96
Child Pornography	132	92	1,972	109	60	41
Prison Offenses	15	12	392	--	--	2
Administration of Justice Offenses	24	18	979	14	12	9
Environmental/Wildlife	8	5	37	--	--	0
National Defense	55	37	105	--	--	0
Antitrust	15	14	19	--	--	0
Food & Drug	18	12	20	--	--	1
Other Miscellaneous Offenses	38	12	923	63	54	8

Of the 84,173 guideline cases, 12,165 cases were excluded for one or both of the following reasons: zero months of prison ordered (11,439), or missing or indeterminable sentencing information (726).

Of the 665 guideline cases from the Western District of New York, 184 cases were excluded due to one of the following reasons: zero months of prison ordered (176) or missing or indeterminable sentencing information (8).

SOURCE: U.S. Sentencing Commission, 2012 Datafile, USSCFY12.

Table 8

**COMPARISON OF SENTENCE IMPOSED AND
POSITION RELATIVE TO THE GUIDELINE RANGE
Fiscal Year 2012**

	National		Western New York	
	N	%	N	%
TOTAL CASES¹	82,674	100.0	664	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	43,333	52.4	317	47.7
CASES SENTENCED ABOVE GUIDELINE RANGE	1,631	2.0	8	1.2
DEPARTURE ABOVE GUIDELINE RANGE	578	0.7	5	0.8
Upward Departure From Guideline Range ²	451	0.5	4	0.6
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	127	0.2	1	0.2
OTHERWISE ABOVE GUIDELINE RANGE	1,053	1.3	3	0.5
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	977	1.2	3	0.5
All Remaining Cases Above Guideline Range ⁵	76	0.1	0	0.0
GOVERNMENT SPONSORED BELOW RANGE⁶	22,987	27.8	208	31.3
§5K1.1 Substantial Assistance Departure	9,677	11.7	177	26.7
§5K3.1 Early Disposition Program Departure	9,276	11.2	0	0.0
Other Government Sponsored Below Range	4,034	4.9	31	4.7
NON-GOVERNMENT SPONSORED BELOW RANGE	14,723	17.8	131	19.7
DEPARTURE BELOW GUIDELINE RANGE	2,708	3.3	9	1.4
Downward Departure From Guideline Range ²	1,897	2.3	8	1.2
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	811	1.0	1	0.2
OTHERWISE BELOW GUIDELINE RANGE	12,015	14.5	122	18.4
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	11,487	13.9	120	18.1
All Remaining Cases Below Guideline Range ⁵	528	0.6	2	0.3

¹ This table reflects the 84,173 cases sentenced nationally in Fiscal Year 2012, 665 of which were from the Western District of New York. Of these, 1,499 cases nationally and one case from the Western District of New York were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range.

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, 2012 Datafile, USSCFY12.

Table 9

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT
Fiscal Year 2012**

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	82,674	43,333	52.4	451	0.5	127	0.2	977	1.2	76	0.1
D.C. CIRCUIT	353	120	34.0	2	0.6	0	0.0	3	0.8	0	0.0
District of Columbia	353	120	34.0	2	0.6	0	0.0	3	0.8	0	0.0
FIRST CIRCUIT	2,496	1,553	62.2	14	0.6	4	0.2	44	1.8	6	0.2
Maine	191	113	59.2	1	0.5	0	0.0	2	1.0	0	0.0
Massachusetts	518	222	42.9	2	0.4	2	0.4	4	0.8	2	0.4
New Hampshire	158	66	41.8	2	1.3	0	0.0	1	0.6	0	0.0
Puerto Rico	1,433	1,068	74.5	9	0.6	2	0.1	36	2.5	4	0.3
Rhode Island	196	84	42.9	0	0.0	0	0.0	1	0.5	0	0.0
SECOND CIRCUIT	4,447	1,640	36.9	10	0.2	5	0.1	29	0.7	1	0.0
Connecticut	441	164	37.2	2	0.5	0	0.0	8	1.8	1	0.2
New York											
Eastern	965	283	29.3	1	0.1	3	0.3	6	0.6	0	0.0
Northern	616	298	48.4	3	0.5	0	0.0	1	0.2	0	0.0
Southern	1,532	513	33.5	0	0.0	1	0.1	10	0.7	0	0.0
Western	664	317	47.7	4	0.6	1	0.2	3	0.5	0	0.0
Vermont	229	65	28.4	0	0.0	0	0.0	1	0.4	0	0.0
THIRD CIRCUIT	2,843	1,238	43.5	6	0.2	2	0.1	28	1.0	3	0.1
Delaware	93	33	35.5	0	0.0	0	0.0	1	1.1	0	0.0
New Jersey	848	414	48.8	0	0.0	0	0.0	3	0.4	0	0.0
Pennsylvania											
Eastern	821	279	34.0	3	0.4	1	0.1	18	2.2	1	0.1
Middle	503	203	40.4	2	0.4	0	0.0	1	0.2	0	0.0
Western	514	276	53.7	1	0.2	1	0.2	3	0.6	0	0.0
Virgin Islands	64	33	51.6	0	0.0	0	0.0	2	3.1	2	3.1
FOURTH CIRCUIT	6,400	3,674	57.4	48	0.8	14	0.2	106	1.7	5	0.1
Maryland	1,021	333	32.6	9	0.9	1	0.1	26	2.5	2	0.2
North Carolina											
Eastern	770	420	54.5	17	2.2	4	0.5	12	1.6	0	0.0
Middle	421	309	73.4	2	0.5	1	0.2	8	1.9	1	0.2
Western	435	262	60.2	2	0.5	0	0.0	5	1.1	0	0.0
South Carolina	923	518	56.1	6	0.7	0	0.0	6	0.7	0	0.0
Virginia											
Eastern	1,831	1,298	70.9	9	0.5	6	0.3	29	1.6	1	0.1
Western	373	186	49.9	3	0.8	0	0.0	8	2.1	1	0.3
West Virginia											
Northern	324	195	60.2	0	0.0	1	0.3	7	2.2	0	0.0
Southern	302	153	50.7	0	0.0	1	0.3	5	1.7	0	0.0

CIRCUIT	§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	9,677	11.7	9,276	11.2	4,034	4.9	1,897	2.3	811	1.0	11,487	13.9	528	0.6
D.C. CIRCUIT	97	27.5	2	0.6	49	13.9	17	4.8	7	2.0	53	15.0	3	0.8
District of Columbia	97	27.5	2	0.6	49	13.9	17	4.8	7	2.0	53	15.0	3	0.8
FIRST CIRCUIT	209	8.4	21	0.8	200	8.0	54	2.2	25	1.0	343	13.7	23	0.9
Maine	38	19.9	0	0.0	1	0.5	11	5.8	0	0.0	22	11.5	3	1.6
Massachusetts	52	10.0	1	0.2	86	16.6	12	2.3	10	1.9	123	23.7	2	0.4
New Hampshire	36	22.8	0	0.0	15	9.5	4	2.5	3	1.9	31	19.6	0	0.0
Puerto Rico	72	5.0	20	1.4	88	6.1	27	1.9	12	0.8	77	5.4	18	1.3
Rhode Island	11	5.6	0	0.0	10	5.1	0	0.0	0	0.0	90	45.9	0	0.0
SECOND CIRCUIT	882	19.8	27	0.6	149	3.4	184	4.1	124	2.8	1,365	30.7	31	0.7
Connecticut	87	19.7	0	0.0	11	2.5	35	7.9	12	2.7	118	26.8	3	0.7
New York														
Eastern	170	17.6	8	0.8	63	6.5	55	5.7	47	4.9	321	33.3	8	0.8
Northern	152	24.7	0	0.0	8	1.3	16	2.6	4	0.6	126	20.5	8	1.3
Southern	246	16.1	19	1.2	15	1.0	46	3.0	43	2.8	629	41.1	10	0.7
Western	177	26.7	0	0.0	31	4.7	8	1.2	1	0.2	120	18.1	2	0.3
Vermont	50	21.8	0	0.0	21	9.2	24	10.5	17	7.4	51	22.3	0	0.0
THIRD CIRCUIT	702	24.7	13	0.5	174	6.1	33	1.2	38	1.3	578	20.3	28	1.0
Delaware	8	8.6	0	0.0	12	12.9	0	0.0	0	0.0	37	39.8	2	2.2
New Jersey	227	26.8	4	0.5	24	2.8	7	0.8	11	1.3	151	17.8	7	0.8
Pennsylvania														
Eastern	253	30.8	6	0.7	45	5.5	12	1.5	10	1.2	179	21.8	14	1.7
Middle	113	22.5	0	0.0	78	15.5	5	1.0	6	1.2	95	18.9	0	0.0
Western	89	17.3	3	0.6	14	2.7	8	1.6	11	2.1	104	20.2	4	0.8
Virgin Islands	12	18.8	0	0.0	1	1.6	1	1.6	0	0.0	12	18.8	1	1.6
FOURTH CIRCUIT	1,019	15.9	12	0.2	288	4.5	111	1.7	50	0.8	1,036	16.2	37	0.6
Maryland	273	26.7	7	0.7	135	13.2	18	1.8	19	1.9	188	18.4	10	1.0
North Carolina														
Eastern	241	31.3	0	0.0	1	0.1	7	0.9	5	0.6	55	7.1	8	1.0
Middle	45	10.7	0	0.0	1	0.2	3	0.7	0	0.0	50	11.9	1	0.2
Western	91	20.9	0	0.0	20	4.6	5	1.1	4	0.9	45	10.3	1	0.2
South Carolina	159	17.2	2	0.2	38	4.1	13	1.4	0	0.0	177	19.2	4	0.4
Virginia														
Eastern	55	3.0	2	0.1	45	2.5	52	2.8	18	1.0	307	16.8	9	0.5
Western	94	25.2	0	0.0	14	3.8	12	3.2	3	0.8	51	13.7	1	0.3
West Virginia														
Northern	31	9.6	1	0.3	27	8.3	0	0.0	0	0.0	61	18.8	1	0.3
Southern	30	9.9	0	0.0	7	2.3	1	0.3	1	0.3	102	33.8	2	0.7

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	18,750	13,054	69.6	107	0.6	44	0.2	275	1.5	16	0.1
Louisiana											
Eastern	361	214	59.3	9	2.5	5	1.4	17	4.7	2	0.6
Middle	230	132	57.4	4	1.7	0	0.0	4	1.7	0	0.0
Western	393	228	58.0	4	1.0	6	1.5	18	4.6	1	0.3
Mississippi											
Northern	169	115	68.0	0	0.0	0	0.0	6	3.6	0	0.0
Southern	278	216	77.7	0	0.0	0	0.0	5	1.8	0	0.0
Texas											
Eastern	921	626	68.0	16	1.7	1	0.1	10	1.1	1	0.1
Northern	998	553	55.4	10	1.0	24	2.4	28	2.8	1	0.1
Southern	6,575	4,053	61.6	43	0.7	5	0.1	36	0.5	4	0.1
Western	8,825	6,917	78.4	21	0.2	3	0.0	151	1.7	7	0.1
SIXTH CIRCUIT	5,566	2,758	49.6	25	0.4	11	0.2	83	1.5	6	0.1
Kentucky											
Eastern	501	274	54.7	3	0.6	2	0.4	9	1.8	0	0.0
Western	411	262	63.7	0	0.0	0	0.0	0	0.0	0	0.0
Michigan											
Eastern	903	477	52.8	1	0.1	0	0.0	9	1.0	0	0.0
Western	465	269	57.8	4	0.9	3	0.6	11	2.4	1	0.2
Ohio											
Northern	908	408	44.9	1	0.1	0	0.0	15	1.7	2	0.2
Southern	628	185	29.5	4	0.6	0	0.0	6	1.0	0	0.0
Tennessee											
Eastern	857	507	59.2	2	0.2	2	0.2	15	1.8	1	0.1
Middle	316	111	35.1	4	1.3	1	0.3	10	3.2	1	0.3
Western	577	265	45.9	6	1.0	3	0.5	8	1.4	1	0.2
SEVENTH CIRCUIT	3,166	1,531	48.4	15	0.5	8	0.3	44	1.4	4	0.1
Illinois											
Central	416	240	57.7	2	0.5	0	0.0	7	1.7	0	0.0
Northern	845	337	39.9	2	0.2	2	0.2	7	0.8	0	0.0
Southern	413	299	72.4	5	1.2	2	0.5	6	1.5	2	0.5
Indiana											
Northern	404	233	57.7	2	0.5	2	0.5	4	1.0	0	0.0
Southern	432	221	51.2	2	0.5	0	0.0	14	3.2	1	0.2
Wisconsin											
Eastern	500	122	24.4	0	0.0	0	0.0	6	1.2	1	0.2
Western	156	79	50.6	2	1.3	2	1.3	0	0.0	0	0.0
EIGHTH CIRCUIT	4,896	2,584	52.8	31	0.6	8	0.2	82	1.7	2	0.0
Arkansas											
Eastern	396	243	61.4	0	0.0	1	0.3	18	4.5	0	0.0
Western	326	230	70.6	1	0.3	0	0.0	0	0.0	0	0.0
Iowa											
Northern	390	223	57.2	11	2.8	3	0.8	6	1.5	0	0.0
Southern	426	143	33.6	0	0.0	0	0.0	2	0.5	0	0.0
Minnesota											
	446	136	30.5	0	0.0	0	0.0	5	1.1	0	0.0
Missouri											
Eastern	790	406	51.4	1	0.1	2	0.3	13	1.6	0	0.0
Western	775	402	51.9	3	0.4	0	0.0	22	2.8	1	0.1
Nebraska											
	600	339	56.5	1	0.2	0	0.0	9	1.5	0	0.0
North Dakota											
	288	150	52.1	1	0.3	0	0.0	4	1.4	1	0.3
South Dakota											
	459	312	68.0	13	2.8	2	0.4	3	0.7	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	%
FIFTH CIRCUIT	1,484	7.9	763	4.1	400	2.1	691	3.7	70	0.4	1,675	8.9	171	0.9
Louisiana														
Eastern	43	11.9	2	0.6	12	3.3	6	1.7	10	2.8	37	10.2	4	1.1
Middle	38	16.5	11	4.8	2	0.9	0	0.0	0	0.0	39	17.0	0	0.0
Western	56	14.2	1	0.3	4	1.0	2	0.5	3	0.8	70	17.8	0	0.0
Mississippi														
Northern	27	16.0	0	0.0	3	1.8	1	0.6	0	0.0	17	10.1	0	0.0
Southern	24	8.6	0	0.0	3	1.1	5	1.8	0	0.0	23	8.3	2	0.7
Texas														
Eastern	85	9.2	8	0.9	105	11.4	19	2.1	2	0.2	44	4.8	4	0.4
Northern	181	18.1	13	1.3	54	5.4	12	1.2	5	0.5	117	11.7	0	0.0
Southern	475	7.2	686	10.4	88	1.3	470	7.1	29	0.4	677	10.3	9	0.1
Western	555	6.3	42	0.5	129	1.5	176	2.0	21	0.2	651	7.4	152	1.7
SIXTH CIRCUIT	1,178	21.2	31	0.6	273	4.9	93	1.7	92	1.7	989	17.8	27	0.5
Kentucky														
Eastern	109	21.8	0	0.0	18	3.6	2	0.4	2	0.4	82	16.4	0	0.0
Western	61	14.8	18	4.4	21	5.1	8	1.9	3	0.7	38	9.2	0	0.0
Michigan														
Eastern	145	16.1	3	0.3	33	3.7	10	1.1	11	1.2	211	23.4	3	0.3
Western	54	11.6	0	0.0	4	0.9	14	3.0	14	3.0	90	19.4	1	0.2
Ohio														
Northern	261	28.7	0	0.0	27	3.0	9	1.0	8	0.9	166	18.3	11	1.2
Southern	167	26.6	7	1.1	74	11.8	25	4.0	26	4.1	128	20.4	6	1.0
Tennessee														
Eastern	207	24.2	0	0.0	12	1.4	14	1.6	6	0.7	89	10.4	2	0.2
Middle	59	18.7	0	0.0	59	18.7	4	1.3	4	1.3	63	19.9	0	0.0
Western	115	19.9	3	0.5	25	4.3	7	1.2	18	3.1	122	21.1	4	0.7
SEVENTH CIRCUIT	474	15.0	19	0.6	163	5.1	77	2.4	114	3.6	676	21.4	41	1.3
Illinois														
Central	59	14.2	0	0.0	12	2.9	8	1.9	9	2.2	78	18.8	1	0.2
Northern	122	14.4	15	1.8	18	2.1	26	3.1	69	8.2	221	26.2	26	3.1
Southern	20	4.8	0	0.0	12	2.9	7	1.7	22	5.3	32	7.7	6	1.5
Indiana														
Northern	85	21.0	1	0.2	22	5.4	5	1.2	4	1.0	44	10.9	2	0.5
Southern	67	15.5	0	0.0	33	7.6	5	1.2	0	0.0	89	20.6	0	0.0
Wisconsin														
Eastern	111	22.2	1	0.2	65	13.0	1	0.2	0	0.0	187	37.4	6	1.2
Western	10	6.4	2	1.3	1	0.6	25	16.0	10	6.4	25	16.0	0	0.0
EIGHTH CIRCUIT	744	15.2	74	1.5	241	4.9	91	1.9	49	1.0	968	19.8	22	0.4
Arkansas														
Eastern	41	10.4	0	0.0	9	2.3	5	1.3	7	1.8	69	17.4	3	0.8
Western	47	14.4	5	1.5	3	0.9	4	1.2	0	0.0	36	11.0	0	0.0
Iowa														
Northern	84	21.5	0	0.0	12	3.1	1	0.3	0	0.0	50	12.8	0	0.0
Southern	106	24.9	1	0.2	54	12.7	0	0.0	3	0.7	114	26.8	3	0.7
Minnesota														
	94	21.1	4	0.9	7	1.6	10	2.2	8	1.8	181	40.6	1	0.2
Missouri														
Eastern	108	13.7	1	0.1	54	6.8	13	1.6	18	2.3	171	21.6	3	0.4
Western	145	18.7	0	0.0	37	4.8	7	0.9	4	0.5	151	19.5	3	0.4
Nebraska														
	36	6.0	51	8.5	39	6.5	5	0.8	3	0.5	111	18.5	6	1.0
North Dakota														
	75	26.0	9	3.1	10	3.5	6	2.1	2	0.7	28	9.7	2	0.7
South Dakota														
	8	1.7	3	0.7	16	3.5	40	8.7	4	0.9	57	12.4	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	20,847	7,870	37.8	159	0.8	19	0.1	135	0.6	26	0.1
Alaska	209	75	35.9	0	0.0	2	1.0	2	1.0	0	0.0
Arizona	8,502	3,832	45.1	119	1.4	5	0.1	25	0.3	4	0.0
California											
Central	1,795	551	30.7	7	0.4	2	0.1	27	1.5	2	0.1
Eastern	1,034	453	43.8	4	0.4	1	0.1	10	1.0	1	0.1
Northern	747	315	42.2	0	0.0	4	0.5	12	1.6	0	0.0
Southern	5,304	1,211	22.8	10	0.2	0	0.0	13	0.2	16	0.3
Guam	58	31	53.4	0	0.0	0	0.0	0	0.0	0	0.0
Hawaii	241	99	41.1	1	0.4	0	0.0	2	0.8	0	0.0
Idaho	283	135	47.7	2	0.7	0	0.0	2	0.7	0	0.0
Montana	390	247	63.3	4	1.0	0	0.0	9	2.3	1	0.3
Nevada	620	333	53.7	6	1.0	0	0.0	12	1.9	1	0.2
Northern Mariana Islands	15	12	80.0	0	0.0	1	6.7	0	0.0	0	0.0
Oregon	626	188	30.0	1	0.2	0	0.0	7	1.1	1	0.2
Washington											
Eastern	304	121	39.8	2	0.7	3	1.0	6	2.0	0	0.0
Western	719	267	37.1	3	0.4	1	0.1	8	1.1	0	0.0
TENTH CIRCUIT	6,073	3,297	54.3	27	0.4	2	0.0	48	0.8	2	0.0
Colorado	565	233	41.2	0	0.0	0	0.0	3	0.5	0	0.0
Kansas	699	342	48.9	2	0.3	1	0.1	20	2.9	0	0.0
New Mexico	3,050	1,851	60.7	13	0.4	1	0.0	8	0.3	2	0.1
Oklahoma											
Eastern	92	55	59.8	0	0.0	0	0.0	1	1.1	0	0.0
Northern	203	127	62.6	2	1.0	0	0.0	0	0.0	0	0.0
Western	515	328	63.7	2	0.4	0	0.0	12	2.3	0	0.0
Utah	675	226	33.5	5	0.7	0	0.0	3	0.4	0	0.0
Wyoming	274	135	49.3	3	1.1	0	0.0	1	0.4	0	0.0
ELEVENTH CIRCUIT	6,837	4,014	58.7	7	0.1	10	0.1	100	1.5	5	0.1
Alabama											
Middle	210	104	49.5	1	0.5	0	0.0	6	2.9	0	0.0
Northern	438	286	65.3	0	0.0	0	0.0	2	0.5	2	0.5
Southern	452	272	60.2	0	0.0	0	0.0	2	0.4	0	0.0
Florida											
Middle	1,687	768	45.5	2	0.1	2	0.1	19	1.1	1	0.1
Northern	348	222	63.8	0	0.0	0	0.0	2	0.6	1	0.3
Southern	2,122	1,308	61.6	1	0.0	5	0.2	27	1.3	1	0.0
Georgia											
Middle	415	318	76.6	0	0.0	3	0.7	6	1.4	0	0.0
Northern	640	311	48.6	3	0.5	0	0.0	13	2.0	0	0.0
Southern	525	425	81.0	0	0.0	0	0.0	23	4.4	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	%
NINTH CIRCUIT	1,491	7.2	7,419	35.6	1,333	6.4	390	1.9	114	0.5	1,792	8.6	99	0.5
Alaska	48	23.0	0	0.0	33	15.8	0	0.0	3	1.4	46	22.0	0	0.0
Arizona	236	2.8	3,489	41.0	265	3.1	104	1.2	18	0.2	390	4.6	15	0.2
California														
Central	234	13.0	387	21.6	170	9.5	56	3.1	31	1.7	283	15.8	45	2.5
Eastern	125	12.1	273	26.4	46	4.4	10	1.0	2	0.2	106	10.3	3	0.3
Northern	84	11.2	80	10.7	121	16.2	6	0.8	13	1.7	111	14.9	1	0.1
Southern	367	6.9	2,951	55.6	221	4.2	168	3.2	27	0.5	302	5.7	18	0.3
Guam	19	32.8	0	0.0	1	1.7	1	1.7	0	0.0	6	10.3	0	0.0
Hawaii	54	22.4	0	0.0	2	0.8	2	0.8	0	0.0	78	32.4	3	1.2
Idaho	59	20.8	22	7.8	10	3.5	6	2.1	2	0.7	42	14.8	3	1.1
Montana	58	14.9	0	0.0	14	3.6	1	0.3	0	0.0	55	14.1	1	0.3
Nevada	70	11.3	34	5.5	51	8.2	20	3.2	1	0.2	87	14.0	5	0.8
Northern Mariana Islands	1	6.7	0	0.0	1	6.7	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	79	12.6	114	18.2	107	17.1	5	0.8	3	0.5	121	19.3	0	0.0
Washington														
Eastern	18	5.9	29	9.5	56	18.4	3	1.0	5	1.6	59	19.4	2	0.7
Western	39	5.4	40	5.6	235	32.7	8	1.1	9	1.3	106	14.7	3	0.4
TENTH CIRCUIT	404	6.7	832	13.7	568	9.4	91	1.5	44	0.7	734	12.1	24	0.4
Colorado	116	20.5	46	8.1	87	15.4	3	0.5	4	0.7	72	12.7	1	0.2
Kansas	74	10.6	19	2.7	120	17.2	9	1.3	4	0.6	104	14.9	4	0.6
New Mexico	79	2.6	562	18.4	230	7.5	51	1.7	23	0.8	214	7.0	16	0.5
Oklahoma														
Eastern	17	18.5	0	0.0	4	4.3	0	0.0	2	2.2	13	14.1	0	0.0
Northern	35	17.2	1	0.5	0	0.0	5	2.5	1	0.5	32	15.8	0	0.0
Western	30	5.8	0	0.0	9	1.7	4	0.8	2	0.4	127	24.7	1	0.2
Utah	35	5.2	190	28.1	68	10.1	14	2.1	3	0.4	129	19.1	2	0.3
Wyoming	18	6.6	14	5.1	50	18.2	5	1.8	5	1.8	43	15.7	0	0.0
ELEVENTH CIRCUIT	993	14.5	63	0.9	196	2.9	65	1.0	84	1.2	1,278	18.7	22	0.3
Alabama														
Middle	57	27.1	4	1.9	8	3.8	2	1.0	1	0.5	27	12.9	0	0.0
Northern	88	20.1	0	0.0	1	0.2	1	0.2	2	0.5	55	12.6	1	0.2
Southern	79	17.5	0	0.0	2	0.4	4	0.9	1	0.2	92	20.4	0	0.0
Florida														
Middle	337	20.0	26	1.5	30	1.8	26	1.5	23	1.4	450	26.7	3	0.2
Northern	58	16.7	3	0.9	0	0.0	7	2.0	7	2.0	47	13.5	1	0.3
Southern	216	10.2	24	1.1	50	2.4	10	0.5	45	2.1	424	20.0	11	0.5
Georgia														
Middle	36	8.7	5	1.2	6	1.4	1	0.2	1	0.2	38	9.2	1	0.2
Northern	77	12.0	0	0.0	94	14.7	12	1.9	3	0.5	126	19.7	1	0.2
Southern	45	8.6	1	0.2	5	1.0	2	0.4	1	0.2	19	3.6	4	0.8

Of the 84,173 cases, 1,499 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: Western Louisiana (9.7%), Middle Georgia (8.6%), Eastern North Carolina (5.6%), and Western Texas (5.4%).

SOURCE: U.S. Sentencing Commission, 2012 Datafile, USSCFY12.

Table 10

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY SELECTED PRIMARY OFFENSE CATEGORY
Fiscal Year 2012**

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	82,674	43,333	52.4	451	0.5	127	0.2	977	1.2	76	0.1
Robbery	849	463	54.5	10	1.2	5	0.6	22	2.6	1	0.1
Drugs - Trafficking	24,711	10,595	42.9	66	0.3	15	0.1	121	0.5	9	0.0
Drugs - Simple Possession	1,119	1,090	97.4	3	0.3	0	0.0	3	0.3	0	0.0
Firearms	8,096	4,764	58.8	76	0.9	28	0.3	204	2.5	15	0.2
Larceny	1,322	920	69.6	3	0.2	3	0.2	18	1.4	0	0.0
Fraud	8,237	4,154	50.4	37	0.4	16	0.2	111	1.3	10	0.1
Embezzlement	322	185	57.5	0	0.0	0	0.0	1	0.3	0	0.0
Forgery/Counterfeiting	874	572	65.4	3	0.3	7	0.8	19	2.2	0	0.0
Immigration	26,255	14,897	56.7	166	0.6	26	0.1	248	0.9	26	0.1
Other Miscellaneous Offenses	10,889	5,693	52.3	87	0.8	27	0.2	230	2.1	15	0.1

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	664	317	47.7	4	0.6	1	0.2	3	0.5	0	0.0
Robbery	3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	221	56	25.3	1	0.5	1	0.5	0	0.0	0	0.0
Drugs - Simple Possession	9	7	77.8	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	68	30	44.1	2	2.9	0	0.0	1	1.5	0	0.0
Larceny	20	10	50.0	0	0.0	0	0.0	0	0.0	0	0.0
Fraud	86	47	54.7	1	1.2	0	0.0	1	1.2	0	0.0
Embezzlement	4	2	50.0	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	3	2	66.7	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	130	117	90.0	0	0.0	0	0.0	0	0.0	0	0.0
Other Miscellaneous Offenses	120	46	38.3	0	0.0	0	0.0	1	0.8	0	0.0

National

PRIMARY OFFENSE	§5K1.1		§5K3.1		OTHER		BELOW		BELOW RANGE		BELOW		REMAINING	
	SUBSTANTIAL		EARLY		GOV'T		RANGE		DEPARTURE		RANGE		BELOW	
	ASSISTANCE	DISPOSITION	SPONSORED	DEPARTURE	W/BOOKER	W/BOOKER	RANGE	DEPARTURE	W/BOOKER	W/BOOKER	RANGE	BELOW	RANGE	BELOW
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	9,677	11.7	9,276	11.2	4,034	4.9	1,897	2.3	811	1.0	11,487	13.9	528	0.6
Robbery	90	10.6	3	0.4	59	6.9	22	2.6	13	1.5	157	18.5	4	0.5
Drugs - Trafficking	5,806	23.5	1,995	8.1	1,338	5.4	511	2.1	292	1.2	3,856	15.6	107	0.4
Drugs - Simple Possession	4	0.4	2	0.2	4	0.4	0	0.0	0	0.0	7	0.6	6	0.5
Firearms	858	10.6	12	0.1	531	6.6	167	2.1	88	1.1	1,300	16.1	53	0.7
Larceny	80	6.1	0	0.0	49	3.7	23	1.7	14	1.1	198	15.0	14	1.1
Fraud	1,442	17.5	10	0.1	499	6.1	145	1.8	120	1.5	1,602	19.4	91	1.1
Embezzlement	11	3.4	1	0.3	17	5.3	6	1.9	5	1.6	87	27.0	9	2.8
Forgery/Counterfeiting	70	8.0	2	0.2	30	3.4	14	1.6	6	0.7	141	16.1	10	1.1
Immigration	274	1.0	7,223	27.5	485	1.8	764	2.9	106	0.4	1,884	7.2	156	0.6
Other Miscellaneous Offenses	1,042	9.6	28	0.3	1,022	9.4	245	2.2	167	1.5	2,255	20.7	78	0.7

Western New York

PRIMARY OFFENSE	§5K1.1		§5K3.1		OTHER		BELOW		BELOW RANGE		BELOW		REMAINING	
	SUBSTANTIAL		EARLY		GOV'T		RANGE		DEPARTURE		RANGE		BELOW	
	ASSISTANCE	DISPOSITION	SPONSORED	DEPARTURE	W/BOOKER	W/BOOKER	RANGE	DEPARTURE	W/BOOKER	W/BOOKER	RANGE	BELOW	RANGE	BELOW
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	177	26.7	0	0.0	31	4.7	8	1.2	1	0.2	120	18.1	2	0.3
Robbery	1	33.3	0	0.0	0	0.0	1	33.3	0	0.0	1	33.3	0	0.0
Drugs - Trafficking	120	54.3	0	0.0	10	4.5	1	0.5	0	0.0	32	14.5	0	0.0
Drugs - Simple Possession	1	11.1	0	0.0	1	11.1	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	22	32.4	0	0.0	6	8.8	1	1.5	0	0.0	6	8.8	0	0.0
Larceny	0	0.0	0	0.0	1	5.0	1	5.0	0	0.0	8	40.0	0	0.0
Fraud	11	12.8	0	0.0	3	3.5	0	0.0	1	1.2	21	24.4	1	1.2
Embezzlement	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	2	50.0	0	0.0
Forgery/Counterfeiting	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1	33.3	0	0.0
Immigration	1	0.8	0	0.0	1	0.8	1	0.8	0	0.0	10	7.7	0	0.0
Other Miscellaneous Offenses	21	17.5	0	0.0	9	7.5	3	2.5	0	0.0	39	32.5	1	0.8

Of the 84,173 guideline cases, 1,499 cases were excluded due to missing information from the submitted documents that prevented the comparison of the sentence and the guideline range.

Of the 665 guideline cases from the Western District of New York, one case was excluded due to missing information from the from the submitted documents that prevented the comparison of the sentence and the guideline range.

SOURCE: U.S. Sentencing Commission, 2012 Datafile, USSCFY12.