United States Sentencing Commission

U.S. v. Edwards, No. 08-30055 archived on September 29, 2010

Statistical Information Packet

Fiscal Year 2009

Ninth Circuit

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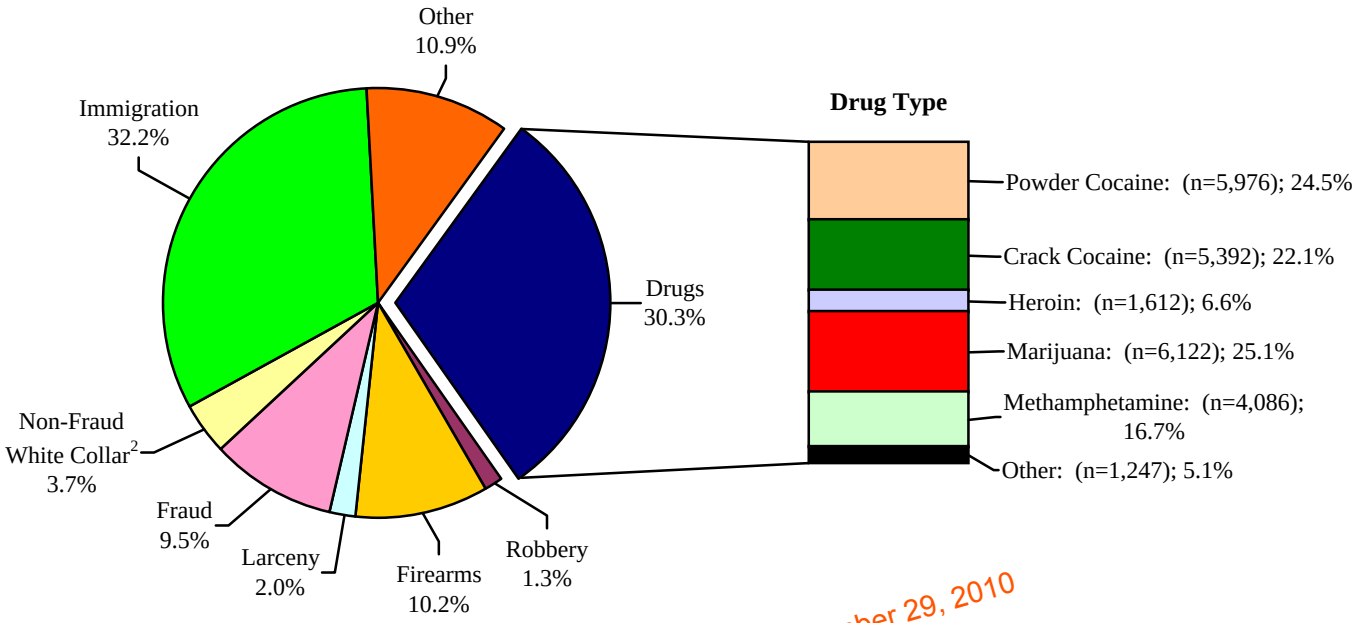
Figure A

DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED BY SELECT PRIMARY OFFENSE CATEGORY[1]
Fiscal Year 2009

National



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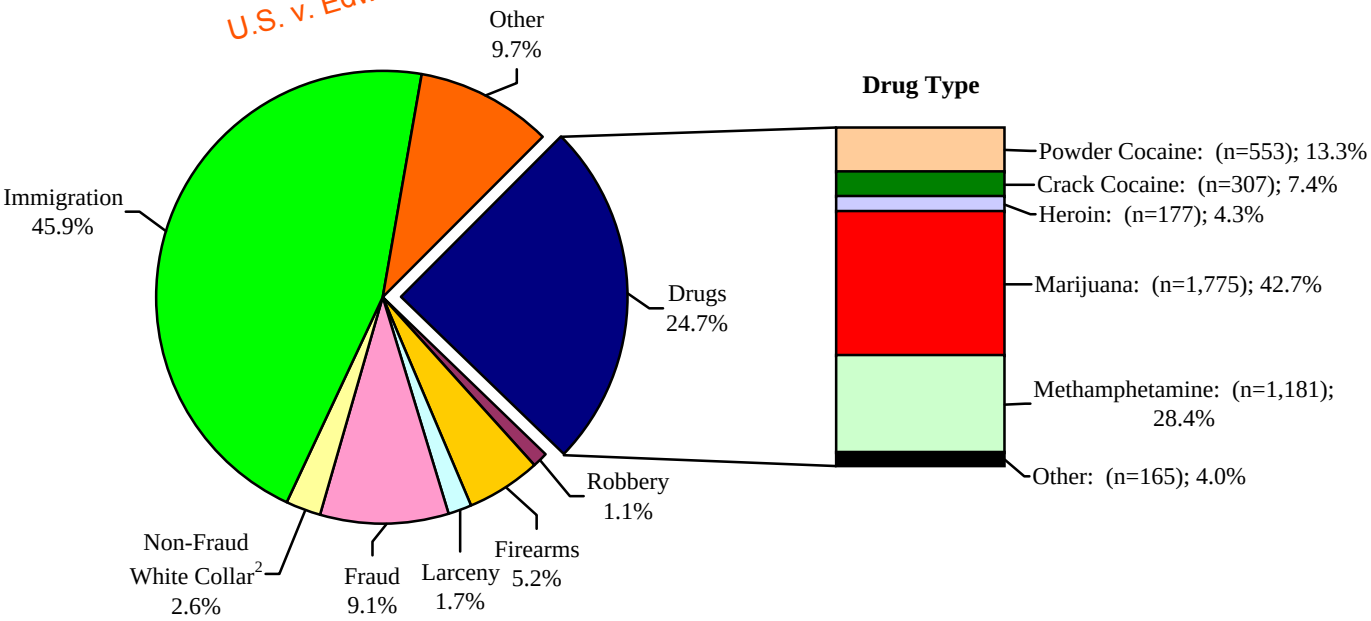
Ninth Circuit



[1]Of the 81,372 guideline cases, 771 cases were excluded due to missing drug type.
Of the 17,246 guideline cases from the Ninth Circuit, 378 cases were excluded due to missing drug type.

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

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

Table 1

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

	National		Ninth Circuit	
PRIMARY OFFENSE	**N**	**%**	**N**	**%**
TOTAL	**81,372**	**100.0**	**17,246**	**100.0**
Murder	93	0.1	16	0.1
Manslaughter	59	0.1	30	0.2
Kidnapping/Hostage Taking	41	0.1	7	0.0
Sexual Abuse	478	0.6	90	0.5
Assault	660	0.8	194	1.1
Robbery	1,011	1.2	185	1.1
Arson	60	0.1	11	0.1
Drugs - Trafficking	23,938	29.4	4,091	23.7
Drugs - Communication Facility	508	0.6	157	0.9
Drugs - Simple Possession	760	0.9	288	1.7
Firearms	8,243	10.1	882	5.1
Burglary/B&E	36	0.0	8	0.0
Auto Theft	77	0.1	7	0.0
Larceny	1,592	2.0	289	1.7
Fraud	7,618	9.4	1,536	8.9
Embezzlement	471	0.6	71	0.4
Forgery/Counterfeiting	887	1.1	104	0.6
Bribery	171	0.2	17	0.1
Tax	633	0.8	123	0.7
Money Laundering	812	1.0	124	0.7
Racketeering/Extortion	635	0.8	89	0.5
Gambling/Lottery	62	0.1	17	0.1
Civil Rights	63	0.1	6	0.0
Immigration	25,927	31.9	7,742	44.9
Pornography/Prostitution	1,969	2.4	364	2.1
Prison Offenses	445	0.5	112	0.6
Administration of Justice Offenses	998	1.2	178	1.0
Environmental/Wildlife	231	0.3	61	0.4
National Defense	67	0.1	6	0.0
Antitrust	21	0.0	6	0.0
Food & Drug	80	0.1	22	0.1
Other Miscellaneous Offenses	2,726	3.4	413	2.4

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

Of the 17,246 guideline cases from the Ninth Circuit, no case was excluded.

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

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Table 2

MODE OF CONVICTION BY CIRCUIT AND DISTRICT
Fiscal Year 2009

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

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

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

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

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

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Table 3

MODE OF CONVICTION BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009

		National				Ninth Circuit			
		PLEA		TRIAL		PLEA		TRIAL	
PRIMARY OFFENSE	**TOTAL**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
TOTAL	**81,370**	**78,398**	**96.3**	**2,972**	**3.7**	**16,836**	**97.6**	**410**	**2.4**
Murder	**93**	68	73.1	25	26.9	12	75.0	4	25.0
Manslaughter	**59**	55	93.2	4	6.8	30	100.0	0	0.0
Kidnapping/Hostage Taking	**41**	36	87.8	5	12.2	7	100.0	0	0.0
Sexual Abuse	**478**	418	87.4	60	12.6	72	80.0	18	20.0
Assault	**660**	617	93.5	43	6.5	180	92.8	14	7.2
Robbery	**1,011**	970	95.9	41	4.1	181	97.8	4	2.2
Arson	**60**	54	90.0	6	10.0	9	81.8	2	18.2
Drugs - Trafficking	**23,938**	22,968	95.9	970	4.1	3,991	97.6	100	2.4
Drugs - Communication Facility	**508**	506	99.6	2	0.4	157	100.0	0	0.0
Drugs - Simple Possession	**759**	734	96.7	25	3.3	283	98.3	5	1.7
Firearms	**8,243**	7,649	92.8	594	7.2	832	94.3	50	5.7
Burglary/B&E	**36**	34	94.4	2	5.6	8	100.0	0	0.0
Auto Theft	**77**	76	98.7	1	1.3	7	100.0	0	0.0
Larceny	**1,592**	1,556	97.7	36	2.3	281	97.2	8	2.8
Fraud	**7,618**	7,231	94.9	387	5.1	1,484	96.6	52	3.4
Embezzlement	**471**	458	97.2	13	2.8	68	95.8	3	4.2
Forgery/Counterfeiting	**887**	872	98.3	15	1.7	103	99.0	1	1.0
Bribery	**171**	161	94.2	10	5.8	17	100.0	0	0.0
Tax	**633**	562	88.8	71	11.2	113	91.9	10	8.1
Money Laundering	**812**	759	93.5	53	6.5	119	96.0	5	4.0
Racketeering/Extortion	**635**	557	87.7	78	12.3	75	84.3	14	15.7
Gambling/Lottery	**62**	58	93.5	4	6.5	14	82.4	3	17.6
Civil Rights	**63**	56	88.9	7	11.1	5	83.3	1	16.7
Immigration	**25,927**	25,734	99.3	193	0.7	7,671	99.1	71	0.9
Pornography/Prostitution	**1,969**	1,859	94.4	110	5.6	346	95.1	18	4.9
Prison Offenses	**445**	437	98.2	8	1.8	109	97.3	3	2.7
Administration of Justice Offenses	**998**	948	95.0	50	5.0	171	96.1	7	3.9
Environmental/Wildlife	**231**	214	92.6	17	7.4	59	96.7	2	3.3
National Defense	**67**	61	91.0	6	9.0	5	83.3	1	16.7
Antitrust	**21**	21	100.0	0	0.0	6	100.0	0	0.0
Food & Drug	**80**	78	97.5	2	2.5	21	95.5	1	4.5
Other Miscellaneous Offenses	**2,725**	2,591	95.1	134	4.9	400	96.9	13	3.1

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

Of the 17,246 guideline cases from the Ninth Circuit, no case was excluded.

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

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Table 4

TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009

National

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

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

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

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Table 5

TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009

Ninth Circuit

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
TOTAL	**17,149**	**15,346**	**89.5**	**472**	**2.8**	**368**	**2.1**	**963**	**5.6**
Murder	**16**	16	100.0	0	0.0	0	0.0	0	0.0
Manslaughter	**30**	29	96.7	1	3.3	0	0.0	0	0.0
Kidnapping/Hostage Taking	**7**	7	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	**90**	83	92.2	4	4.4	2	2.2	1	1.1
Assault	**193**	164	85.0	6	3.1	8	4.1	15	7.8
Robbery	**185**	176	95.1	6	3.2	1	0.5	2	1.1
Arson	**11**	8	72.7	2	18.2	1	9.1	0	0.0
Drugs - Trafficking	**4,089**	3,807	93.1	144	3.5	43	1.1	95	2.3
Drugs - Communication Facility	**157**	141	89.8	2	1.3	4	2.5	10	6.4
Drugs - Simple Possession	**277**	232	83.8	2	0.7	4	1.4	39	14.1
Firearms	**880**	777	88.3	40	4.5	19	2.2	44	5.0
Burglary/B&E	**8**	7	87.5	0	0.0	1	12.5	0	0.0
Auto Theft	**7**	6	85.7	1	14.3	0	0.0	0	0.0
Larceny	**270**	96	35.6	12	4.4	41	15.2	121	44.8
Fraud	**1,532**	1,203	78.5	53	3.5	95	6.2	181	11.8
Embezzlement	**71**	25	35.2	7	9.9	10	14.1	29	40.8
Forgery/Counterfeiting	**103**	68	66.0	13	12.6	6	5.8	16	15.5
Bribery	**17**	7	41.2	4	23.5	1	5.9	5	29.4
Tax	**123**	59	48.0	18	14.6	19	15.4	27	22.0
Money Laundering	**124**	76	61.3	17	13.7	7	5.6	24	19.4
Racketeering/Extortion	**89**	80	89.9	0	0.0	1	1.1	8	9.0
Gambling/Lottery	**17**	10	58.8	0	0.0	1	5.9	6	35.3
Civil Rights	**5**	2	40.0	1	20.0	0	0.0	2	40.0
Immigration	**7,741**	7,480	96.6	120	1.6	33	0.4	108	1.4
Pornography/Prostitution	**364**	356	97.8	4	1.1	3	0.8	1	0.3
Prison Offenses	**112**	102	91.1	3	2.7	1	0.9	6	5.4
Administration of Justice Offenses	**177**	108	61.0	3	1.7	25	14.1	41	23.2
Environmental/Wildlife	**56**	9	16.1	2	3.6	8	14.3	37	66.1
National Defense	**6**	4	66.7	0	0.0	1	16.7	1	16.7
Antitrust	**6**	5	83.3	0	0.0	1	16.7	0	0.0
Food & Drug	**19**	2	10.5	0	0.0	4	21.1	13	68.4
Other Miscellaneous Offenses	**367**	201	54.8	7	1.9	28	7.6	131	35.7

Of the 17,246 guideline cases from the Ninth Circuit, 97 cases were excluded due to one of the following reasons: missing sentencing information (2) or cases in which the defendant received no imprisonment or probation (95).

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

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Table 6

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

		National				Ninth Circuit			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
PRIMARY OFFENSE	**TOTAL**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
TOTAL	**16,832**	**11,441**	**68.0**	**5,391**	**32.0**	**1,521**	**64.8**	**827**	**35.2**
Fraud	**2,211**	1,184	53.6	1,027	46.4	217	56.5	167	43.5
Larceny	**968**	199	20.6	769	79.4	40	22.9	135	77.1
Immigration	**9,409**	8,633	91.8	776	8.2	837	92.2	71	7.8
Embezzlement	**245**	41	16.7	204	83.3	7	20.0	28	80.0
Drugs - Trafficking	**609**	363	59.6	246	40.4	137	81.1	32	18.9
Drugs - Simple Possession	**445**	186	41.8	259	58.2	77	63.6	44	36.4
Firearms	**272**	98	36.0	174	64.0	10	38.5	16	61.5
Forgery/Counterfeiting	**283**	108	38.2	175	61.8	13	41.9	18	58.1
Other Miscellaneous Offenses	**2,390**	629	26.3	1,761	73.7	183	36.7	316	63.3

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

Of the 17,246 guideline cases from the Ninth Circuit, 14,898 cases were excluded due to one or both of the following reasons: defendant ineligible for non-prison alternatives (14,898) or missing sentencing information (2).

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

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Table 7

AVERAGE LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009

	National			Ninth Circuit		
PRIMARY OFFENSE	Mean Months	Median Months	Number	Mean Months	Median Months	Number
TOTAL	**54.0**	**30.0**	**70,103**	**36.3**	**24.0**	**15,453**
Murder	274.5	270.0	93	309.3	300.0	16
Manslaughter	68.7	50.0	57	62.7	46.5	30
Kidnapping/Hostage Taking	212.8	168.0	41	155.9	120.0	7
Sexual Abuse	96.0	60.0	460	96.3	61.5	86
Assault	43.8	30.0	554	42.8	36.0	167
Robbery	82.2	63.0	981	74.3	57.0	182
Arson	61.1	60.0	57	40.0	45.0	9
Drugs - Trafficking	81.2	60.0	22,867	54.4	40.0	3,895
Drugs - Communication Facility	42.9	46.0	383	44.7	48.0	141
Drugs - Simple Possession	8.5	2.0	355	3.0	2.0	193
Firearms	91.5	60.0	7,663	63.5	48.0	811
Burglary/B&E	26.7	24.0	31	18.0	21.0	7
Auto Theft	64.2	35.0	63	19.8	19.0	6
Larceny	16.4	12.0	609	12.8	9.8	101
Fraud	28.5	18.0	5,615	19.0	6.0	1,209
Embezzlement	16.5	12.0	216	17.0	12.0	29
Forgery/Counterfeiting	21.1	17.0	619	23.9	18.0	77
Bribery	26.4	21.0	128	12.1	6.0	11
Tax	22.4	18.0	390	17.4	12.0	77
Money Laundering	41.8	24.0	621	22.0	14.0	91
Racketeering/Extortion	102.7	60.0	580	103.2	46.0	79
Gambling/Lottery	10.9	6.0	28	14.5	10.5	10
Civil Rights	44.7	30.0	35	23.3	27.0	3
Immigration	18.9	12.0	23,757	23.5	21.0	7,449
Pornography/Prostitution	121.2	78.0	1,910	92.9	63.0	360
Prison Offenses	16.3	12.0	418	12.7	12.0	104
Administration of Justice Offenses	23.9	15.0	600	22.1	18.0	101
Environmental/Wildlife	12.0	10.0	60	8.5	3.0	11
National Defense	53.8	34.0	58	33.0	30.0	4
Antitrust	15.2	12.0	17	8.2	7.0	5
Food & Drug	14.9	10.5	14	--	--	1
Other Miscellaneous Offenses	18.7	10.0	823	12.5	6.0	181

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

Of the 17,246 guideline cases from the Ninth Circuit, 1,793 cases were excluded due to one of the following reasons: zero prison months ordered (1,695) or missing or indeterminable sentencing information (98).

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

Table 8

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

	National		Ninth Circuit	
	N	%	N	%
TOTAL CASES[1]	**79,153**	**100.0**	**16,161**	**100.0**
CASES SENTENCED WITHIN GUIDELINE RANGE	**44,991**	**56.8**	**6,463**	**40.0**
CASES SENTENCED ABOVE GUIDELINE RANGE	**1,496**	**2.0**	**270**	**1.7**
DEPARTURE ABOVE GUIDELINE RANGE	**533**	**0.7**	**123**	**0.8**
Upward Departure From Guideline Range[2]	382	0.5	94	0.6
Upward Departure With *Booker* /18 U.S.C. § 3553[3]	151	0.2	29	0.2
OTHERWISE ABOVE GUIDELINE RANGE	**963**	**1.3**	**147**	**0.9**
Above Guideline Range With *Booker* /18 U.S.C. § 3553[4]	842	1.1	113	0.7
All Remaining Cases Above Guideline Range[5]	121	0.2	34	0.2
GOVERNMENT SPONSORED BELOW RANGE[6]	**20,011**	**25.3**	**7,314**	**45.2**
§5K1.1 Substantial Assistance Departure	9,855	12.5	1,268	7.8
§5K3.1 Early Disposition Program Departure	7,242	9.1	5,227	32.3
Other Government Sponsored Below Range	2,914	3.7	819	5.1
NON-GOVERNMENT SPONSORED BELOW RANGE	**12,655**	**15.9**	**2,114**	**13.1**
DEPARTURE BELOW GUIDELINE RANGE	**2,403**	**3.0**	**485**	**3.0**
Downward Departure From Guideline Range[2]	1,542	1.9	317	2.0
Downward Departure With *Booker* /18 U.S.C. § 3553[3]	861	1.1	168	1.0
OTHERWISE BELOW GUIDELINE RANGE	**10,252**	**12.9**	**1,629**	**10.1**
Below Guideline Range With *Booker* /18 U.S.C. § 3553[4]	9,358	11.8	1,386	8.6
All Remaining Cases Below Guideline Range[5]	894	1.1	243	1.5

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[1]This table reflects the 81,372 cases sentenced nationally in Fiscal Year 2009, 17,246 of which were from the Ninth Circuit. Of these, 2,219 cases nationally and 1,085 cases from the Ninth 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, 2009 Datafile, OPAFY09.

Table 9

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

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

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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	
District	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
TOTAL	**9,855**	**12.5**	**7,242**	**9.1**	**2,914**	**3.7**	**1,542**	**1.9**	**861**	**1.1**	**9,358**	**11.8**	**894**	**1.1**
D.C. CIRCUIT	**94**	**25.2**	**0**	**0.0**	**54**	**14.5**	**3**	**0.8**	**10**	**2.7**	**48**	**12.9**	**13**	**3.5**
District of Columbia	94	25.2	0	0.0	54	14.5	3	0.8	10	2.7	48	12.9	13	3.5
FIRST CIRCUIT	**209**	**11.8**	**35**	**2.0**	**118**	**6.7**	**33**	**1.9**	**37**	**2.1**	**339**	**19.1**	**32**	**1.8**
Maine	60	26.4	0	0.0	1	0.4	4	1.8	1	0.4	38	16.7	1	0.4
Massachusetts	43	8.3	0	0.0	64	12.4	20	3.9	17	3.3	173	33.5	7	1.4
New Hampshire	51	24.9	0	0.0	23	11.2	1	0.5	0	0.0	34	16.6	1	0.5
Puerto Rico	43	6.2	35	5.0	26	3.7	7	1.0	19	2.7	43	6.2	23	3.3
Rhode Island	12	9.2	0	0.0	4	3.1	1	0.8	0	0.0	51	38.9	0	0.0
SECOND CIRCUIT	**954**	**20.5**	**1**	**0.0**	**164**	**3.5**	**121**	**2.6**	**129**	**2.8**	**1,159**	**24.9**	**76**	**1.6**
Connecticut	78	19.2	0	0.0	14	3.4	19	4.7	26	6.4	105	25.9	3	0.7
New York														
Eastern	314	26.0	1	0.1	61	5.1	34	2.8	36	3.0	303	25.1	28	2.3
Northern	79	15.8	0	0.0	11	2.2	17	3.4	6	1.2	66	13.2	3	0.6
Southern	232	14.2	0	0.0	39	2.4	36	2.2	39	2.4	552	33.8	33	2.0
Western	201	28.1	0	0.0	26	3.6	2	0.3	3	0.4	95	13.3	8	1.1
Vermont	50	25.6	0	0.0	13	6.7	13	6.7	19	9.7	38	19.5	1	0.5
THIRD CIRCUIT	**784**	**25.6**	**0**	**0.0**	**97**	**3.2**	**39**	**1.3**	**54**	**1.8**	**608**	**19.8**	**39**	**1.3**
Delaware	19	12.0	0	0.0	5	3.2	0	0.0	2	1.3	65	41.1	0	0.0
New Jersey	257	29.0	0	0.0	17	1.9	12	1.4	3	0.3	165	18.6	16	1.8
Pennsylvania														
Eastern	277	32.1	0	0.0	18	2.1	9	1.0	17	2.0	189	21.9	12	1.4
Middle	176	28.0	0	0.0	50	7.9	8	1.3	4	0.6	96	15.3	6	1.0
Western	49	10.7	0	0.0	7	1.5	10	2.2	24	5.2	88	19.1	3	0.7
Virgin Islands	6	8.6	0	0.0	0	0.0	0	0.0	4	5.7	5	7.1	2	2.9
FOURTH CIRCUIT	**1,064**	**16.5**	**0**	**0.0**	**174**	**2.7**	**97**	**1.5**	**40**	**0.6**	**822**	**12.7**	**60**	**0.9**
Maryland	176	24.6	0	0.0	48	6.7	12	1.7	15	2.1	97	13.6	16	2.2
North Carolina														
Eastern	209	32.7	0	0.0	3	0.5	4	0.6	0	0.0	37	5.8	5	0.8
Middle	78	18.1	0	0.0	1	0.2	1	0.2	2	0.5	40	9.3	1	0.2
Western	167	31.6	0	0.0	4	0.8	8	1.5	4	0.8	45	8.5	6	1.1
South Carolina	200	17.6	0	0.0	34	3.0	17	1.5	2	0.2	121	10.7	8	0.7
Virginia														
Eastern	71	3.9	0	0.0	26	1.4	32	1.7	13	0.7	266	14.5	22	1.2
Western	113	22.7	0	0.0	9	1.8	17	3.4	1	0.2	75	15.1	1	0.2
West Virginia														
Northern	30	7.5	0	0.0	47	11.8	3	0.8	0	0.0	66	16.5	1	0.3
Southern	20	7.0	0	0.0	2	0.7	3	1.1	3	1.1	75	26.4	0	0.0

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CIRCUIT		SENTENCED WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/*BOOKER*		ABOVE RANGE W/*BOOKER*		REMAINING ABOVE RANGE	
District	**TOTAL**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
FIFTH CIRCUIT	**19,314**	**13,843**	**71.7**	**109**	**0.6**	**37**	**0.2**	**286**	**1.5**	**28**	**0.1**
Louisiana											
Eastern	**439**	299	68.1	4	0.9	4	0.9	8	1.8	1	0.2
Middle	**176**	106	60.2	4	2.3	3	1.7	4	2.3	0	0.0
Western	**345**	271	78.6	5	1.4	3	0.9	13	3.8	2	0.6
Mississippi											
Northern	**135**	74	54.8	0	0.0	0	0.0	2	1.5	0	0.0
Southern	**327**	264	80.7	3	0.9	0	0.0	5	1.5	1	0.3
Texas											
Eastern	**924**	706	76.4	9	1.0	0	0.0	7	0.8	0	0.0
Northern	**1,007**	656	65.1	23	2.3	11	1.1	35	3.5	0	0.0
Southern	**7,595**	4,843	63.8	46	0.6	10	0.1	64	0.8	5	0.1
Western	**8,366**	6,624	79.2	15	0.2	6	0.1	148	1.8	19	0.2
SIXTH CIRCUIT	**5,183**	**2,641**	**51.0**	**29**	**0.6**	**14**	**0.3**	**60**	**1.2**	**9**	**0.2**
Kentucky											
Eastern	**702**	341	48.6	2	0.3	1	0.1	13	1.9	1	0.1
Western	**418**	278	66.5	1	0.2	0	0.0	3	0.7	0	0.0
Michigan											
Eastern	**715**	361	50.5	4	0.6	0	0.0	3	0.4	2	0.3
Western	**481**	294	61.1	6	1.2	4	0.8	13	2.7	1	0.2
Ohio											
Northern	**671**	338	50.4	2	0.3	0	0.0	5	0.7	1	0.1
Southern	**618**	206	33.3	5	0.8	5	0.8	6	1.0	2	0.3
Tennessee											
Eastern	**648**	375	57.9	4	0.6	0	0.0	4	0.6	2	0.3
Middle	**304**	133	43.8	2	0.7	2	0.7	5	1.6	0	0.0
Western	**626**	315	50.3	3	0.5	2	0.3	8	1.3	0	0.0
SEVENTH CIRCUIT	**2,913**	**1,532**	**52.6**	**8**	**0.3**	**9**	**0.3**	**63**	**2.2**	**3**	**0.1**
Illinois											
Central	**349**	179	51.3	0	0.0	0	0.0	2	0.6	0	0.0
Northern	**908**	410	45.2	1	0.1	3	0.3	15	1.7	2	0.2
Southern	**314**	228	72.6	2	0.6	5	1.6	5	1.6	0	0.0
Indiana											
Northern	**452**	290	64.2	0	0.0	1	0.2	10	2.2	0	0.0
Southern	**232**	135	58.2	4	1.7	0	0.0	10	4.3	0	0.0
Wisconsin											
Eastern	**467**	177	37.9	1	0.2	0	0.0	17	3.6	1	0.2
Western	**191**	113	59.2	0	0.0	0	0.0	4	2.1	0	0.0
EIGHTH CIRCUIT	**5,424**	**3,096**	**57.1**	**31**	**0.6**	**16**	**0.3**	**55**	**1.0**	**9**	**0.2**
Arkansas											
Eastern	**414**	262	63.3	2	0.5	3	0.7	9	2.2	2	0.5
Western	**254**	194	76.4	0	0.0	0	0.0	3	1.2	0	0.0
Iowa											
Northern	**349**	180	51.6	12	3.4	1	0.3	4	1.1	3	0.9
Southern	**469**	243	51.8	0	0.0	0	0.0	10	2.1	0	0.0
Minnesota	**624**	200	32.1	1	0.2	0	0.0	1	0.2	1	0.2
Missouri											
Eastern	**1,048**	608	58.0	1	0.1	0	0.0	7	0.7	0	0.0
Western	**827**	489	59.1	2	0.2	2	0.2	9	1.1	1	0.1
Nebraska	**650**	401	61.7	7	1.1	1	0.2	3	0.5	2	0.3
North Dakota	**277**	160	57.8	0	0.0	1	0.4	2	0.7	0	0.0
South Dakota	**512**	359	70.1	6	1.2	8	1.6	7	1.4	0	0.0

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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	
District	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
FIFTH CIRCUIT	**1,351**	**7.0**	**1,252**	**6.5**	**446**	**2.3**	**531**	**2.7**	**47**	**0.2**	**1,215**	**6.3**	**169**	**0.9**
Louisiana														
Eastern	54	12.3	0	0.0	19	4.3	16	3.6	1	0.2	28	6.4	5	1.1
Middle	44	25.0	0	0.0	0	0.0	0	0.0	2	1.1	13	7.4	0	0.0
Western	12	3.5	0	0.0	2	0.6	2	0.6	3	0.9	27	7.8	5	1.4
Mississippi														
Northern	38	28.1	0	0.0	7	5.2	1	0.7	0	0.0	11	8.1	2	1.5
Southern	18	5.5	0	0.0	1	0.3	4	1.2	0	0.0	25	7.6	6	1.8
Texas														
Eastern	67	7.3	0	0.0	57	6.2	16	1.7	6	0.6	49	5.3	7	0.8
Northern	146	14.5	0	0.0	11	1.1	4	0.4	5	0.5	109	10.8	7	0.7
Southern	444	5.8	1,107	14.6	230	3.0	336	4.4	10	0.1	477	6.3	23	0.3
Western	528	6.3	145	1.7	119	1.4	152	1.8	20	0.2	476	5.7	114	1.4
SIXTH CIRCUIT	**1,260**	**24.3**	**0**	**0.0**	**149**	**2.9**	**83**	**1.6**	**105**	**2.0**	**769**	**14.8**	**64**	**1.2**
Kentucky														
Eastern	264	37.6	0	0.0	7	1.0	4	0.6	1	0.1	64	9.1	4	0.6
Western	61	14.6	0	0.0	24	5.7	5	1.2	4	1.0	36	8.6	6	1.4
Michigan														
Eastern	142	19.9	0	0.0	21	2.9	15	2.1	10	1.4	150	21.0	7	1.0
Western	62	12.9	0	0.0	8	1.7	6	1.2	12	2.5	72	15.0	3	0.6
Ohio														
Northern	158	23.5	0	0.0	15	2.2	12	1.8	12	1.8	113	16.8	15	2.2
Southern	190	30.7	0	0.0	37	6.0	22	3.6	40	6.5	95	15.4	10	1.6
Tennessee														
Eastern	182	28.1	0	0.0	3	0.5	7	1.1	3	0.5	62	9.6	6	0.9
Middle	62	20.4	0	0.0	10	3.3	6	2.0	18	5.9	64	21.1	2	0.7
Western	139	22.2	0	0.0	24	3.8	6	1.0	5	0.8	113	18.1	11	1.8
SEVENTH CIRCUIT	**485**	**16.6**	**0**	**0.0**	**97**	**3.3**	**47**	**1.6**	**105**	**3.6**	**509**	**17.5**	**55**	**1.9**
Illinois														
Central	91	26.1	0	0.0	11	3.2	3	0.9	4	1.1	57	16.3	2	0.6
Northern	142	15.6	0	0.0	17	1.9	30	3.3	81	8.9	184	20.3	23	2.5
Southern	29	9.2	0	0.0	7	2.2	3	1.0	10	3.2	19	6.1	6	1.9
Indiana														
Northern	76	16.8	0	0.0	11	2.4	7	1.5	7	1.5	40	8.8	10	2.2
Southern	31	13.4	0	0.0	11	4.7	2	0.9	0	0.0	38	16.4	1	0.4
Wisconsin														
Eastern	91	19.5	0	0.0	39	8.4	1	0.2	2	0.4	125	26.8	13	2.8
Western	25	13.1	0	0.0	1	0.5	1	0.5	1	0.5	46	24.1	0	0.0
EIGHTH CIRCUIT	**849**	**15.7**	**28**	**0.5**	**169**	**3.1**	**85**	**1.6**	**60**	**1.1**	**970**	**17.9**	**56**	**1.0**
Arkansas														
Eastern	49	11.8	0	0.0	15	3.6	7	1.7	7	1.7	54	13.0	4	1.0
Western	33	13.0	0	0.0	1	0.4	4	1.6	0	0.0	17	6.7	2	0.8
Iowa														
Northern	69	19.8	0	0.0	5	1.4	1	0.3	0	0.0	74	21.2	0	0.0
Southern	81	17.3	0	0.0	13	2.8	3	0.6	3	0.6	110	23.5	6	1.3
Minnesota	193	30.9	0	0.0	10	1.6	18	2.9	14	2.2	176	28.2	10	1.6
Missouri														
Eastern	145	13.8	0	0.0	42	4.0	21	2.0	16	1.5	192	18.3	16	1.5
Western	178	21.5	0	0.0	25	3.0	1	0.1	3	0.4	106	12.8	11	1.3
Nebraska	17	2.6	28	4.3	37	5.7	7	1.1	5	0.8	137	21.1	5	0.8
North Dakota	63	22.7	0	0.0	6	2.2	6	2.2	3	1.1	35	12.6	1	0.4
South Dakota	21	4.1	0	0.0	15	2.9	17	3.3	9	1.8	69	13.5	1	0.2

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CIRCUIT		SENTENCED WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/*BOOKER*		ABOVE RANGE W/*BOOKER*		REMAINING ABOVE RANGE	
District	**TOTAL**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
NINTH CIRCUIT	**16,161**	**6,463**	**40.0**	**94**	**0.6**	**29**	**0.2**	**113**	**0.7**	**34**	**0.2**
Alaska	**182**	90	49.5	1	0.5	2	1.1	1	0.5	0	0.0
Arizona	**3,811**	1,061	27.8	53	1.4	4	0.1	15	0.4	8	0.2
California											
Central	**1,920**	620	32.3	8	0.4	8	0.4	19	1.0	6	0.3
Eastern	**1,031**	454	44.0	3	0.3	0	0.0	7	0.7	1	0.1
Northern	**888**	459	51.7	2	0.2	6	0.7	17	1.9	3	0.3
Southern	**4,825**	2,006	41.6	13	0.3	2	0.0	10	0.2	12	0.2
Guam	**60**	41	68.3	0	0.0	1	1.7	1	1.7	0	0.0
Hawaii	**301**	142	47.2	0	0.0	0	0.0	3	1.0	0	0.0
Idaho	**332**	153	46.1	2	0.6	1	0.3	3	0.9	1	0.3
Montana	**401**	284	70.8	1	0.2	3	0.7	8	2.0	2	0.5
Nevada	**406**	269	66.3	1	0.2	0	0.0	4	1.0	0	0.0
Northern Mariana Islands	**26**	24	92.3	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	**625**	281	45.0	2	0.3	0	0.0	3	0.5	1	0.2
Washington											
Eastern	**429**	183	42.7	5	1.2	2	0.5	16	3.7	0	0.0
Western	**924**	396	42.9	3	0.3	0	0.0	6	0.6	0	0.0
TENTH CIRCUIT	**6,727**	**4,182**	**62.2**	**25**	**0.4**	**2**	**0.0**	**46**	**0.7**	**2**	**0.0**
Colorado	**517**	285	55.1	1	0.2	1	0.2	6	1.2	0	0.0
Kansas	**724**	411	56.8	4	0.6	0	0.0	21	2.9	0	0.0
New Mexico	**3,425**	2,190	63.9	10	0.3	0	0.0	2	0.1	1	0.0
Oklahoma											
Eastern	**98**	63	64.3	2	2.0	0	0.0	1	1.0	0	0.0
Northern	**218**	153	70.2	0	0.0	0	0.0	0	0.0	0	0.0
Western	**483**	384	79.5	0	0.0	0	0.0	9	1.9	1	0.2
Utah	**833**	439	52.7	4	0.5	0	0.0	3	0.4	0	0.0
Wyoming	**429**	257	59.9	4	0.9	1	0.2	4	0.9	0	0.0
ELEVENTH CIRCUIT	**7,098**	**4,654**	**65.6**	**13**	**0.2**	**13**	**0.2**	**99**	**1.4**	**14**	**0.2**
Alabama											
Middle	**235**	134	57.0	1	0.4	1	0.4	6	2.6	0	0.0
Northern	**478**	290	60.7	0	0.0	0	0.0	9	1.9	0	0.0
Southern	**429**	268	62.5	0	0.0	0	0.0	0	0.0	0	0.0
Florida											
Middle	**1,634**	943	57.7	5	0.3	1	0.1	18	1.1	3	0.2
Northern	**397**	270	68.0	1	0.3	1	0.3	6	1.5	0	0.0
Southern	**2,291**	1,604	70.0	2	0.1	6	0.3	26	1.1	7	0.3
Georgia											
Middle	**309**	236	76.4	1	0.3	1	0.3	6	1.9	1	0.3
Northern	**767**	473	61.7	0	0.0	3	0.4	7	0.9	3	0.4
Southern	**558**	436	78.1	3	0.5	0	0.0	21	3.8	0	0.0

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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	
District	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
NINTH CIRCUIT	**1,268**	**7.8**	**5,227**	**32.3**	**819**	**5.1**	**317**	**2.0**	**168**	**1.0**	**1,386**	**8.6**	**243**	**1.5**
Alaska	25	13.7	0	0.0	17	9.3	1	0.5	20	11.0	15	8.2	10	5.5
Arizona	182	4.8	2,094	54.9	99	2.6	52	1.4	27	0.7	183	4.8	33	0.9
California														
Central	215	11.2	477	24.8	122	6.4	62	3.2	43	2.2	267	13.9	73	3.8
Eastern	125	12.1	290	28.1	37	3.6	15	1.5	7	0.7	86	8.3	6	0.6
Northern	55	6.2	117	13.2	104	11.7	10	1.1	13	1.5	88	9.9	14	1.6
Southern	186	3.9	2,049	42.5	93	1.9	133	2.8	28	0.6	216	4.5	77	1.6
Guam	10	16.7	0	0.0	1	1.7	0	0.0	1	1.7	5	8.3	0	0.0
Hawaii	102	33.9	0	0.0	0	0.0	1	0.3	0	0.0	50	16.6	3	1.0
Idaho	67	20.2	38	11.4	10	3.0	4	1.2	4	1.2	42	12.7	7	2.1
Montana	39	9.7	0	0.0	3	0.7	6	1.5	3	0.7	49	12.2	3	0.7
Nevada	25	6.2	0	0.0	24	5.9	3	0.7	1	0.2	70	17.2	9	2.2
Northern Mariana Islands	2	7.7	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	108	17.3	41	6.6	79	12.6	8	1.3	4	0.6	93	14.9	5	0.8
Washington														
Eastern	24	5.6	79	18.4	31	7.2	8	1.9	3	0.7	78	18.2	0	0.0
Western	103	11.1	42	4.5	199	21.5	14	1.5	14	1.5	144	15.6	3	0.3
TENTH CIRCUIT	**488**	**7.3**	**679**	**10.1**	**555**	**8.3**	**128**	**1.9**	**44**	**0.7**	**549**	**8.2**	**27**	**0.4**
Colorado	98	19.0	0	0.0	18	3.5	17	3.3	3	0.6	84	16.2	4	0.8
Kansas	142	19.6	0	0.0	73	10.1	1	0.1	2	0.3	69	9.5	1	0.1
New Mexico	65	1.9	506	14.8	396	11.6	79	2.3	15	0.4	153	4.5	8	0.2
Oklahoma														
Eastern	13	13.3	0	0.0	1	1.0	2	2.0	1	1.0	14	14.3	1	1.0
Northern	40	18.3	0	0.0	1	0.5	0	0.0	1	0.5	23	10.6	0	0.0
Western	31	6.4	0	0.0	3	0.6	0	0.0	2	0.4	52	10.8	1	0.2
Utah	45	5.4	167	20.0	38	4.6	22	2.6	4	0.5	102	12.2	9	1.1
Wyoming	54	12.6	6	1.4	25	5.8	7	1.6	16	3.7	52	12.1	3	0.7
ELEVENTH CIRCUIT	**1,049**	**14.8**	**20**	**0.3**	**72**	**1.0**	**58**	**0.8**	**62**	**0.9**	**984**	**13.9**	**60**	**0.8**
Alabama														
Middle	62	26.4	0	0.0	2	0.9	0	0.0	1	0.4	25	10.6	3	1.3
Northern	107	22.4	0	0.0	1	0.2	1	0.2	2	0.4	64	13.4	4	0.8
Southern	102	23.8	0	0.0	0	0.0	2	0.5	2	0.5	54	12.6	1	0.2
Florida														
Middle	319	19.5	19	1.2	14	0.9	25	1.5	18	1.1	255	15.6	14	0.9
Northern	85	21.4	0	0.0	0	0.0	0	0.0	1	0.3	30	7.6	3	0.8
Southern	188	8.2	0	0.0	28	1.2	10	0.4	19	0.8	377	16.5	24	1.0
Georgia														
Middle	32	10.4	0	0.0	3	1.0	1	0.3	1	0.3	26	8.4	1	0.3
Northern	114	14.9	1	0.1	18	2.3	14	1.8	17	2.2	109	14.2	8	1.0
Southern	40	7.2	0	0.0	6	1.1	5	0.9	1	0.2	44	7.9	2	0.4

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Of the 81,372 cases, 2,219 were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Districts for which information needed to determine the relationship between the sentence imposed and the guideline range is missing in five percent or more of the cases received included: Middle Georgia (27.0%), Arizona (20.3%), Eastern Virginia (13.2%), Maryland (10.9%), Southern Mississippi (8.7%), Northern New York (8.4%), Southern Florida (5.3%), and Middle Tennessee (5.0%).

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

Table 10

GUIDELINE DEPARTURE RATE BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2009

National

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

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Ninth Circuit

		WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/*BOOKER*		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
PRIMARY OFFENSE	**TOTAL**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
TOTAL	**16,161**	**6,463**	**40.0**	**94**	**0.6**	**29**	**0.2**	**113**	**0.7**	**34**	**0.2**
Robbery	**182**	84	46.2	4	2.2	0	0.0	8	4.4	2	1.1
Drugs - Trafficking	**4,084**	1,145	28.0	12	0.3	2	0.0	12	0.3	3	0.1
Drugs - Simple Possession	**125**	119	95.2	2	1.6	0	0.0	0	0.0	1	0.8
Firearms	**875**	488	55.8	16	1.8	4	0.5	20	2.3	7	0.8
Larceny	**267**	183	68.5	1	0.4	0	0.0	0	0.0	1	0.4
Fraud	**1,079**	625	57.9	7	0.6	3	0.3	15	1.4	4	0.4
Embezzlement	**69**	42	60.9	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	**102**	60	58.8	0	0.0	1	1.0	1	1.0	1	1.0
Immigration	**7,373**	2,622	35.6	36	0.5	9	0.1	33	0.4	12	0.2
Other Miscellaneous Offenses	**2,005**	1,095	54.6	16	0.8	10	0.5	24	1.2	3	0.1

National

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/*BOOKER*		BELOW RANGE W/*BOOKER*		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	**9,855**	**12.5**	**7,242**	**9.1**	**2,914**	**3.7**	**1,542**	**1.9**	**861**	**1.1**	**9,358**	**11.8**	**894**	**1.1**
Robbery	113	11.2	1	0.1	34	3.4	24	2.4	26	2.6	159	15.8	5	0.5
Drugs - Trafficking	6,192	25.9	1,438	6.0	867	3.6	409	1.7	297	1.2	3,223	13.5	198	0.8
Drugs - Simple Possession	10	1.9	0	0.0	4	0.8	5	0.9	0	0.0	9	1.7	5	0.9
Firearms	955	11.6	17	0.2	299	3.6	155	1.9	101	1.2	1,272	15.5	91	1.1
Larceny	88	5.8	1	0.1	35	2.3	19	1.3	15	1.0	165	10.9	36	2.4
Fraud	1,050	15.0	8	0.1	231	3.3	107	1.5	92	1.3	1,118	15.9	126	1.8
Embezzlement	14	3.0	0	0.0	11	2.4	9	1.9	10	2.1	88	18.9	13	2.8
Forgery/Counterfeiting	101	11.5	1	0.1	15	1.7	9	1.0	11	1.2	105	11.9	12	1.4
Immigration	317	1.2	5,753	22.7	713	2.8	591	2.3	126	0.5	1,336	5.3	242	1.0
Other Miscellaneous Offenses	1,015	9.9	23	0.2	705	6.9	214	2.1	183	1.8	1,883	18.4	166	1.6

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PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/*BOOKER*		BELOW RANGE W/*BOOKER*		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	**1,268**	**7.8**	**5,227**	**32.3**	**819**	**5.1**	**317**	**2.0**	**168**	**1.0**	**1,386**	**8.6**	**243**	**1.5**
Robbery	11	6.0	0	0.0	19	10.4	8	4.4	9	4.9	35	19.2	2	1.1
Drugs - Trafficking	745	18.2	1,265	31.0	259	6.3	107	2.6	62	1.5	427	10.5	45	1.1
Drugs - Simple Possession	0	0.0	0	0.0	1	0.8	1	0.8	0	0.0	1	0.8	0	0.0
Firearms	69	7.9	16	1.8	73	8.3	23	2.6	5	0.6	139	15.9	15	1.7
Larceny	19	7.1	1	0.4	11	4.1	2	0.7	4	1.5	31	11.6	14	5.2
Fraud	145	13.4	8	0.7	81	7.5	26	2.4	14	1.3	131	12.1	20	1.9
Embezzlement	1	1.4	0	0.0	5	7.2	1	1.4	1	1.4	14	20.3	5	7.2
Forgery/Counterfeiting	12	11.8	1	1.0	6	5.9	0	0.0	1	1.0	17	16.7	2	2.0
Immigration	96	1.3	3,914	53.1	132	1.8	94	1.3	38	0.5	298	4.0	89	1.2
Other Miscellaneous Offenses	170	8.5	22	1.1	232	11.6	55	2.7	34	1.7	293	14.6	51	2.5

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

Of the 17,246 guideline cases from the Ninth Circuit, 1,085 cases were excluded due to missing information needed to determine the relationship between the sentence imposed and the guideline range.

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