

United States Sentencing Commission



Statistical Information Packet

Fiscal Year 2016

Tenth Circuit

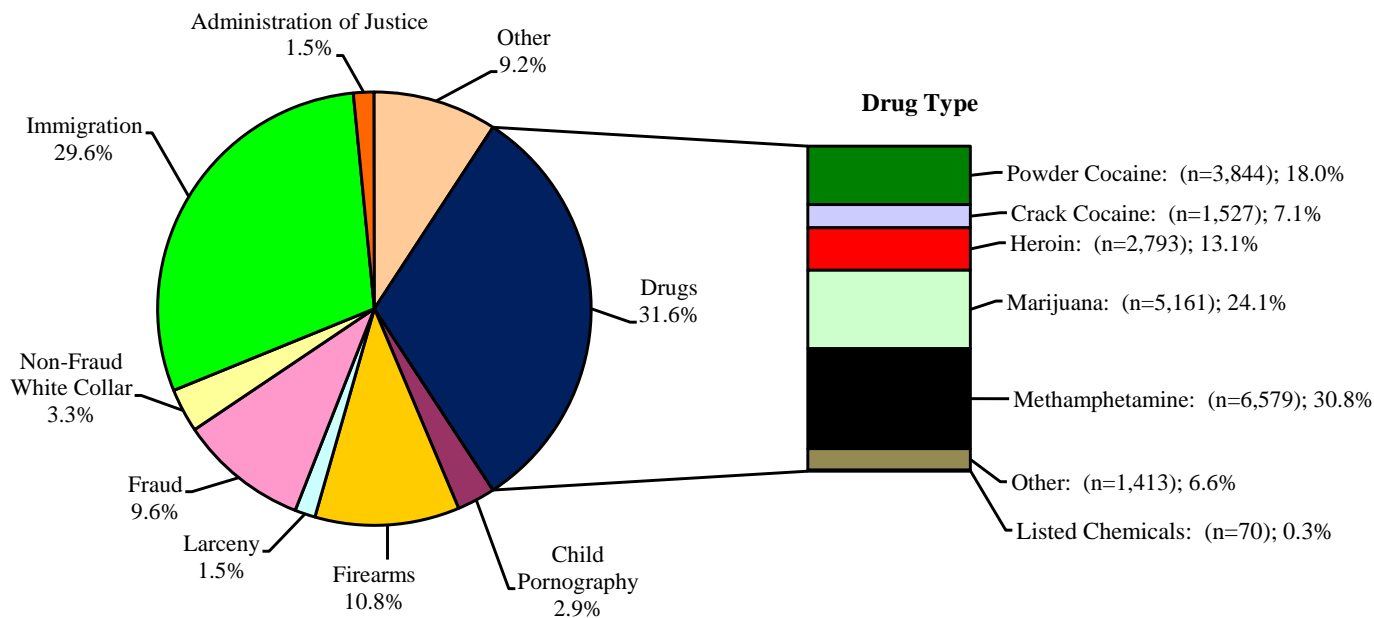
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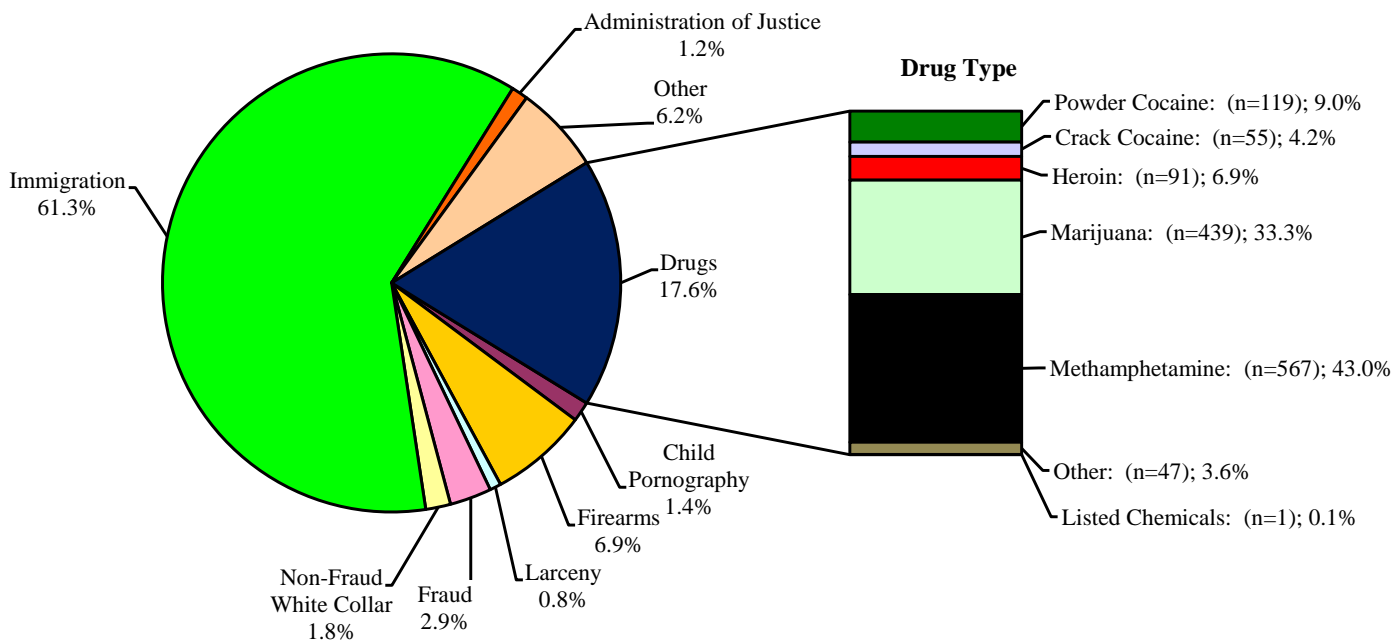
Figure A

OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2016

National



Tenth Circuit



¹ Of the 67,742 guideline cases, no cases were excluded.

Of the 7,505 guideline cases from the Tenth Circuit, no cases were excluded.

The Drugs category includes the following offense types: trafficking, use of a communication facility, and simple possession. 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 2016**

PRIMARY OFFENSE	National		Tenth Circuit	
	N	%	N	%
TOTAL	67,742	100.0	7,505	100.0
Murder	85	0.1	13	0.2
Manslaughter	57	0.1	20	0.3
Kidnapping/Hostage Taking	39	0.1	1	0.0
Sexual Abuse	620	0.9	41	0.5
Assault	808	1.2	87	1.2
Robbery	702	1.0	61	0.8
Arson	46	0.1	3	0.0
Drugs - Trafficking	19,232	28.4	1,227	16.3
Drugs - Communication Facility	271	0.4	37	0.5
Drugs - Simple Possession	1,884	2.8	55	0.7
Firearms	7,305	10.8	519	6.9
Burglary/B&E	23	0.0	4	0.1
Auto Theft	45	0.1	1	0.0
Larceny	1,034	1.5	60	0.8
Fraud	6,517	9.6	221	2.9
Embezzlement	321	0.5	33	0.4
Forgery/Counterfeiting	450	0.7	29	0.4
Bribery	197	0.3	2	0.0
Tax	523	0.8	38	0.5
Money Laundering	724	1.1	30	0.4
Racketeering/Extortion	914	1.3	60	0.8
Gambling/Lottery	74	0.1	3	0.0
Civil Rights	43	0.1	1	0.0
Immigration	20,051	29.6	4,597	61.3
Child Pornography	1,937	2.9	106	1.4
Prison Offenses	475	0.7	44	0.6
Administration of Justice Offenses	1,041	1.5	87	1.2
Environmental/Wildlife	156	0.2	9	0.1
National Defense	100	0.1	2	0.0
Antitrust	21	0.0	0	0.0
Food & Drug	114	0.2	5	0.1
Other Miscellaneous Offenses	1,933	2.9	109	1.5

Of the 67,742 guideline cases, no cases were excluded.

Of the 7,505 guideline cases from the Tenth Circuit, no cases were excluded.

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Table 2

**GUILTY PLEAS AND TRIALS IN EACH CIRCUIT AND DISTRICT
Fiscal Year 2016**

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	67,742	65,893	97.3	1,849	2.7
D.C. CIRCUIT	255	249	97.6	6	2.4
District of Columbia	255	249	97.6	6	2.4
FIRST CIRCUIT	2,051	1,988	96.9	63	3.1
Maine	202	193	95.5	9	4.5
Massachusetts	496	472	95.2	24	4.8
New Hampshire	177	172	97.2	5	2.8
Puerto Rico	1,086	1,061	97.7	25	2.3
Rhode Island	90	90	100.0	0	0.0
SECOND CIRCUIT	3,420	3,287	96.1	133	3.9
Connecticut	304	297	97.7	7	2.3
New York					
Eastern	796	755	94.8	41	5.2
Northern	317	297	93.7	20	6.3
Southern	1,350	1,301	96.4	49	3.6
Western	465	450	96.8	15	3.2
Vermont	188	187	99.5	1	0.5
THIRD CIRCUIT	2,095	1,982	94.6	113	5.4
Delaware	72	67	93.1	5	6.9
New Jersey	669	626	93.6	43	6.4
Pennsylvania					
Eastern	585	548	93.7	37	6.3
Middle	306	295	96.4	11	3.6
Western	404	390	96.5	14	3.5
Virgin Islands	59	56	94.9	3	5.1
FOURTH CIRCUIT	5,345	5,166	96.7	179	3.3
Maryland	733	700	95.5	33	4.5
North Carolina					
Eastern	651	635	97.5	16	2.5
Middle	423	418	98.8	5	1.2
Western	658	640	97.3	18	2.7
South Carolina	627	612	97.6	15	2.4
Virginia					
Eastern	1,413	1,347	95.3	66	4.7
Western	313	297	94.9	16	5.1
West Virginia					
Northern	310	303	97.7	7	2.3
Southern	217	214	98.6	3	1.4

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
FIFTH CIRCUIT	16,074	15,850	98.6	224	1.4
Louisiana					
Eastern	341	325	95.3	16	4.7
Middle	163	157	96.3	6	3.7
Western	252	242	96.0	10	4.0
Mississippi					
Northern	169	166	98.2	3	1.8
Southern	238	234	98.3	4	1.7
Texas					
Eastern	827	805	97.3	22	2.7
Northern	1,374	1,340	97.5	34	2.5
Southern	6,482	6,411	98.9	71	1.1
Western	6,228	6,170	99.1	58	0.9
SIXTH CIRCUIT	4,523	4,382	96.9	141	3.1
Kentucky					
Eastern	439	415	94.5	24	5.5
Western	332	328	98.8	4	1.2
Michigan					
Eastern	901	864	95.9	37	4.1
Western	330	319	96.7	11	3.3
Ohio					
Northern	585	564	96.4	21	3.6
Southern	502	491	97.8	11	2.2
Tennessee					
Eastern	748	737	98.5	11	1.5
Middle	220	212	96.4	8	3.6
Western	466	452	97.0	14	3.0
SEVENTH CIRCUIT	2,272	2,163	95.2	109	4.8
Illinois					
Central	259	248	95.8	11	4.2
Northern	640	574	89.7	66	10.3
Southern	317	312	98.4	5	1.6
Indiana					
Northern	300	289	96.3	11	3.7
Southern	330	318	96.4	12	3.6
Wisconsin					
Eastern	301	298	99.0	3	1.0
Western	125	124	99.2	1	0.8
EIGHTH CIRCUIT	4,744	4,585	96.6	159	3.4
Arkansas					
Eastern	378	371	98.1	7	1.9
Western	253	249	98.4	4	1.6
Iowa					
Northern	348	335	96.3	13	3.7
Southern	353	334	94.6	19	5.4
Minnesota	494	459	92.9	35	7.1
Missouri					
Eastern	740	728	98.4	12	1.6
Western	835	814	97.5	21	2.5
Nebraska	542	531	98.0	11	2.0
North Dakota	361	346	95.8	15	4.2
South Dakota	440	418	95.0	22	5.0

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
NINTH CIRCUIT	13,398	13,044	97.4	354	2.6
Alaska	182	174	95.6	8	4.4
Arizona	5,769	5,731	99.3	38	0.7
California					
Central	964	903	93.7	61	6.3
Eastern	672	624	92.9	48	7.1
Northern	464	434	93.5	30	6.5
Southern	2,849	2,789	97.9	60	2.1
Guam	67	65	97.0	2	3.0
Hawaii	141	128	90.8	13	9.2
Idaho	259	249	96.1	10	3.9
Montana	321	304	94.7	17	5.3
Nevada	401	381	95.0	20	5.0
Northern Mariana Islands	22	20	90.9	2	9.1
Oregon	448	437	97.5	11	2.5
Washington					
Eastern	305	290	95.1	15	4.9
Western	534	515	96.4	19	3.6
TENTH CIRCUIT	7,505	7,424	98.9	81	1.1
Colorado	483	466	96.5	17	3.5
Kansas	491	471	95.9	20	4.1
New Mexico	4,988	4,979	99.8	9	0.2
Oklahoma					
Eastern	100	97	97.0	3	3.0
Northern	213	210	98.6	3	1.4
Western	330	322	97.6	8	2.4
Utah	684	670	98.0	14	2.0
Wyoming	216	209	96.8	7	3.2
ELEVENTH CIRCUIT	6,060	5,773	95.3	287	4.7
Alabama					
Middle	157	148	94.3	9	5.7
Northern	361	350	97.0	11	3.0
Southern	317	307	96.8	10	3.2
Florida					
Middle	1,415	1,333	94.2	82	5.8
Northern	262	243	92.7	19	7.3
Southern	2,234	2,125	95.1	109	4.9
Georgia					
Middle	368	349	94.8	19	5.2
Northern	542	518	95.6	24	4.4
Southern	404	400	99.0	4	1.0

Of the 67,742 guideline cases, no cases were excluded.

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Table 3

**GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY
Fiscal Year 2016**

PRIMARY OFFENSE	TOTAL	National				Tenth Circuit			
		PLEA		TRIAL		PLEA		TRIAL	
		N	%	N	%	N	%	N	%
TOTAL	67,742	65,893	97.3	1,849	2.7	7,424	98.9	81	1.1
Murder	85	66	77.6	19	22.4	8	61.5	5	38.5
Manslaughter	57	55	96.5	2	3.5	20	100.0	0	0.0
Kidnapping/Hostage Taking	39	31	79.5	8	20.5	1	100.0	0	0.0
Sexual Abuse	620	533	86.0	87	14.0	39	95.1	2	4.9
Assault	808	765	94.7	43	5.3	83	95.4	4	4.6
Robbery	702	686	97.7	16	2.3	60	98.4	1	1.6
Arson	46	44	95.7	2	4.3	3	100.0	0	0.0
Drugs - Trafficking	19,232	18,767	97.6	465	2.4	1,201	97.9	26	2.1
Drugs - Communication Facility	271	270	99.6	1	0.4	37	100.0	0	0.0
Drugs - Simple Possession	1,884	1,878	99.7	6	0.3	55	100.0	0	0.0
Firearms	7,305	6,946	95.1	359	4.9	505	97.3	14	2.7
Burglary/B&E	23	23	100.0	0	0.0	4	100.0	0	0.0
Auto Theft	45	42	93.3	3	6.7	1	100.0	0	0.0
Larceny	1,034	1,006	97.3	28	2.7	59	98.3	1	1.7
Fraud	6,517	6,156	94.5	361	5.5	214	96.8	7	3.2
Embezzlement	321	315	98.1	6	1.9	33	100.0	0	0.0
Forgery/Counterfeiting	450	441	98.0	9	2.0	29	100.0	0	0.0
Bribery	197	184	93.4	13	6.6	1	50.0	1	50.0
Tax	523	491	93.9	32	6.1	35	92.1	3	7.9
Money Laundering	724	693	95.7	31	4.3	30	100.0	0	0.0
Racketeering/Extortion	914	861	94.2	53	5.8	59	98.3	1	1.7
Gambling/Lottery	74	69	93.2	5	6.8	3	100.0	0	0.0
Civil Rights	43	38	88.4	5	11.6	1	100.0	0	0.0
Immigration	20,051	19,960	99.5	91	0.5	4,596	100.0	1	0.0
Child Pornography	1,937	1,868	96.4	69	3.6	104	98.1	2	1.9
Prison Offenses	475	473	99.6	2	0.4	44	100.0	0	0.0
Administration of Justice Offenses	1,041	984	94.5	57	5.5	83	95.4	4	4.6
Environmental/Wildlife	156	146	93.6	10	6.4	7	77.8	2	22.2
National Defense	100	98	98.0	2	2.0	2	100.0	0	0.0
Antitrust	21	20	95.2	1	4.8	0	--	0	--
Food & Drug	114	112	98.2	2	1.8	5	100.0	0	0.0
Other Miscellaneous Offenses	1,933	1,872	96.8	61	3.2	102	93.6	7	6.4

Of the 67,742 guideline cases, no cases were excluded.

Of the 7,505 guideline cases from the Tenth Circuit, no cases were excluded.

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Table 4

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2016**

National

PRIMARY OFFENSE	TOTAL	Prison Only		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
TOTAL	67,238	58,832	87.5	1,876	2.8	1,654	2.5	4,876	7.3
Murder	85	81	95.3	4	4.7	0	0.0	0	0.0
Manslaughter	57	53	93.0	3	5.3	1	1.8	0	0.0
Kidnapping/Hostage Taking	39	37	94.9	1	2.6	0	0.0	1	2.6
Sexual Abuse	620	589	95.0	18	2.9	3	0.5	10	1.6
Assault	800	614	76.8	51	6.4	28	3.5	107	13.4
Robbery	702	658	93.7	30	4.3	7	1.0	7	1.0
Arson	46	43	93.5	0	0.0	1	2.2	2	4.3
Drugs - Trafficking	19,229	17,913	93.2	547	2.8	257	1.3	512	2.7
Drugs - Communication Facility	271	194	71.6	10	3.7	15	5.5	52	19.2
Drugs - Simple Possession	1,839	1,596	86.8	4	0.2	12	0.7	227	12.3
Firearms	7,297	6,806	93.3	179	2.5	117	1.6	195	2.7
Burglary/B&E	23	14	60.9	5	21.7	2	8.7	2	8.7
Auto Theft	45	37	82.2	3	6.7	0	0.0	5	11.1
Larceny	987	374	37.9	40	4.1	134	13.6	439	44.5
Fraud	6,491	4,666	71.9	412	6.3	458	7.1	955	14.7
Embezzlement	314	112	35.7	18	5.7	39	12.4	145	46.2
Forgery/Counterfeiting	449	325	72.4	35	7.8	26	5.8	63	14.0
Bribery	196	138	70.4	13	6.6	21	10.7	24	12.2
Tax	523	273	52.2	41	7.8	62	11.9	147	28.1
Money Laundering	724	533	73.6	36	5.0	37	5.1	118	16.3
Racketeering/Extortion	913	829	90.8	18	2.0	24	2.6	42	4.6
Gambling/Lottery	74	20	27.0	5	6.8	9	12.2	40	54.1
Civil Rights	43	25	58.1	0	0.0	8	18.6	10	23.3
Immigration	20,046	18,986	94.7	209	1.0	147	0.7	704	3.5
Child Pornography	1,936	1,877	97.0	38	2.0	7	0.4	14	0.7
Prison Offenses	474	426	89.9	29	6.1	5	1.1	14	3.0
Administration of Justice Offenses	1,033	735	71.2	60	5.8	52	5.0	186	18.0
Environmental/Wildlife	138	28	20.3	1	0.7	18	13.0	91	65.9
National Defense	100	87	87.0	4	4.0	1	1.0	8	8.0
Antitrust	21	10	47.6	0	0.0	0	0.0	11	52.4
Food & Drug	110	29	26.4	9	8.2	13	11.8	59	53.6
Other Miscellaneous Offenses	1,613	724	44.9	53	3.3	150	9.3	686	42.5

Of the 67,742 guideline cases, 504 cases were excluded due to one of the following reasons: missing sentencing information (1), or cases in which the defendant received no imprisonment or probation (503).

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2016**

Tenth Circuit

PRIMARY OFFENSE	TOTAL	Prison Only		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
TOTAL	7,451	6,794	91.2	154	2.1	94	1.3	409	5.5
Murder	13	10	76.9	3	23.1	0	0.0	0	0.0
Manslaughter	20	16	80.0	3	15.0	1	5.0	0	0.0
Kidnapping/Hostage Taking	1	0	0.0	1	100.0	0	0.0	0	0.0
Sexual Abuse	41	38	92.7	1	2.4	2	4.9	0	0.0
Assault	87	60	69.0	13	14.9	2	2.3	12	13.8
Robbery	61	56	91.8	4	6.6	1	1.6	0	0.0
Arson	3	3	100.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	1,226	1,136	92.7	38	3.1	20	1.6	32	2.6
Drugs - Communication Facility	37	27	73.0	0	0.0	3	8.1	7	18.9
Drugs - Simple Possession	45	19	42.2	0	0.0	0	0.0	26	57.8
Firearms	517	464	89.7	31	6.0	8	1.5	14	2.7
Burglary/B&E	4	1	25.0	1	25.0	0	0.0	2	50.0
Auto Theft	1	0	0.0	0	0.0	0	0.0	1	100.0
Larceny	52	17	32.7	1	1.9	2	3.8	32	61.5
Fraud	217	138	63.6	13	6.0	16	7.4	50	23.0
Embezzlement	31	9	29.0	1	3.2	5	16.1	16	51.6
Forgery/Counterfeiting	28	17	60.7	2	7.1	4	14.3	5	17.9
Bribery	2	2	100.0	0	0.0	0	0.0	0	0.0
Tax	38	17	44.7	2	5.3	5	13.2	14	36.8
Money Laundering	30	19	63.3	4	13.3	1	3.3	6	20.0
Racketeering/Extortion	59	42	71.2	2	3.4	6	10.2	9	15.3
Gambling/Lottery	3	0	0.0	0	0.0	0	0.0	3	100.0
Civil Rights	1	0	0.0	0	0.0	1	100.0	0	0.0
Immigration	4,597	4,484	97.5	9	0.2	5	0.1	99	2.2
Child Pornography	106	99	93.4	4	3.8	1	0.9	2	1.9
Prison Offenses	44	33	75.0	10	22.7	0	0.0	1	2.3
Administration of Justice Offenses	83	50	60.2	7	8.4	3	3.6	23	27.7
Environmental/Wildlife	8	1	12.5	1	12.5	2	25.0	4	50.0
National Defense	2	1	50.0	0	0.0	0	0.0	1	50.0
Antitrust	0	0	--	0	--	0	--	0	--
Food & Drug	5	4	80.0	0	0.0	0	0.0	1	20.0
Other Miscellaneous Offenses	89	31	34.8	3	3.4	6	6.7	49	55.1

Of the 7,505 guideline cases from the Tenth Circuit, 54 cases were excluded due to cases in which the defendant received no imprisonment or probation.

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Table 6

**INCARCERATION RATE OF U.S. CITIZEN DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES
BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2016**

PRIMARY OFFENSE	TOTAL	National				Tenth Circuit			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		N	%	N	%	N	%	N	%
TOTAL	4,927	1,945	39.5	2,982	60.5	154	41.8	214	58.2
Fraud	1,102	415	37.7	687	62.3	19	30.2	44	69.8
Larceny	507	118	23.3	389	76.7	6	20.7	23	79.3
Immigration	384	214	55.7	170	44.3	21	67.7	10	32.3
Embezzlement	160	27	16.9	133	83.1	2	11.1	16	88.9
Drugs - Trafficking	443	236	53.3	207	46.7	30	65.2	16	34.8
Drugs - Simple Possession	408	217	53.2	191	46.8	17	43.6	22	56.4
Firearms	142	92	64.8	50	35.2	1	33.3	2	66.7
Forgery/Counterfeiting	118	58	49.2	60	50.8	2	22.2	7	77.8
Other Miscellaneous Offenses	1,663	568	34.2	1,095	65.8	56	43.1	74	56.9

Of the 67,742 guideline cases, a U.S. Citizen was the defendant in 39,192 cases. Of these, 34,265 cases were excluded due to one or both of the following reasons: defendant ineligible for non-prison sentence (34,265), or missing sentencing information (1).

Of the 7,505 guideline cases from the Tenth Circuit, a U.S. Citizen was the defendant in 2,280 cases. Of these, 1,912 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, 2016 Datafile, USSCFY16.

Table 7

**LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2016**

PRIMARY OFFENSE	National			Tenth Circuit		
	Mean Months	Median Months	N	Mean Months	Median Months	N
TOTAL	50	27	58,291	23	3	6,837
Murder	244	210	84	297	264	13
Manslaughter	72	68	55	55	48	19
Kidnapping/Hostage Taking	252	235	37	--	--	0
Sexual Abuse	148	120	604	121	96	39
Assault	38	25	616	44	24	68
Robbery	75	60	678	66	48	59
Arson	73	60	41	52	60	3
Drugs - Trafficking	71	57	17,889	56	36	1,158
Drugs - Communication Facility	36	36	194	34	30	25
Drugs - Simple Possession	5	6	1,557	3	2	19
Firearms	80	57	6,876	59	40	486
Burglary/B&E	16	15	15	--	--	2
Auto Theft	105	63	40	--	--	0
Larceny	20	12	381	18	12	18
Fraud	34	24	4,690	31	24	143
Embezzlement	19	12	123	16	18	10
Forgery/Counterfeiting	23	18	337	26	23	18
Bribery	29	20	142	--	--	2
Tax	20	16	303	31	21	17
Money Laundering	40	28	530	42	24	23
Racketeering/Extortion	94	60	824	60	60	41
Gambling/Lottery	11	6	24	--	--	0
Civil Rights	44	24	25	--	--	0
Immigration	15	10	18,292	4	1	4,440
Child Pornography	148	100	1,889	134	104	102
Prison Offenses	14	12	434	12	10	40
Administration of Justice Offenses	25	18	736	21	18	52
Environmental/Wildlife	12	12	28	--	--	2
National Defense	65	40	85	--	--	1
Antitrust	8	7	10	--	--	0
Food & Drug	23	15	35	27	28	3
Other Miscellaneous Offenses	47	12	717	25	9	34

Of the 67,742 guideline cases, 9,451 cases were excluded for one of the following reasons: zero months of prison ordered (8,946), or missing or indeterminable sentencing information (505).

Of the 7,505 guideline cases from the Tenth Circuit, 668 cases were excluded due to one of the following reasons: zero months of prison ordered (614) or missing or indeterminable sentencing information (54).

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Table 8

**COMPARISON OF SENTENCE IMPOSED AND
POSITION RELATIVE TO THE GUIDELINE RANGE
Fiscal Year 2016**

	National		Tenth Circuit	
	N	%	N	%
TOTAL CASES¹	66,961	100.0	7,456	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	32,519	48.6	4,130	55.4
CASES SENTENCED ABOVE GUIDELINE RANGE	1,617	2.4	63	0.8
DEPARTURE ABOVE GUIDELINE RANGE	419	0.6	28	0.4
Upward Departure From Guideline Range ²	317	0.5	23	0.3
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	102	0.2	5	0.1
OTHERWISE ABOVE GUIDELINE RANGE	1,198	1.8	35	0.5
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	1,131	1.7	32	0.4
All Remaining Cases Above Guideline Range ⁵	67	0.1	3	0.0
GOVERNMENT SPONSORED BELOW RANGE⁶	18,882	28.2	2,490	33.4
§5K1.1 Substantial Assistance Departure	7,443	11.1	338	4.5
§5K3.1 Early Disposition Program Departure	5,960	8.9	1,506	20.2
Other Government Sponsored Below Range	5,479	8.2	646	8.7
NON-GOVERNMENT SPONSORED BELOW RANGE	13,943	20.8	773	10.4
DEPARTURE BELOW GUIDELINE RANGE	1,868	2.8	66	0.9
Downward Departure From Guideline Range ²	1,321	2.0	37	0.5
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	547	0.8	29	0.4
OTHERWISE BELOW GUIDELINE RANGE	12,075	18.0	707	9.5
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	11,684	17.4	686	9.2
All Remaining Cases Below Guideline Range ⁵	391	0.6	21	0.3

¹ This table reflects the 67,742 cases sentenced nationally in fiscal year 2016, 7,505 of which were from the Tenth Circuit. Of these, 781 cases nationally and 49 cases from the Tenth Circuit were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range.

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, 2016 Datafile, USSCFY16.

Table 9

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT
Fiscal Year 2016**

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
TOTAL	66,961	32,519	48.6	317	0.5	102	0.2	1,131	1.7	67	0.1
D.C. CIRCUIT	255	71	27.8	1	0.4	1	0.4	2	0.8	0	0.0
District of Columbia	255	71	27.8	1	0.4	1	0.4	2	0.8	0	0.0
FIRST CIRCUIT	2,046	1,001	48.9	7	0.3	7	0.3	79	3.9	6	0.3
Maine	201	75	37.3	1	0.5	1	0.5	3	1.5	1	0.5
Massachusetts	495	136	27.5	2	0.4	0	0.0	5	1.0	0	0.0
New Hampshire	177	82	46.3	2	1.1	1	0.6	8	4.5	0	0.0
Puerto Rico	1,083	680	62.8	2	0.2	5	0.5	62	5.7	5	0.5
Rhode Island	90	28	31.1	0	0.0	0	0.0	1	1.1	0	0.0
SECOND CIRCUIT	3,407	946	27.8	12	0.4	2	0.1	30	0.9	0	0.0
Connecticut	304	81	26.6	2	0.7	2	0.7	3	1.0	0	0.0
New York											
Eastern	796	176	22.1	2	0.3	0	0.0	10	1.3	0	0.0
Northern	306	155	50.7	0	0.0	0	0.0	1	0.3	0	0.0
Southern	1,350	300	22.2	1	0.1	0	0.0	12	0.9	0	0.0
Western	463	196	42.3	7	1.5	0	0.0	4	0.9	0	0.0
Vermont	188	38	20.2	0	0.0	0	0.0	0	0.0	0	0.0
THIRD CIRCUIT	2,090	813	38.9	3	0.1	3	0.1	28	1.3	2	0.1
Delaware	71	18	25.4	0	0.0	0	0.0	0	0.0	0	0.0
New Jersey	667	258	38.7	0	0.0	1	0.1	4	0.6	1	0.1
Pennsylvania											
Eastern	584	173	29.6	0	0.0	0	0.0	11	1.9	0	0.0
Middle	305	158	51.8	2	0.7	0	0.0	2	0.7	0	0.0
Western	404	160	39.6	1	0.2	2	0.5	10	2.5	1	0.2
Virgin Islands	59	46	78.0	0	0.0	0	0.0	1	1.7	0	0.0
FOURTH CIRCUIT	5,210	2,880	55.3	35	0.7	13	0.2	108	2.1	10	0.2
Maryland	707	216	30.6	5	0.7	4	0.6	29	4.1	2	0.3
North Carolina											
Eastern	569	333	58.5	3	0.5	6	1.1	12	2.1	2	0.4
Middle	423	242	57.2	2	0.5	0	0.0	10	2.4	0	0.0
Western	655	339	51.8	3	0.5	0	0.0	10	1.5	1	0.2
South Carolina	626	341	54.5	9	1.4	2	0.3	6	1.0	0	0.0
Virginia											
Eastern	1,406	964	68.6	9	0.6	1	0.1	19	1.4	2	0.1
Western	311	147	47.3	2	0.6	0	0.0	10	3.2	2	0.6
West Virginia											
Northern	310	184	59.4	1	0.3	0	0.0	6	1.9	1	0.3
Southern	203	114	56.2	1	0.5	0	0.0	6	3.0	0	0.0

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	7,443	11.1	5,960	8.9	5,479	8.2	1,321	2.0	547	0.8	11,684	17.4	391	0.6
D.C. CIRCUIT	59	23.1	2	0.8	45	17.6	15	5.9	10	3.9	43	16.9	6	2.4
District of Columbia	59	23.1	2	0.8	45	17.6	15	5.9	10	3.9	43	16.9	6	2.4
FIRST CIRCUIT	204	10.0	33	1.6	265	13.0	41	2.0	19	0.9	371	18.1	13	0.6
Maine	46	22.9	0	0.0	8	4.0	1	0.5	6	3.0	59	29.4	0	0.0
Massachusetts	44	8.9	6	1.2	136	27.5	15	3.0	4	0.8	143	28.9	4	0.8
New Hampshire	17	9.6	0	0.0	27	15.3	4	2.3	3	1.7	33	18.6	0	0.0
Puerto Rico	92	8.5	27	2.5	74	6.8	21	1.9	6	0.6	100	9.2	9	0.8
Rhode Island	5	5.6	0	0.0	20	22.2	0	0.0	0	0.0	36	40.0	0	0.0
SECOND CIRCUIT	736	21.6	25	0.7	237	7.0	91	2.7	70	2.1	1,237	36.3	21	0.6
Connecticut	55	18.1	0	0.0	29	9.5	25	8.2	6	2.0	101	33.2	0	0.0
New York														
Eastern	223	28.0	4	0.5	44	5.5	35	4.4	33	4.1	258	32.4	11	1.4
Northern	47	15.4	5	1.6	6	2.0	3	1.0	3	1.0	83	27.1	3	1.0
Southern	269	19.9	16	1.2	52	3.9	23	1.7	25	1.9	646	47.9	6	0.4
Western	110	23.8	0	0.0	54	11.7	0	0.0	1	0.2	90	19.4	1	0.2
Vermont	32	17.0	0	0.0	52	27.7	5	2.7	2	1.1	59	31.4	0	0.0
THIRD CIRCUIT	523	25.0	6	0.3	188	9.0	13	0.6	16	0.8	480	23.0	15	0.7
Delaware	14	19.7	0	0.0	16	22.5	0	0.0	1	1.4	22	31.0	0	0.0
New Jersey	189	28.3	1	0.1	48	7.2	2	0.3	3	0.4	159	23.8	1	0.1
Pennsylvania														
Eastern	187	32.0	4	0.7	50	8.6	6	1.0	5	0.9	140	24.0	8	1.4
Middle	65	21.3	1	0.3	7	2.3	5	1.6	5	1.6	57	18.7	3	1.0
Western	65	16.1	0	0.0	65	16.1	0	0.0	2	0.5	98	24.3	0	0.0
Virgin Islands	3	5.1	0	0.0	2	3.4	0	0.0	0	0.0	4	6.8	3	5.1
FOURTH CIRCUIT	737	14.1	18	0.3	378	7.3	55	1.1	40	0.8	914	17.5	22	0.4
Maryland	152	21.5	1	0.1	164	23.2	5	0.7	7	1.0	120	17.0	2	0.3
North Carolina														
Eastern	131	23.0	0	0.0	1	0.2	5	0.9	4	0.7	69	12.1	3	0.5
Middle	62	14.7	1	0.2	5	1.2	5	1.2	4	0.9	92	21.7	0	0.0
Western	157	24.0	2	0.3	38	5.8	3	0.5	2	0.3	99	15.1	1	0.2
South Carolina	94	15.0	4	0.6	44	7.0	1	0.2	3	0.5	120	19.2	2	0.3
Virginia														
Eastern	42	3.0	2	0.1	55	3.9	24	1.7	18	1.3	262	18.6	8	0.6
Western	63	20.3	0	0.0	30	9.6	11	3.5	2	0.6	43	13.8	1	0.3
West Virginia														
Northern	14	4.5	5	1.6	33	10.6	0	0.0	0	0.0	63	20.3	3	1.0
Southern	22	10.8	3	1.5	8	3.9	1	0.5	0	0.0	46	22.7	2	1.0

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
FIFTH CIRCUIT	15,900	10,038	63.1	83	0.5	21	0.1	288	1.8	11	0.1
Louisiana											
Eastern	337	183	54.3	0	0.0	1	0.3	5	1.5	0	0.0
Middle	162	76	46.9	1	0.6	2	1.2	2	1.2	1	0.6
Western	225	148	65.8	0	0.0	0	0.0	5	2.2	2	0.9
Mississippi											
Northern	161	86	53.4	1	0.6	0	0.0	7	4.3	0	0.0
Southern	235	161	68.5	0	0.0	0	0.0	5	2.1	0	0.0
Texas											
Eastern	827	555	67.1	7	0.8	1	0.1	21	2.5	0	0.0
Northern	1,372	867	63.2	14	1.0	6	0.4	52	3.8	1	0.1
Southern	6,479	3,713	57.3	36	0.6	9	0.1	67	1.0	1	0.0
Western	6,102	4,249	69.6	24	0.4	2	0.0	124	2.0	6	0.1
SIXTH CIRCUIT	4,497	1,928	42.9	10	0.2	7	0.2	75	1.7	8	0.2
Kentucky											
Eastern	439	264	60.1	1	0.2	1	0.2	11	2.5	0	0.0
Western	332	139	41.9	2	0.6	0	0.0	3	0.9	0	0.0
Michigan											
Eastern	895	302	33.7	1	0.1	1	0.1	10	1.1	0	0.0
Western	330	185	56.1	3	0.9	2	0.6	8	2.4	1	0.3
Ohio											
Northern	583	255	43.7	1	0.2	0	0.0	9	1.5	2	0.3
Southern	502	144	28.7	2	0.4	1	0.2	6	1.2	4	0.8
Tennessee											
Eastern	748	361	48.3	0	0.0	2	0.3	15	2.0	0	0.0
Middle	206	56	27.2	0	0.0	0	0.0	4	1.9	1	0.5
Western	462	222	48.1	0	0.0	0	0.0	9	1.9	0	0.0
SEVENTH CIRCUIT	2,269	817	36.0	6	0.3	5	0.2	39	1.7	3	0.1
Illinois											
Central	259	82	31.7	1	0.4	2	0.8	11	4.2	0	0.0
Northern	640	169	26.4	0	0.0	2	0.3	6	0.9	0	0.0
Southern	314	196	62.4	2	0.6	0	0.0	3	1.0	2	0.6
Indiana											
Northern	300	146	48.7	0	0.0	0	0.0	4	1.3	0	0.0
Southern	330	124	37.6	1	0.3	0	0.0	7	2.1	1	0.3
Wisconsin											
Eastern	301	57	18.9	0	0.0	0	0.0	8	2.7	0	0.0
Western	125	43	34.4	2	1.6	1	0.8	0	0.0	0	0.0
EIGHTH CIRCUIT	4,728	2,092	44.2	31	0.7	7	0.1	108	2.3	5	0.1
Arkansas											
Eastern	372	178	47.8	1	0.3	0	0.0	13	3.5	0	0.0
Western	253	113	44.7	0	0.0	0	0.0	10	4.0	0	0.0
Iowa											
Northern	348	214	61.5	10	2.9	2	0.6	9	2.6	1	0.3
Southern	353	97	27.5	0	0.0	1	0.3	2	0.6	0	0.0
Minnesota	494	148	30.0	1	0.2	2	0.4	5	1.0	2	0.4
Missouri											
Eastern	740	341	46.1	4	0.5	0	0.0	16	2.2	0	0.0
Western	826	340	41.2	4	0.5	1	0.1	35	4.2	0	0.0
Nebraska	541	276	51.0	0	0.0	0	0.0	11	2.0	0	0.0
North Dakota	361	121	33.5	2	0.6	0	0.0	3	0.8	1	0.3
South Dakota	440	264	60.0	9	2.0	1	0.2	4	0.9	1	0.2

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
FIFTH CIRCUIT	1,209	7.6	621	3.9	536	3.4	673	4.2	56	0.4	2,244	14.1	120	0.8
Louisiana														
Eastern	58	17.2	3	0.9	9	2.7	2	0.6	7	2.1	68	20.2	1	0.3
Middle	23	14.2	1	0.6	3	1.9	2	1.2	0	0.0	51	31.5	0	0.0
Western	17	7.6	0	0.0	3	1.3	1	0.4	1	0.4	44	19.6	4	1.8
Mississippi														
Northern	27	16.8	0	0.0	7	4.3	2	1.2	0	0.0	31	19.3	0	0.0
Southern	34	14.5	0	0.0	5	2.1	0	0.0	0	0.0	30	12.8	0	0.0
Texas														
Eastern	34	4.1	5	0.6	165	20.0	3	0.4	0	0.0	35	4.2	1	0.1
Northern	193	14.1	3	0.2	49	3.6	13	0.9	3	0.2	171	12.5	0	0.0
Southern	422	6.5	398	6.1	109	1.7	513	7.9	36	0.6	1,169	18.0	6	0.1
Western	401	6.6	211	3.5	186	3.0	137	2.2	9	0.1	645	10.6	108	1.8
SIXTH CIRCUIT	947	21.1	8	0.2	474	10.5	42	0.9	45	1.0	940	20.9	13	0.3
Kentucky														
Eastern	35	8.0	0	0.0	32	7.3	0	0.0	2	0.5	93	21.2	0	0.0
Western	70	21.1	2	0.6	69	20.8	1	0.3	2	0.6	43	13.0	1	0.3
Michigan														
Eastern	196	21.9	0	0.0	57	6.4	7	0.8	14	1.6	305	34.1	2	0.2
Western	49	14.8	0	0.0	6	1.8	5	1.5	9	2.7	62	18.8	0	0.0
Ohio														
Northern	136	23.3	0	0.0	21	3.6	9	1.5	2	0.3	143	24.5	5	0.9
Southern	98	19.5	5	1.0	128	25.5	13	2.6	10	2.0	91	18.1	0	0.0
Tennessee														
Eastern	229	30.6	0	0.0	57	7.6	3	0.4	4	0.5	76	10.2	1	0.1
Middle	49	23.8	0	0.0	63	30.6	2	1.0	0	0.0	30	14.6	1	0.5
Western	85	18.4	1	0.2	41	8.9	2	0.4	2	0.4	97	21.0	3	0.6
SEVENTH CIRCUIT	305	13.4	4	0.2	222	9.8	61	2.7	71	3.1	715	31.5	21	0.9
Illinois														
Central	45	17.4	0	0.0	31	12.0	3	1.2	3	1.2	81	31.3	0	0.0
Northern	68	10.6	4	0.6	30	4.7	27	4.2	50	7.8	270	42.2	14	2.2
Southern	18	5.7	0	0.0	35	11.1	4	1.3	3	1.0	51	16.2	0	0.0
Indiana														
Northern	41	13.7	0	0.0	31	10.3	1	0.3	0	0.0	72	24.0	5	1.7
Southern	74	22.4	0	0.0	40	12.1	4	1.2	1	0.3	78	23.6	0	0.0
Wisconsin														
Eastern	50	16.6	0	0.0	49	16.3	0	0.0	1	0.3	134	44.5	2	0.7
Western	9	7.2	0	0.0	6	4.8	22	17.6	13	10.4	29	23.2	0	0.0
EIGHTH CIRCUIT	646	13.7	56	1.2	478	10.1	46	1.0	54	1.1	1,182	25.0	23	0.5
Arkansas														
Eastern	39	10.5	0	0.0	13	3.5	2	0.5	3	0.8	120	32.3	3	0.8
Western	45	17.8	1	0.4	6	2.4	3	1.2	4	1.6	69	27.3	2	0.8
Iowa														
Northern	54	15.5	0	0.0	7	2.0	2	0.6	1	0.3	48	13.8	0	0.0
Southern	59	16.7	1	0.3	85	24.1	1	0.3	3	0.8	103	29.2	1	0.3
Minnesota														
Northern	74	15.0	0	0.0	32	6.5	9	1.8	18	3.6	202	40.9	1	0.2
Missouri														
Eastern	84	11.4	1	0.1	115	15.5	1	0.1	6	0.8	170	23.0	2	0.3
Western	119	14.4	0	0.0	90	10.9	3	0.4	2	0.2	229	27.7	3	0.4
Nebraska														
Northern	24	4.4	34	6.3	67	12.4	4	0.7	9	1.7	109	20.1	7	1.3
North Dakota														
Northern	135	37.4	16	4.4	30	8.3	2	0.6	3	0.8	47	13.0	1	0.3
South Dakota														
Northern	13	3.0	3	0.7	33	7.5	19	4.3	5	1.1	85	19.3	3	0.7

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
NINTH CIRCUIT	13,149	4,609	35.1	99	0.8	21	0.2	244	1.9	16	0.1
Alaska	177	64	36.2	0	0.0	0	0.0	4	2.3	0	0.0
Arizona	5,540	2,414	43.6	70	1.3	13	0.2	165	3.0	6	0.1
California											
Central	964	294	30.5	2	0.2	4	0.4	7	0.7	1	0.1
Eastern	669	286	42.8	6	0.9	1	0.1	10	1.5	1	0.1
Northern	464	174	37.5	0	0.0	0	0.0	10	2.2	0	0.0
Southern	2,847	423	14.9	10	0.4	1	0.0	8	0.3	7	0.2
Guam	67	40	59.7	0	0.0	0	0.0	0	0.0	0	0.0
Hawaii	141	59	41.8	0	0.0	0	0.0	1	0.7	0	0.0
Idaho	259	112	43.2	1	0.4	0	0.0	1	0.4	1	0.4
Montana	317	105	33.1	1	0.3	1	0.3	5	1.6	0	0.0
Nevada	399	204	51.1	1	0.3	1	0.3	8	2.0	0	0.0
Northern Mariana Islands	22	15	68.2	1	4.5	0	0.0	0	0.0	0	0.0
Oregon	447	140	31.3	0	0.0	0	0.0	6	1.3	0	0.0
Washington											
Eastern	303	106	35.0	7	2.3	0	0.0	7	2.3	0	0.0
Western	533	173	32.5	0	0.0	0	0.0	12	2.3	0	0.0
TENTH CIRCUIT	7,456	4,130	55.4	23	0.3	5	0.1	32	0.4	3	0.0
Colorado	482	182	37.8	4	0.8	0	0.0	8	1.7	0	0.0
Kansas	473	201	42.5	0	0.0	2	0.4	9	1.9	1	0.2
New Mexico	4,970	3,169	63.8	8	0.2	1	0.0	7	0.1	1	0.0
Oklahoma											
Eastern	100	72	72.0	0	0.0	1	1.0	0	0.0	0	0.0
Northern	211	73	34.6	1	0.5	0	0.0	1	0.5	0	0.0
Western	327	159	48.6	0	0.0	0	0.0	5	1.5	0	0.0
Utah	677	185	27.3	8	1.2	0	0.0	1	0.1	1	0.1
Wyoming	216	89	41.2	2	0.9	1	0.5	1	0.5	0	0.0
ELEVENTH CIRCUIT	5,954	3,194	53.6	7	0.1	10	0.2	98	1.6	3	0.1
Alabama											
Middle	152	78	51.3	1	0.7	1	0.7	3	2.0	0	0.0
Northern	359	195	54.3	0	0.0	0	0.0	3	0.8	1	0.3
Southern	317	191	60.3	1	0.3	0	0.0	2	0.6	0	0.0
Florida											
Middle	1,414	642	45.4	0	0.0	1	0.1	16	1.1	0	0.0
Northern	253	107	42.3	0	0.0	3	1.2	7	2.8	0	0.0
Southern	2,174	1,273	58.6	1	0.0	4	0.2	51	2.3	2	0.1
Georgia											
Middle	354	248	70.1	1	0.3	0	0.0	4	1.1	0	0.0
Northern	527	147	27.9	1	0.2	1	0.2	10	1.9	0	0.0
Southern	404	313	77.5	2	0.5	0	0.0	2	0.5	0	0.0

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
NINTH CIRCUIT	995	7.6	3,663	27.9	1,639	12.5	202	1.5	94	0.7	1,474	11.2	93	0.7
Alaska	29	16.4	0	0.0	36	20.3	0	0.0	1	0.6	43	24.3	0	0.0
Arizona	123	2.2	1,869	33.7	525	9.5	25	0.5	11	0.2	307	5.5	12	0.2
California														
Central	158	16.4	50	5.2	161	16.7	41	4.3	33	3.4	187	19.4	26	2.7
Eastern	113	16.9	27	4.0	50	7.5	16	2.4	4	0.6	150	22.4	5	0.7
Northern	55	11.9	15	3.2	45	9.7	6	1.3	6	1.3	148	31.9	5	1.1
Southern	178	6.3	1,637	57.5	283	9.9	98	3.4	15	0.5	152	5.3	35	1.2
Guam	22	32.8	0	0.0	1	1.5	0	0.0	0	0.0	3	4.5	1	1.5
Hawaii	43	30.5	0	0.0	8	5.7	0	0.0	0	0.0	30	21.3	0	0.0
Idaho	56	21.6	6	2.3	12	4.6	3	1.2	6	2.3	61	23.6	0	0.0
Montana	60	18.9	0	0.0	20	6.3	3	0.9	2	0.6	118	37.2	2	0.6
Nevada	39	9.8	10	2.5	57	14.3	6	1.5	5	1.3	67	16.8	1	0.3
Northern Mariana Islands	3	13.6	0	0.0	1	4.5	0	0.0	1	4.5	1	4.5	0	0.0
Oregon	56	12.5	2	0.4	149	33.3	0	0.0	5	1.1	84	18.8	5	1.1
Washington														
Eastern	34	11.2	25	8.3	72	23.8	3	1.0	0	0.0	49	16.2	0	0.0
Western	26	4.9	22	4.1	219	41.1	1	0.2	5	0.9	74	13.9	1	0.2
TENTH CIRCUIT	338	4.5	1,506	20.2	646	8.7	37	0.5	29	0.4	686	9.2	21	0.3
Colorado	76	15.8	26	5.4	93	19.3	5	1.0	5	1.0	81	16.8	2	0.4
Kansas	67	14.2	8	1.7	129	27.3	6	1.3	4	0.8	46	9.7	0	0.0
New Mexico	65	1.3	1,242	25.0	204	4.1	13	0.3	13	0.3	229	4.6	18	0.4
Oklahoma														
Eastern	17	17.0	0	0.0	2	2.0	0	0.0	0	0.0	8	8.0	0	0.0
Northern	46	21.8	0	0.0	14	6.6	1	0.5	2	0.9	73	34.6	0	0.0
Western	24	7.3	0	0.0	12	3.7	2	0.6	1	0.3	123	37.6	1	0.3
Utah	30	4.4	208	30.7	141	20.8	9	1.3	1	0.1	93	13.7	0	0.0
Wyoming	13	6.0	22	10.2	51	23.6	1	0.5	3	1.4	33	15.3	0	0.0
ELEVENTH CIRCUIT	744	12.5	18	0.3	371	6.2	45	0.8	43	0.7	1,398	23.5	23	0.4
Alabama														
Middle	29	19.1	1	0.7	11	7.2	0	0.0	1	0.7	27	17.8	0	0.0
Northern	65	18.1	0	0.0	15	4.2	2	0.6	1	0.3	77	21.4	0	0.0
Southern	42	13.2	1	0.3	13	4.1	0	0.0	0	0.0	67	21.1	0	0.0
Florida														
Middle	262	18.5	15	1.1	45	3.2	8	0.6	13	0.9	408	28.9	4	0.3
Northern	50	19.8	0	0.0	1	0.4	2	0.8	2	0.8	81	32.0	0	0.0
Southern	141	6.5	1	0.0	80	3.7	23	1.1	18	0.8	563	25.9	17	0.8
Georgia														
Middle	50	14.1	0	0.0	7	2.0	3	0.8	1	0.3	39	11.0	1	0.3
Northern	59	11.2	0	0.0	189	35.9	6	1.1	6	1.1	108	20.5	0	0.0
Southern	46	11.4	0	0.0	10	2.5	1	0.2	1	0.2	28	6.9	1	0.2

Of the 67,742 cases, 781 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: Eastern North Carolina (12.6%), Western Louisiana (10.7%), Southern West Virginia (6.5%), and Middle Tennessee (6.4%).

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.

Table 10

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY SELECTED PRIMARY OFFENSE CATEGORY
Fiscal Year 2016**

National

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
TOTAL	66,961	32,519	48.6	317	0.5	102	0.2	1,131	1.7	67	0.1
Robbery	701	365	52.1	5	0.7	1	0.1	28	4.0	3	0.4
Drugs - Trafficking	19,222	6,921	36.0	66	0.3	12	0.1	137	0.7	14	0.1
Drugs - Simple Possession	1,624	1,466	90.3	8	0.5	0	0.0	135	8.3	2	0.1
Firearms	7,293	3,836	52.6	53	0.7	26	0.4	257	3.5	9	0.1
Larceny	978	571	58.4	6	0.6	0	0.0	13	1.3	1	0.1
Fraud	6,389	2,730	42.7	30	0.5	15	0.2	88	1.4	4	0.1
Embezzlement	310	175	56.5	0	0.0	1	0.3	5	1.6	0	0.0
Forgery/Counterfeiting	449	256	57.0	1	0.2	2	0.4	11	2.4	0	0.0
Immigration	19,969	11,616	58.2	59	0.3	20	0.1	230	1.2	13	0.1
Other Miscellaneous Offenses	10,026	4,583	45.7	89	0.9	25	0.2	227	2.3	21	0.2

Tenth Circuit

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
TOTAL	7,456	4,130	55.4	23	0.3	5	0.1	32	0.4	3	0.0
Robbery	61	22	36.1	2	3.3	0	0.0	4	6.6	1	1.6
Drugs - Trafficking	1,226	342	27.9	4	0.3	0	0.0	5	0.4	0	0.0
Drugs - Simple Possession	54	49	90.7	0	0.0	0	0.0	0	0.0	1	1.9
Firearms	518	229	44.2	4	0.8	2	0.4	8	1.5	0	0.0
Larceny	53	36	67.9	0	0.0	0	0.0	0	0.0	0	0.0
Fraud	219	102	46.6	3	1.4	0	0.0	2	0.9	0	0.0
Embezzlement	31	20	64.5	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	29	12	41.4	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	4,596	3,028	65.9	0	0.0	0	0.0	1	0.0	0	0.0
Other Miscellaneous Offenses	669	290	43.3	10	1.5	3	0.4	12	1.8	1	0.1

National

PRIMARY OFFENSE	§5K1.1		§5K3.1		OTHER		DOWNWARD		DOWNWARD		BELOW		REMAINING	
	SUBSTANTIAL		EARLY		GOV'T		DEPARTURE		DEPARTURE		RANGE		BELOW	
	ASSISTANCE		DISPOSITION		SPONSORED		DEPARTURE		W/BOOKER		W/BOOKER		RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	7,443	11.1	5,960	8.9	5,479	8.2	1,321	2.0	547	0.8	11,684	17.4	391	0.6
Robbery	56	8.0	0	0.0	72	10.3	18	2.6	13	1.9	136	19.4	4	0.6
Drugs - Trafficking	4,342	22.6	1,280	6.7	2,043	10.6	331	1.7	195	1.0	3,798	19.8	83	0.4
Drugs - Simple Possession	1	0.1	1	0.1	4	0.2	1	0.1	0	0.0	4	0.2	2	0.1
Firearms	711	9.7	9	0.1	712	9.8	94	1.3	60	0.8	1,490	20.4	36	0.5
Larceny	57	5.8	0	0.0	113	11.6	11	1.1	13	1.3	182	18.6	11	1.1
Fraud	1,073	16.8	12	0.2	575	9.0	86	1.3	93	1.5	1,619	25.3	64	1.0
Embezzlement	10	3.2	0	0.0	35	11.3	7	2.3	2	0.6	72	23.2	3	1.0
Forgery/Counterfeiting	47	10.5	1	0.2	41	9.1	4	0.9	1	0.2	83	18.5	2	0.4
Immigration	214	1.1	4,624	23.2	451	2.3	612	3.1	74	0.4	1,940	9.7	116	0.6
Other Miscellaneous Offenses	932	9.3	33	0.3	1,433	14.3	157	1.6	96	1.0	2,360	23.5	70	0.7

Tenth Circuit

PRIMARY OFFENSE	§5K1.1		§5K3.1		OTHER		DOWNWARD		DOWNWARD		BELOW		REMAINING	
	SUBSTANTIAL		EARLY		GOV'T		DEPARTURE		DEPARTURE		RANGE		BELOW	
	ASSISTANCE		DISPOSITION		SPONSORED		DEPARTURE		W/BOOKER		W/BOOKER		RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	338	4.5	1,506	20.2	646	8.7	37	0.5	29	0.4	686	9.2	21	0.3
Robbery	5	8.2	0	0.0	16	26.2	1	1.6	0	0.0	10	16.4	0	0.0
Drugs - Trafficking	204	16.6	174	14.2	206	16.8	13	1.1	10	0.8	258	21.0	10	0.8
Drugs - Simple Possession	0	0.0	0	0.0	3	5.6	0	0.0	0	0.0	1	1.9	0	0.0
Firearms	35	6.8	2	0.4	124	23.9	6	1.2	3	0.6	105	20.3	0	0.0
Larceny	4	7.5	0	0.0	8	15.1	0	0.0	0	0.0	5	9.4	0	0.0
Fraud	23	10.5	0	0.0	35	16.0	0	0.0	1	0.5	53	24.2	0	0.0
Embezzlement	1	3.2	0	0.0	2	6.5	0	0.0	2	6.5	6	19.4	0	0.0
Forgery/Counterfeiting	4	13.8	0	0.0	3	10.3	1	3.4	0	0.0	9	31.0	0	0.0
Immigration	8	0.2	1,330	28.9	99	2.2	7	0.2	8	0.2	107	2.3	8	0.2
Other Miscellaneous Offenses	54	8.1	0	0.0	150	22.4	9	1.3	5	0.7	132	19.7	3	0.4

Of the 67,742 guideline cases, 781 cases were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range.

Of the 7,505 guideline cases from the Tenth Circuit, 49 cases were excluded because information was missing from the from the submitted documents that prevented the comparison of the sentence and the guideline range.

SOURCE: U.S. Sentencing Commission, 2016 Datafile, USSCFY16.