

# United States Sentencing Commission



cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014

## *Statistical Information Packet*

*Fiscal Year 2011*

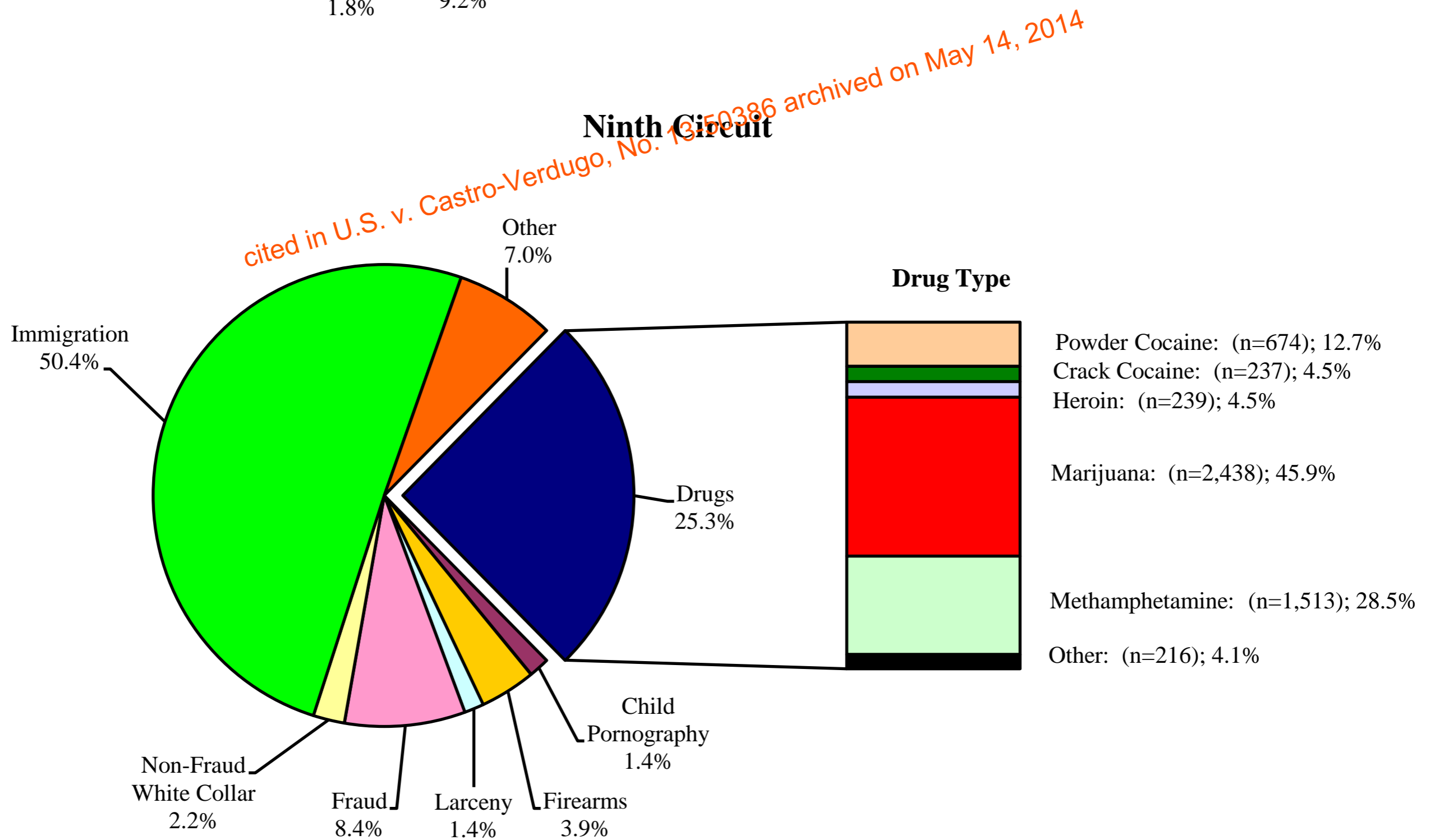
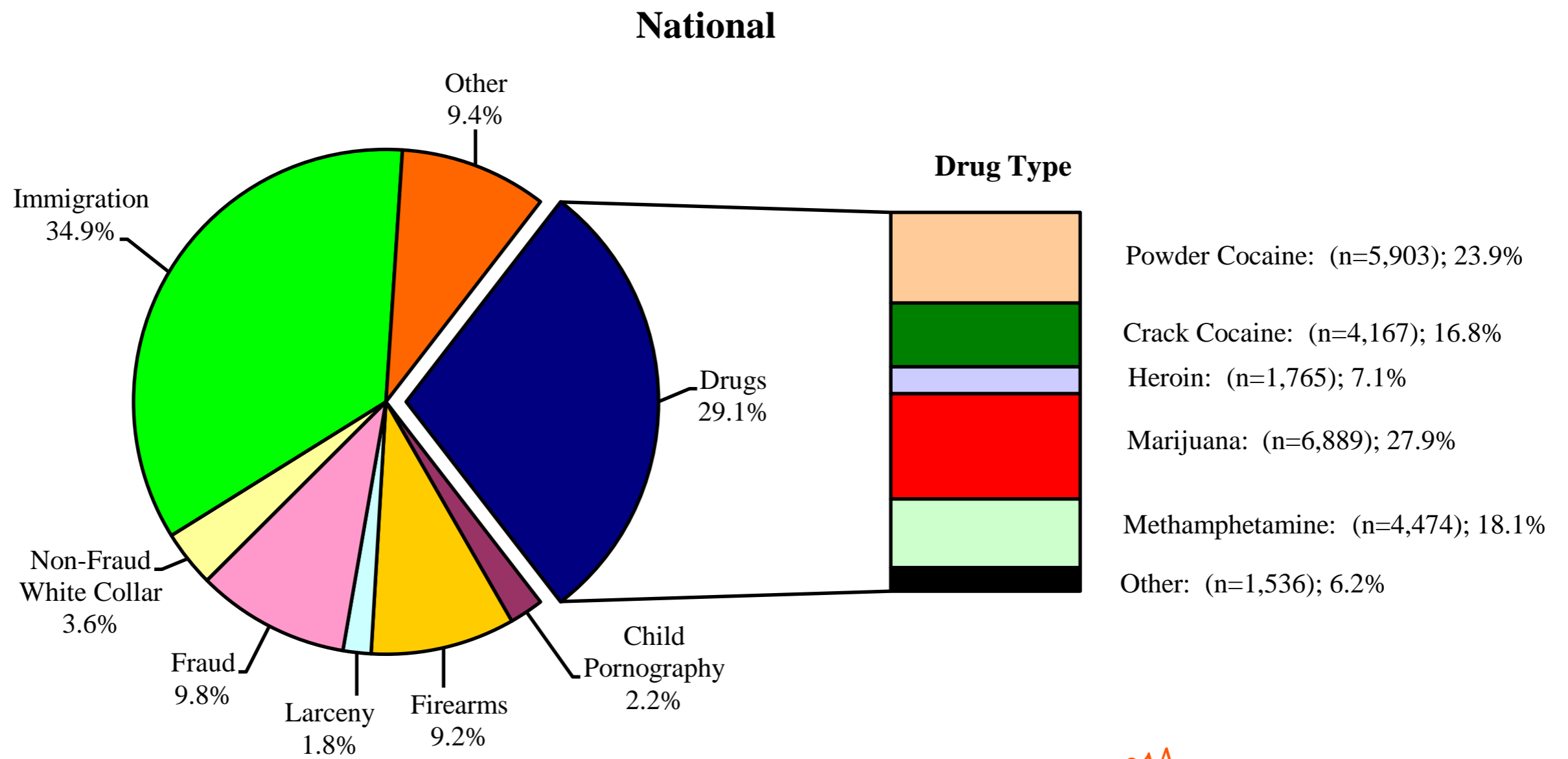
*Ninth Circuit*

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**Figure A**

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



<sup>1</sup> Of the 86,201 guideline cases, 1,079 cases were excluded due to missing drug type.  
 Of the 21,514 guideline cases from the Ninth Circuit, 471 cases were excluded due to missing drug type.

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

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

**Table 1**

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

PRIMARY OFFENSE	National		Ninth Circuit	
	N	%	N	%
<b>TOTAL</b>	<b>86,201</b>	<b>100.0</b>	<b>21,514</b>	<b>100.0</b>
Murder	74	0.1	13	0.1
Manslaughter	65	0.1	26	0.1
Kidnapping/Hostage Taking	69	0.1	14	0.1
Sexual Abuse	395	0.5	93	0.4
Assault	680	0.8	196	0.9
Robbery	957	1.1	192	0.9
Arson	55	0.1	9	0.0
Drugs - Trafficking	24,442	28.4	5,225	24.3
Drugs - Communication Facility	469	0.5	155	0.7
Drugs - Simple Possession	902	1.0	408	1.9
Firearms	7,858	9.1	821	3.8
Burglary/B&E	52	0.1	17	0.1
Auto Theft	85	0.1	2	0.0
Larceny	1,528	1.8	288	1.3
Fraud	8,332	9.7	1,773	8.2
Embezzlement	391	0.5	52	0.2
Forgery/Counterfeiting	941	1.1	95	0.4
Bribery	221	0.3	18	0.1
Tax	677	0.8	107	0.5
Money Laundering	844	1.0	189	0.9
Racketeering/Extortion	731	0.8	114	0.5
Gambling/Lottery	80	0.1	1	0.0
Civil Rights	59	0.1	11	0.1
Immigration	29,717	34.5	10,614	49.3
Child Pornography	1,855	2.2	302	1.4
Prison Offenses	419	0.5	83	0.4
Administration of Justice Offenses	1,188	1.4	198	0.9
Environmental/Wildlife	201	0.2	57	0.3
National Defense	88	0.1	14	0.1
Antitrust	10	0.0	2	0.0
Food & Drug	55	0.1	21	0.1
Other Miscellaneous Offenses	2,761	3.2	404	1.9

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

Of the 21,514 guideline cases from the Ninth Circuit, no cases were excluded due to missing information on primary offense category.

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

Table 2

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

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

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

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

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

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

**Table 3**

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

PRIMARY OFFENSE	TOTAL	National				Ninth Circuit			
		PLEA		TRIAL		PLEA		TRIAL	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>86,200</b>	<b>83,509</b>	<b>96.9</b>	<b>2,691</b>	<b>3.1</b>	<b>21,106</b>	<b>98.1</b>	<b>408</b>	<b>1.9</b>
<b>Murder</b>	<b>74</b>	55	74.3	19	25.7	10	76.9	3	23.1
<b>Manslaughter</b>	<b>65</b>	61	93.8	4	6.2	25	96.2	1	3.8
<b>Kidnapping/Hostage Taking</b>	<b>69</b>	51	73.9	18	26.1	12	85.7	2	14.3
<b>Sexual Abuse</b>	<b>395</b>	345	87.3	50	12.7	81	87.1	12	12.9
<b>Assault</b>	<b>680</b>	608	89.4	72	10.6	177	90.3	19	9.7
<b>Robbery</b>	<b>957</b>	920	96.1	37	3.9	186	96.9	6	3.1
<b>Arson</b>	<b>55</b>	51	92.7	4	7.3	9	100.0	0	0.0
<b>Drugs - Trafficking</b>	<b>24,442</b>	23,632	96.7	810	3.3	5,089	97.4	136	2.6
<b>Drugs - Communication Facility</b>	<b>469</b>	469	100.0	0	0.0	155	100.0	0	0.0
<b>Drugs - Simple Possession</b>	<b>902</b>	890	98.7	12	1.3	406	99.5	2	0.5
<b>Firearms</b>	<b>7,858</b>	7,357	93.6	501	6.4	776	94.5	45	5.5
<b>Burglary/B&amp;E</b>	<b>52</b>	49	94.2	3	5.8	15	88.2	2	11.8
<b>Auto Theft</b>	<b>85</b>	77	90.6	8	9.4	2	100.0	0	0.0
<b>Larceny</b>	<b>1,528</b>	1,491	97.6	37	2.4	282	97.9	6	2.1
<b>Fraud</b>	<b>8,332</b>	7,876	94.5	456	5.5	1,726	97.3	47	2.7
<b>Embezzlement</b>	<b>391</b>	384	98.2	7	1.8	51	98.1	1	1.9
<b>Forgery/Counterfeiting</b>	<b>941</b>	924	98.2	17	1.8	95	100.0	0	0.0
<b>Bribery</b>	<b>221</b>	209	94.6	12	5.4	14	77.8	4	22.2
<b>Tax</b>	<b>677</b>	617	91.1	60	8.9	97	90.7	10	9.3
<b>Money Laundering</b>	<b>844</b>	806	95.5	38	4.5	189	100.0	0	0.0
<b>Racketeering/Extortion</b>	<b>731</b>	668	91.4	63	8.6	113	99.1	1	0.9
<b>Gambling/Lottery</b>	<b>80</b>	78	97.5	2	2.5	1	100.0	0	0.0
<b>Civil Rights</b>	<b>59</b>	49	83.1	10	16.9	10	90.9	1	9.1
<b>Immigration</b>	<b>29,717</b>	29,553	99.4	164	0.6	10,552	99.4	62	0.6
<b>Child Pornography</b>	<b>1,855</b>	1,797	96.9	58	3.1	292	96.7	10	3.3
<b>Prison Offenses</b>	<b>419</b>	411	98.1	8	1.9	82	98.8	1	1.2
<b>Administration of Justice Offenses</b>	<b>1,188</b>	1,126	94.8	62	5.2	187	94.4	11	5.6
<b>Environmental/Wildlife</b>	<b>201</b>	188	93.5	13	6.5	55	96.5	2	3.5
<b>National Defense</b>	<b>88</b>	80	90.9	8	9.1	13	92.9	1	7.1
<b>Antitrust</b>	<b>10</b>	10	100.0	0	0.0	2	100.0	0	0.0
<b>Food &amp; Drug</b>	<b>55</b>	55	100.0	0	0.0	21	100.0	0	0.0
<b>Other Miscellaneous Offenses</b>	<b>2,760</b>	2,622	95.0	138	5.0	381	94.3	23	5.7

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

Of the 21,514 guideline cases from the Ninth Circuit, no cases were excluded due to missing information on mode of conviction.

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



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

**National**

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>85,440</b>	<b>74,261</b>	<b>86.9</b>	<b>2,497</b>	<b>2.9</b>	<b>2,630</b>	<b>3.1</b>	<b>6,052</b>	<b>7.1</b>
Murder	74	70	94.6	3	4.1	1	1.4	0	0.0
Manslaughter	65	56	86.2	6	9.2	2	3.1	1	1.5
Kidnapping/Hostage Taking	69	69	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	395	367	92.9	23	5.8	1	0.3	4	1.0
Assault	675	523	77.5	49	7.3	30	4.4	73	10.8
Robbery	957	899	93.9	35	3.7	8	0.8	15	1.6
Arson	54	51	94.4	2	3.7	1	1.9	0	0.0
Drugs - Trafficking	24,433	22,792	93.3	716	2.9	408	1.6	523	2.1
Drugs - Communication Facility	469	353	75.3	17	3.6	44	9.4	55	11.7
Drugs - Simple Possession	864	543	62.8	5	0.6	15	1.7	301	34.8
Firearms	7,846	7,217	92.0	218	2.8	178	2.3	233	3.0
Burglary/B&E	52	41	78.8	6	11.5	5	9.6	0	0.0
Auto Theft	85	55	64.7	7	8.2	12	14.1	11	12.9
Larceny	1,438	525	36.5	59	4.1	222	15.4	632	43.9
Fraud	8,298	5,918	71.3	565	6.8	675	8.1	1,140	13.7
Embezzlement	382	147	38.5	44	11.5	54	14.1	137	35.9
Forgery/Counterfeiting	240	630	67.0	70	7.4	119	12.7	121	12.9
Bribery	219	136	62.1	19	8.7	34	15.5	30	13.7
Tax	674	341	50.6	72	10.7	121	18.0	140	20.8
Money Laundering	841	626	74.4	45	5.4	63	7.5	107	12.7
Racketeering/Extortion	731	661	90.4	27	3.7	23	3.1	20	2.7
Gambling/Lottery	80	21	26.3	5	6.3	34	42.5	20	25.0
Civil Rights	58	31	53.4	8	13.8	6	10.3	13	22.4
Immigration	29,713	28,201	94.9	284	1.0	199	0.7	1,029	3.5
Child Pornography	1,853	1,785	96.3	43	2.3	13	0.7	12	0.6
Prison Offenses	419	380	90.7	18	4.3	7	1.7	14	3.3
Administration of Justice Offenses	1,176	807	68.6	63	5.4	82	7.0	224	19.0
Environmental/Wildlife	186	47	25.3	8	4.3	21	11.3	110	59.1
National Defense	87	74	85.1	4	4.6	4	4.6	5	5.7
Antitrust	10	7	70.0	1	10.0	1	10.0	1	10.0
Food & Drug	52	17	32.7	2	3.8	2	3.8	31	59.6
Other Miscellaneous Offenses	2,245	871	38.8	73	3.3	251	11.2	1,050	46.8

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

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

**Table 5**  
**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2011**

**Ninth Circuit**

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>21,443</b>	<b>19,483</b>	<b>90.9</b>	<b>599</b>	<b>2.8</b>	<b>381</b>	<b>1.8</b>	<b>980</b>	<b>4.6</b>
Murder	13	11	84.6	2	15.4	0	0.0	0	0.0
Manslaughter	26	22	84.6	4	15.4	0	0.0	0	0.0
Kidnapping/Hostage Taking	14	14	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	93	88	94.6	3	3.2	1	1.1	1	1.1
Assault	196	149	76.0	17	8.7	9	4.6	21	10.7
Robbery	192	173	90.1	11	5.7	0	0.0	8	4.2
Arson	8	7	87.5	1	12.5	0	0.0	0	0.0
Drugs - Trafficking	5,223	4,900	93.8	167	3.2	51	1.0	105	2.0
Drugs - Communication Facility	155	131	84.5	5	3.2	11	7.1	8	5.2
Drugs - Simple Possession	404	375	92.8	1	0.2	3	0.7	25	6.2
Firearms	820	738	90.0	26	3.2	21	2.6	35	4.3
Burglary/B&E	17	14	82.4	1	5.9	2	11.8	0	0.0
Auto Theft	2	0	0.0	0	0.0	2	100.0	0	0.0
Larceny	274	107	39.1	12	4.4	39	14.2	116	42.3
Fraud	1,767	1,417	80.2	109	6.2	82	4.6	159	9.0
Embezzlement	51	18	35.3	8	15.7	2	3.9	23	45.1
Forgery/Counterfeiting	95	57	60.0	10	10.5	18	18.9	10	10.5
Bribery	18	12	66.7	2	11.1	1	5.6	3	16.7
Tax	107	51	47.7	18	16.8	18	16.8	20	18.7
Money Laundering	188	126	67.0	17	9.0	18	9.6	27	14.4
Racketeering/Extortion	114	99	86.8	5	4.4	5	4.4	5	4.4
Gambling/Lottery	1	1	100.0	0	0.0	0	0.0	0	0.0
Civil Rights	11	5	45.5	3	27.3	1	9.1	2	18.2
Immigration	10,614	10,269	96.7	124	1.2	44	0.4	177	1.7
Child Pornography	300	286	95.3	10	3.3	1	0.3	3	1.0
Prison Offenses	83	70	84.3	11	13.3	1	1.2	1	1.2
Administration of Justice Offenses	197	123	62.4	12	6.1	8	4.1	54	27.4
Environmental/Wildlife	55	18	32.7	2	3.6	4	7.3	31	56.4
National Defense	14	10	71.4	1	7.1	1	7.1	2	14.3
Antitrust	2	2	100.0	0	0.0	0	0.0	0	0.0
Food & Drug	20	5	25.0	0	0.0	1	5.0	14	70.0
Other Miscellaneous Offenses	369	185	50.1	17	4.6	37	10.0	130	35.2

Of the 21,514 guideline cases from the Ninth Circuit, 71 cases were excluded due to cases in which the defendant received no imprisonment or probation.

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

**Table 6**

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

PRIMARY OFFENSE	TOTAL	National				Ninth Circuit			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>5,541</b>	<b>1,851</b>	<b>33.4</b>	<b>3,690</b>	<b>66.6</b>	<b>403</b>	<b>41.2</b>	<b>575</b>	<b>58.8</b>
<b>Fraud</b>	<b>1,329</b>	479	36.0	850	64.0	69	35.6	125	64.4
<b>Larceny</b>	<b>731</b>	136	18.6	595	81.4	36	25.9	103	74.1
<b>Immigration</b>	<b>469</b>	237	50.5	232	49.5	75	55.6	60	44.4
<b>Embezzlement</b>	<b>189</b>	43	22.8	146	77.2	8	30.8	18	69.2
<b>Drugs - Trafficking</b>	<b>426</b>	162	38.0	264	62.0	20	41.7	28	58.3
<b>Drugs - Simple Possession</b>	<b>333</b>	163	48.9	170	51.1	96	85.7	16	14.3
<b>Firearms</b>	<b>191</b>	79	41.4	112	58.6	3	20.0	12	80.0
<b>Forgery/Counterfeiting</b>	<b>257</b>	103	40.1	154	59.9	11	55.0	9	45.0
<b>Other Miscellaneous Offenses</b>	<b>1,616</b>	449	27.8	1,167	72.2	85	29.4	204	70.6

*cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014*

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

Of the 21,514 guideline cases from the Ninth Circuit, a U.S. Citizen was the defendant in 6,717 cases. Of these, 5,739 cases were excluded because the defendant was ineligible for a non-prison sentence.

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

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

**Table 7**

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

PRIMARY OFFENSE	National			Ninth Circuit		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
<b>TOTAL</b>	<b>49</b>	<b>27</b>	<b>73,891</b>	<b>31</b>	<b>18</b>	<b>19,475</b>
<b>Murder</b>	241	210	73	277	210	13
<b>Manslaughter</b>	57	39	60	54	37	25
<b>Kidnapping/Hostage Taking</b>	226	188	69	142	121	14
<b>Sexual Abuse</b>	125	108	389	121	97	91
<b>Assault</b>	44	30	559	43	36	161
<b>Robbery</b>	85	65	931	70	51	183
<b>Arson</b>	64	60	52	63	41	8
<b>Drugs - Trafficking</b>	74	60	23,129	49	33	4,998
<b>Drugs - Communication Facility</b>	40	41	362	42	48	135
<b>Drugs - Simple Possession</b>	5	3	494	3	3	354
<b>Firearms</b>	89	60	7,350	64	44	755
<b>Burglary/B&amp;E</b>	24	23	46	22	21	15
<b>Auto Theft</b>	77	27	60	--	--	0
<b>Larceny</b>	18	12	566	16	12	113
<b>Fraud</b>	30	18	6,064	17	3	1,472
<b>Embezzlement</b>	17	12	184	15	8	25
<b>Forgery/Counterfeiting</b>	23	18	669	16	14	61
<b>Bribery</b>	25	18	153	34	21	14
<b>Tax</b>	23	18	406	23	18	68
<b>Money Laundering</b>	37	24	629	22	18	131
<b>Racketeering/Extortion</b>	89	60	671	63	51	101
<b>Gambling/Lottery</b>	11	12	22	--	--	0
<b>Civil Rights</b>	46	24	37	48	20	8
<b>Immigration</b>	18	12	26,808	19	15	10,003
<b>Child Pornography</b>	121	84	1,817	87	60	296
<b>Prison Offenses</b>	15	12	394	11	12	81
<b>Administration of Justice Offenses</b>	25	18	845	24	16	130
<b>Environmental/Wildlife</b>	12	6	52	9	6	19
<b>National Defense</b>	70	37	78	57	18	11
<b>Antitrust</b>	14	10	8	--	--	2
<b>Food &amp; Drug</b>	28	16	18	15	12	5
<b>Other Miscellaneous Offenses</b>	34	12	896	13	3	183

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

Of the 21,514 guideline cases from the Ninth Circuit, 2,039 cases were excluded due to one of the following reasons: zero months of prison ordered (1,967) or missing or indeterminable sentencing information (72).

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

Table 8

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

	National		Ninth Circuit	
	N	%	N	%
<b>TOTAL CASES<sup>1</sup></b>	<b>84,744</b>	<b>100.0</b>	<b>21,265</b>	<b>100.0</b>
<b>CASES SENTENCED WITHIN GUIDELINE RANGE</b>	<b>46,160</b>	<b>54.5</b>	<b>8,668</b>	<b>40.8</b>
<b>CASES SENTENCED ABOVE GUIDELINE RANGE</b>	<b>1,527</b>	<b>1.8</b>	<b>219</b>	<b>1.0</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>488</b>	<b>0.6</b>	<b>101</b>	<b>0.5</b>
Upward Departure From Guideline Range <sup>2</sup>	379	0.4	79	0.4
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	109	0.1	22	0.1
<b>OTHERWISE ABOVE GUIDELINE RANGE</b>	<b>1,039</b>	<b>1.2</b>	<b>118</b>	<b>0.6</b>
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	947	1.1	97	0.5
All Remaining Cases Above Guideline Range <sup>5</sup>	92	0.1	21	0.1
<b>GOVERNMENT SPONSORED BELOW RANGE<sup>6</sup></b>	<b>22,295</b>	<b>26.3</b>	<b>9,899</b>	<b>46.6</b>
§5K1.1 Substantial Assistance Departure	9,522	11.2	1,314	6.2
§5K3.1 Early Disposition Program Departure	9,057	10.7	7,358	34.6
Other Government Sponsored Below Range	3,716	4.4	1,227	5.8
<b>NON-GOVERNMENT SPONSORED BELOW RANGE</b>	<b>14,762</b>	<b>17.4</b>	<b>2,479</b>	<b>11.7</b>
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>2,893</b>	<b>3.4</b>	<b>556</b>	<b>2.6</b>
Downward Departure From Guideline Range <sup>2</sup>	1,976	2.3	387	1.8
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	917	1.1	169	0.8
<b>OTHERWISE BELOW GUIDELINE RANGE</b>	<b>11,869</b>	<b>14.0</b>	<b>1,923</b>	<b>9.0</b>
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	11,371	13.4	1,828	8.6
All Remaining Cases Below Guideline Range <sup>5</sup>	498	0.6	95	0.4

<sup>1</sup> This table reflects the 86,201 cases sentenced nationally in Fiscal Year 2011, 21,514 of which were from the Ninth Circuit. Of these, 1,457 cases nationally and 249 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.

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

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

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

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

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

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

Table 9

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

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

cited in U.S. v. Castro-Jerdugo, No. 13-50386 archived on May 14, 2014



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

cited in U.S. v. Castro-Verdugo, No. 13-30386 archived on May 14, 2014

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

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

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

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

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

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

**Table 10**

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

**National**

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

**Ninth Circuit**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>21,265</b>	<b>8,668</b>	<b>40.8</b>	<b>79</b>	<b>0.4</b>	<b>22</b>	<b>0.1</b>	<b>97</b>	<b>0.5</b>	<b>21</b>	<b>0.1</b>
Robbery	192	95	49.5	1	0.5	2	1.0	4	2.1	0	0.0
Drugs - Trafficking	5,213	1,892	36.3	5	0.1	3	0.1	9	0.2	2	0.0
Drugs - Simple Possession	365	358	98.1	0	0.0	1	0.3	2	0.5	0	0.0
Firearms	819	410	50.1	15	1.8	1	0.1	22	2.7	1	0.1
Larceny	272	195	71.7	0	0.0	1	0.4	2	0.7	0	0.0
Fraud	1,739	1,213	69.8	7	0.4	5	0.3	7	0.4	2	0.1
Embezzlement	52	34	65.4	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	92	34	37.0	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	10,544	3,471	32.9	32	0.3	4	0.0	21	0.2	12	0.1
Other Miscellaneous Offenses	1,977	966	48.9	19	1.0	5	0.3	30	1.5	4	0.2

### National

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

### Ninth Circuit

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>1,314</b>	<b>6.2</b>	<b>7,358</b>	<b>34.6</b>	<b>1,227</b>	<b>5.8</b>	<b>387</b>	<b>1.8</b>	<b>169</b>	<b>0.8</b>	<b>1,828</b>	<b>8.6</b>	<b>95</b>	<b>0.4</b>
Robbery	21	10.9	3	1.6	20	10.4	8	4.2	2	1.0	36	18.8	0	0.0
Drugs - Trafficking	798	15.3	1,252	24.0	437	8.4	122	2.3	48	0.9	616	11.8	29	0.6
Drugs - Simple Possession	2	0.5	0	0.0	2	0.5	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	59	7.2	12	1.5	114	13.9	31	3.8	14	1.7	132	16.1	8	1.0
Larceny	5	1.8	2	0.7	30	11.0	4	1.5	4	1.5	23	8.5	6	2.2
Fraud	184	10.6	8	0.5	109	6.3	28	1.6	18	1.0	147	8.5	11	0.6
Embezzlement	3	5.8	0	0.0	5	9.6	1	1.9	2	3.8	7	13.5	0	0.0
Forgery/Counterfeiting	16	17.4	1	1.1	13	14.1	2	2.2	3	3.3	21	22.8	2	2.2
Immigration	99	0.9	6,042	57.3	155	1.5	124	1.2	43	0.4	524	5.0	17	0.2
Other Miscellaneous Offenses	127	6.4	38	1.9	342	17.3	67	3.4	35	1.8	322	16.3	22	1.1

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

Of the 21,514 guideline cases from the Ninth Circuit, 249 cases were 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, 2011 Datafile, OPAFY11.