

U.S. Sentencing Commission Final Quarterly Data Report



Fiscal Year 2009

Introduction

As part of its ongoing mission, the United States Sentencing Commission provides Congress, the judiciary, the executive branch, and the general public with data extracted and analyzed from sentencing documents submitted by courts to the Commission.¹ Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.² After the Supreme Court's decision in *United States v. Booker* on January 12, 2005, which rendered the sentencing guidelines advisory instead of mandatory, many people expressed an interest in knowing what changes, if any, in federal sentencing practices would result. The Commission responded by reconfiguring its data collection, analysis, and reporting efforts to provide real-time data reporting from the submitted documents.

The Commission first reported data on February 10, 2005 to Congress³ and began reporting data approximately monthly shortly thereafter. The types of data reported increased over time to accommodate various requests for the additional information. In March 2006, the Commission released a comprehensive report, *Final Report on the Impact of United States v. Booker on Federal Sentencing*,⁴ based on cases sentenced one year since the *Booker* decision. Because the report included additional analyses that had not been included in the monthly reports, not all the data presented in the report was comparable with the monthly releases, which made comparing data over time difficult.

In an effort to standardize the Commission's post-*Booker* analyses and to facilitate the identification of emerging trends going forward, the Commission began generating a new set of tables and charts on a quarterly basis for public release on the Commission's website beginning with the third quarter of fiscal year 2006. These quarterly data reports are similar in format and methodology to tables and figures produced in the *Sourcebook* or in the Commission's *Booker* report. Some of the figures include data from fiscal years before the *Booker* decision to facilitate analysis of sentencing trends over time. Other figures and all of the tables contain cumulative data (*i.e.*, data from the start of the fiscal year through the most current quarter). Appendix B cross-references the quarterly table numbers and figure letters as well as the corresponding number or letter in the *Sourcebook* (if it exists in the *Sourcebook*) so that the quarterly data can

¹In each felony or Class A misdemeanor case sentenced in federal court, sentencing courts are required to submit the following documents to the Commission: the Judgment and Commitment Order, the Statement of Reasons, the plea agreement (if applicable), the indictment or other charging document, and the presentence report. See 28 U.S.C. § 994(w).

²See the Commission's website, www.ussc.gov, for electronic copies of the 1995-2009 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

³See www.ussc.gov/bf.htm for an electronic copy of the prepared testimony of Ricardo H. Hinojosa, chair of the United States Sentencing Commission, before the Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, United States House of Representatives, February 10, 2005.

⁴See www.ussc.gov/bf.htm for an electronic copy of the Commission's *Final Report on the Impact of United States v. Booker on Federal Sentencing*.

be compared easily with data from prior fiscal years.⁵ In Appendix A are descriptions of datafile and variable definitions.

⁵The Commission has tried to maintain the same table numbers and figure letters over the past several years but due to slight differences in reporting categories between pre- and post-*Booker* time periods, the numbers and letters may not correspond exactly over time. Please refer to the table of contents for each of the prior *Sourcebook* years to determine the corresponding table number or figure letter.

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**NATIONAL COMPARISON OF SENTENCE IMPOSED AND
POSITION RELATIVE TO THE GUIDELINE RANGE¹
Fiscal Year 2009**

	N	%
TOTAL CASES	79,153	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	44,991	56.8
CASES SENTENCED ABOVE GUIDELINE RANGE	1,496	2.0
DEPARTURE ABOVE GUIDELINE RANGE	533	0.7
Upward Departure From Guideline Range ²	382	0.5
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	151	0.2
OTHERWISE ABOVE GUIDELINE RANGE	963	1.3
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	842	1.1
All Remaining Cases Above Guideline Range ⁵	121	0.2
GOVERNMENT SPONSORED BELOW RANGE⁶	20,011	25.3
§5K1.1 Substantial Assistance Departure	9,855	12.5
§5K3.1 Early Disposition Program Departure	7,242	9.1
Other Government Sponsored Below Range	2,914	3.7
NON-GOVERNMENT SPONSORED BELOW RANGE	12,655	15.9
DEPARTURE BELOW GUIDELINE RANGE	2,403	3.0
Downward Departure From Guideline Range ²	1,542	1.9
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	861	1.1
OTHERWISE BELOW GUIDELINE RANGE	10,252	12.9
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	9,358	11.8
All Remaining Cases Below Guideline Range ⁵	894	1.1

¹This table reflects the 81,372 cases sentenced in Fiscal Year 2009. Of these, 2,219 cases were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

²All 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*.

³All 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.

⁴All 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.

⁵All 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.

⁶Cases 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, USSCFY09.

SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT¹
Fiscal Year 2009

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	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

Table 2 (cont.)

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	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

Table 2 (cont.)

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	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

Table 2 (cont.)

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	1,351	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

Table 2 (cont.)

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	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

Table 2 (cont.)

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	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

¹Of 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%). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, USSCFY09.

Table 3

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURES		UPWARD DEPARTURES W/ BOOKER		ABOVE RANGE WITH W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
TOTAL	79,153	44,991	56.8	382	0.5	151	0.2	842	1.1	121	0.2
Murder	92	54	58.7	6	6.5	1	1.1	2	2.2	0	0.0
Manslaughter	59	33	55.9	4	6.8	1	1.7	7	11.9	0	0.0
Kidnapping/Hostage Taking	41	13	31.7	1	2.4	0	0.0	2	4.9	1	2.4
Sexual Abuse	477	317	66.5	13	2.7	3	0.6	18	3.8	3	0.6
Assault	634	368	58.0	16	2.5	7	1.1	21	3.3	1	0.2
Robbery	1,006	598	59.4	14	1.4	3	0.3	26	2.6	3	0.3
Arson	60	35	58.3	1	1.7	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	23,899	11,087	46.4	56	0.2	15	0.1	93	0.4	24	0.1
Drugs - Communication Facility	508	260	51.2	0	0.0	0	0.0	5	1.0	0	0.0
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
Burglary/B&E	36	30	83.3	0	0.0	0	0.0	2	5.6	1	2.8
Auto Theft	77	44	57.1	1	1.3	0	0.0	4	5.2	0	0.0
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
Bribery	171	61	35.7	0	0.0	0	0.0	1	0.6	0	0.0
Tax	621	234	37.7	0	0.0	2	0.3	3	0.5	0	0.0
Money Laundering	805	315	39.1	3	0.4	1	0.1	2	0.2	1	0.1
Racketeering/Extortion	625	266	42.6	1	0.2	8	1.3	10	1.6	1	0.2
Gambling/Lottery	62	31	50.0	0	0.0	0	0.0	2	3.2	0	0.0
Civil Rights	62	30	48.4	0	0.0	0	0.0	1	1.6	0	0.0
Immigration	25,385	15,860	62.5	106	0.4	37	0.1	278	1.1	26	0.1
Pornography/Prostitution	1,967	920	46.8	12	0.6	4	0.2	34	1.7	3	0.2
Prison Offenses	435	308	70.8	1	0.2	3	0.7	6	1.4	3	0.7
Administration of Justice Offenses	975	554	56.8	8	0.8	4	0.4	23	2.4	0	0.0
Environmental/Wildlife	211	115	54.5	1	0.5	0	0.0	0	0.0	0	0.0
National Defense	66	22	33.3	0	0.0	0	0.0	1	1.5	0	0.0
Antitrust	20	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Food & Drug	78	48	61.5	0	0.0	0	0.0	1	1.3	0	0.0
Other Miscellaneous Offenses	2,152	1,696	78.8	6	0.3	3	0.1	16	0.7	5	0.2

Table 3 (cont.)

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW DOWNWARD DEPARTURE		DOWNWARD 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
Murder	20	21.7	0	0.0	4	4.3	0	0.0	1	1.1	4	4.3	0	0.0
Manslaughter	0	0.0	0	0.0	2	3.4	7	11.9	1	1.7	4	6.8	0	0.0
Kidnapping/Hostage Taking	11	26.8	2	4.9	7	17.1	0	0.0	0	0.0	3	7.3	1	2.4
Sexual Abuse	12	2.5	1	0.2	28	5.9	7	1.5	8	1.7	64	13.4	3	0.6
Assault	8	1.3	2	0.3	82	12.9	25	3.9	11	1.7	82	12.9	11	1.7
Robbery	113	11.2	1	0.1	34	3.4	24	2.4	26	2.6	159	15.8	5	0.5
Arson	15	25.0	0	0.0	1	1.7	0	0.0	1	1.7	7	11.7	0	0.0
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 - Communication Facility	92	18.1	2	0.4	25	4.9	14	2.8	8	1.6	96	18.9	6	1.2
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
Burglary/B&E	2	5.6	0	0.0	0	0.0	0	0.0	0	0.0	1	2.8	0	0.0
Auto Theft	13	16.9	0	0.0	4	5.2	1	1.3	1	1.3	9	11.7	0	0.0
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
Bribery	55	32.2	1	0.6	7	4.1	3	1.8	2	1.2	39	22.8	2	1.2
Tax	87	14.0	0	0.0	36	5.8	19	3.1	28	4.5	199	32.0	13	2.1
Money Laundering	193	24.0	8	1.0	60	7.5	9	1.1	22	2.7	175	21.7	16	2.0
Racketeering/Extortion	123	19.7	0	0.0	88	14.1	13	2.1	8	1.3	100	16.0	7	1.1
Gambling/Lottery	13	21.0	0	0.0	4	6.5	1	1.6	3	4.8	7	11.3	1	1.6
Civil Rights	11	17.7	0	0.0	3	4.8	0	0.0	1	1.6	13	21.0	3	4.8
Immigration	317	1.2	5,753	22.7	713	2.8	591	2.3	126	0.5	1,336	5.3	242	1.0
Pornography/Prostitution	78	4.0	0	0.0	160	8.1	32	1.6	54	2.7	639	32.5	31	1.6
Prison Offenses	17	3.9	4	0.9	37	8.5	9	2.1	2	0.5	39	9.0	6	1.4
Administration of Justice Offenses	104	10.7	2	0.2	59	6.1	31	3.2	12	1.2	162	16.6	16	1.6
Environmental/Wildlife	25	11.8	0	0.0	23	10.9	7	3.3	3	1.4	28	13.3	9	4.3
National Defense	8	12.1	0	0.0	3	4.5	6	9.1	2	3.0	21	31.8	3	4.5
Antitrust	17	85.0	0	0.0	1	5.0	0	0.0	0	0.0	2	10.0	0	0.0
Food & Drug	10	12.8	0	0.0	9	11.5	0	0.0	2	2.6	6	7.7	2	2.6
Other Miscellaneous Offenses	101	4.7	1	0.0	62	2.9	30	1.4	13	0.6	183	8.5	36	1.7

¹Of the 81,372 cases, 2,219 were excluded due to missing information from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, USSCFY09.

Figure A

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹

Fiscal Years 2004 - 2009

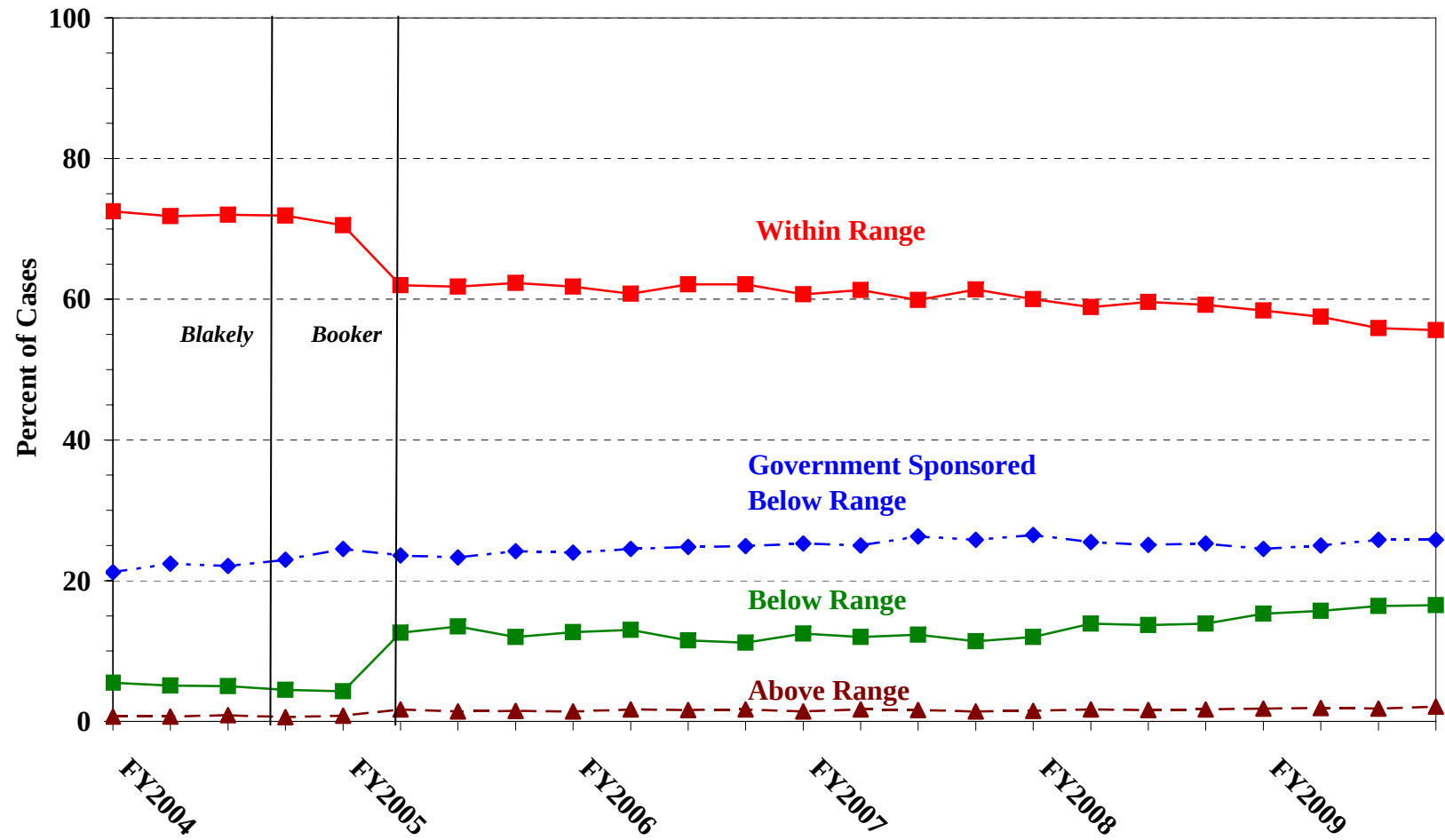
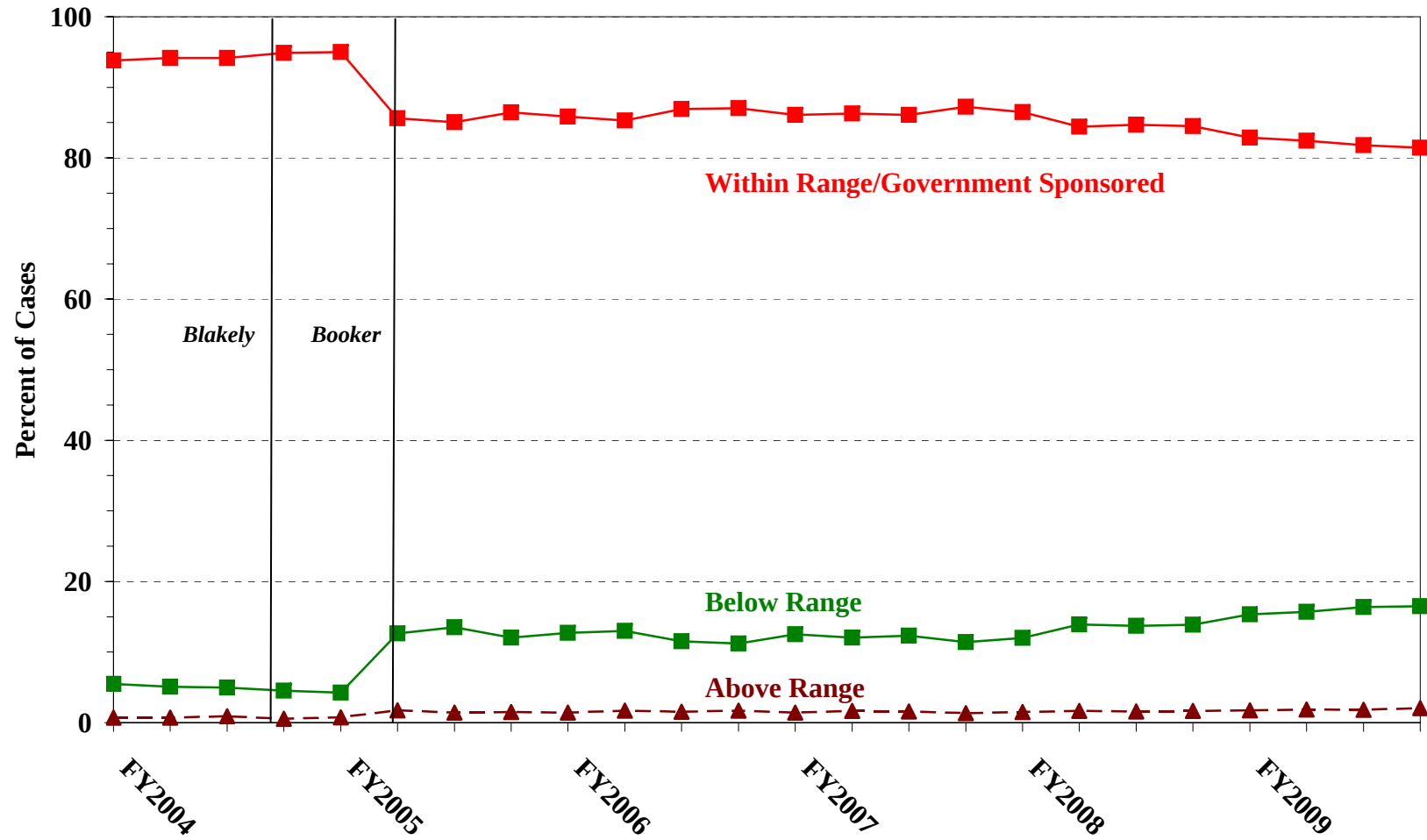
¹Descriptions of variables used in this table are provided in Appendix A.

Figure B

**QUARTERLY DATA FOR WITHIN RANGE/GOVERNMENT SPONSORED
AND OTHER OUT OF RANGE SENTENCES¹**

Fiscal Years 2004 - 2009



¹Descriptions of variables used in this table are provided in Appendix A.

Table 4

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹
Fiscal Years 2004 - 2009

FISCAL YEAR	WITHIN GUIDELINE RANGE	GOVERNMENT SPONSORED BELOW RANGE	BELOW RANGE	ABOVE RANGE
Quarter	%	%	%	%
FY2004				
1st Quarter	72.5	21.2	5.5	0.7
2ndQuarter	71.8	22.4	5.1	0.7
3rd Quarter	72.0	22.1	5.0	0.9
4th Quarter	71.9	23.0	4.5	0.6
FY2005				
1st Quarter	70.5	24.5	4.3	0.8
2ndQuarter	62.0	23.6	12.6	1.7
3rd Quarter	61.8	23.3	13.5	1.4
4th Quarter	62.3	24.2	12.0	1.5
FY2006				
1st Quarter	61.8	24.0	12.7	1.4
2ndQuarter	60.8	24.5	13.0	1.7
3rd Quarter	62.1	24.8	11.5	1.6
4th Quarter	62.1	24.9	11.2	1.7
FY2007				
1st Quarter	60.7	25.3	12.5	1.4
2ndQuarter	61.3	25.0	12.0	1.7
3rd Quarter	59.9	26.3	12.3	1.6
4th Quarter	61.4	25.8	11.4	1.4
FY2008				
1st Quarter	60.0	26.5	12.0	1.5
2ndQuarter	58.9	25.5	13.9	1.7
3rd Quarter	59.6	25.1	13.7	1.6
4th Quarter	59.2	25.3	13.9	1.7
FY2009				
1st Quarter	58.4	24.5	15.3	1.8
2ndQuarter	57.5	25.0	15.7	1.9
3rd Quarter	55.9	25.8	16.4	1.8
4th Quarter	55.6	25.8	16.5	2.1

¹Descriptions of variables used in this table are provided in Appendix A.

Table 5

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY EACH PRIMARY SENTENCING GUIDELINE¹
Fiscal Year 2009**

Guideline	Total	Within Guideline Range	Upward				Government Sponsored			Downward			
			Departure		Above Range		\$5K1.1	\$5K3.1	Other Gov't	Departure		Below Range	
			Gdline Only	with Booker	with Booker	All Others				Gdline Only	with Booker	with Booker	All Others
\$2A1.1	214	108	0	0	1	0	56	0	24	4	1	16	4
\$2A1.2	37	18	5	1	0	0	3	0	6	0	1	2	1
\$2A1.3	30	17	2	0	5	0	0	0	1	3	1	1	0
\$2A1.4	38	21	2	2	4	0	0	0	1	4	0	4	0
\$2A1.5	31	17	2	0	1	0	5	0	2	0	0	4	0
\$2A2.1	84	48	2	1	2	2	6	0	8	2	1	9	3
\$2A2.2	387	218	16	4	16	0	10	1	55	13	8	45	1
\$2A2.3	28	20	1	0	2	0	0	0	0	1	0	4	0
\$2A2.4	125	78	0	1	3	1	1	0	10	6	1	17	7
\$2A3.1	104	50	3	1	5	0	4	0	18	2	1	19	1
\$2A3.2	35	22	1	0	1	0	1	0	1	0	0	9	0
\$2A3.3	7	6	0	0	0	0	0	0	0	0	0	1	0
\$2A3.4	43	30	2	0	2	1	0	0	2	0	1	5	0
\$2A3.5	227	169	1	1	9	0	0	1	3	4	3	33	3
\$2A4.1	84	30	1	0	3	0	19	4	17	0	0	10	0
\$2A4.2	1	0	0	0	0	0	1	0	0	0	0	0	0
\$2A5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2A5.2	18	12	0	0	0	0	0	0	1	0	0	4	1
\$2A5.3	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2A6.1	145	80	6	2	3	0	1	0	12	7	2	29	3
\$2A6.2	9	5	0	1	1	0	0	0	0	1	0	1	0
\$2B1.1	8,055	4,862	47	20	119	23	1,018	8	247	137	109	1,291	174
\$2B1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B1.4	12	3	0	0	0	0	4	0	0	0	1	4	0
\$2B1.5	15	4	0	0	0	0	5	0	1	0	0	3	2
\$2B1.6 ²	--	--	--	--	--	--	--	--	--	--	--	--	--
\$2B2.1	55	43	0	0	3	1	3	0	0	2	1	2	0
\$2B2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B2.3	8	8	0	0	0	0	0	0	0	0	0	0	0
\$2B3.1	1,748	951	30	14	44	7	295	1	71	29	32	255	19
\$2B3.2	43	18	0	1	1	0	4	0	10	0	0	9	0
\$2B3.3	18	10	0	0	0	0	1	0	2	1	2	2	0
\$2B4.1	42	15	0	0	0	0	15	0	1	0	1	9	1
\$2B5.1	421	278	3	1	3	2	52	1	6	5	3	60	7
\$2B5.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B5.3	203	73	1	0	0	0	47	0	10	8	5	53	6
\$2B5.4	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B6.1	16	7	0	0	0	0	4	0	3	0	0	2	0
\$2C1.1	274	91	0	0	3	0	89	1	11	4	4	68	3
\$2C1.2	17	8	0	0	0	0	4	0	0	1	0	3	1
\$2C1.3	12	12	0	0	0	0	0	0	0	0	0	0	0
\$2C1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2C1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2C1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2C1.7	11	3	0	0	0	0	6	0	0	0	1	1	0
\$2C1.8	8	1	0	0	0	0	3	0	2	0	1	1	0
\$2D1.1	24,071	11,226	57	11	106	20	6,168	1,385	886	422	281	3,302	207
\$2D1.2	474	293	2	1	2	4	72	2	16	5	10	60	7
\$2D1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2D1.4	0	0	0	0	0	0	0	0	0	0	0	0	0

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Guideline	Total	Within Guideline Range	Upward				Downward							
			Departure		Above Range		Government Sponsored			Departure		Below Range		
			Gdline Only	with Booker	with Booker	All Others	\$5K1.1	\$5K3.1	Other Gov't	Gdline Only	with Booker	with Booker	All Others	
\$2D1.5	22	8	0	0	0	0	11	0	1	0	0	2	0	
\$2D1.6	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2D1.7	2	2	0	0	0	0	0	0	0	0	0	0	0	
\$2D1.8	52	16	0	0	0	0	11	0	4	2	3	16	0	
\$2D1.9	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2D1.10	9	5	0	1	0	0	2	0	0	0	0	1	0	
\$2D1.11	166	51	1	1	0	0	50	0	11	5	8	37	2	
\$2D1.12	14	10	0	0	0	0	1	0	0	0	0	3	0	
\$2D1.13	1	1	0	0	0	0	0	0	0	0	0	0	0	
\$2D1.14	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2D2.1	279	247	2	1	14	2	6	0	1	1	0	2	3	
\$2D2.2	49	42	1	1	3	1	0	0	1	0	0	0	0	
\$2D2.3	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2D3.1	1	1	0	0	0	0	0	0	0	0	0	0	0	
\$2D3.2	3	3	0	0	0	0	0	0	0	0	0	0	0	
\$2D3.3	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2D3.4	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2D3.5	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2E1.1	57	18	0	2	5	0	14	0	8	2	0	7	1	
\$2E1.2	2	2	0	0	0	0	0	0	0	0	0	0	0	
\$2E1.3	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2E1.4	14	10	0	0	0	0	3	0	1	0	0	0	0	
\$2E1.5	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2E2.1	22	6	0	0	0	0	4	0	6	1	1	4	0	
\$2E3.1	59	30	0	0	1	0	13	0	4	1	2	7	1	
\$2E3.2	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2E3.3	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2E4.1	58	24	0	0	0	0	10	0	7	3	0	11	3	
\$2E5.1	10	2	0	0	0	0	6	0	0	0	0	2	0	
\$2E5.2	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2E5.3	4	4	0	0	0	0	0	0	0	0	0	0	0	
\$2E5.4	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2E5.5	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2E5.6	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2F1.1	113	35	0	0	1	0	41	0	7	5	3	18	3	
\$2F1.2	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2G1.1	62	20	1	0	1	1	31	0	4	1	2	1	0	
\$2G1.2	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$2G1.3	222	152	6	1	7	1	13	0	11	1	4	25	1	
\$2G2.1	191	127	2	3	8	1	7	0	17	1	1	20	4	
\$2G2.2	1,606	717	8	1	19	1	34	0	135	30	52			

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward Departure		Above Range		Government Sponsored			Downward Departure		Below Range	
			Gdline Only	with Booker	with Booker	All Others	\$5K1.1	\$5K3.1	Other Gov't	Gdline Only	with Booker	with Booker	All Others
§2H4.1	5	3	0	0	1	0	0	0	0	0	0	0	1
§2H4.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.2	151	61	2	1	5	0	29	0	9	6	1	33	4
§2J1.3	70	21	0	0	1	0	11	0	4	3	5	25	0
§2J1.4	21	17	0	0	1	0	0	0	0	0	1	2	0
§2J1.5	1	1	0	0	0	0	0	0	0	0	0	0	0
§2J1.6	61	45	0	1	4	0	0	0	0	0	1	9	1
§2J1.7	1	1	0	0	0	0	0	0	0	0	0	0	0
§2J1.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.9	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.1	5	5	0	0	0	0	0	0	0	0	0	0	0
§2K1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.3	23	9	0	0	1	0	2	0	5	0	1	4	1
§2K1.4	74	43	0	1	1	0	18	0	3	0	1	7	0
§2K1.5	4	4	0	0	0	0	0	0	0	0	0	0	0
§2K1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.1	6,338	4,019	40	26	82	6	581	14	205	139	94	1,073	59
§2K2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.4 ³	--	--	--	--	--	--	--	--	--	--	--	--	--
§2K2.5	8	7	0	0	1	0	0	0	0	0	0	0	0
§2K2.6	2	2	0	0	0	0	0	0	0	0	0	0	0
§2K3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K3.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L1.1	3,272	1,615	28	14	18	7	185	981	133	56	17	181	37
§2L1.2	17,301	10,208	61	19	234	14	69	4,426	533	494	100	1,008	135
§2L1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.1	381	210	1	0	10	1	70	0	22	9	4	44	10
§2L2.2	1,655	1,507	12	3	24	0	15	14	11	10	2	33	24
§2L2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.1	2	0	0	0	0	0	0	0	0	0	0	2	0
§2M2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.1	1	0	0	0	0	0	0	0	1	0	0	0	0
§2M3.2	2	1	0	0	0	0	0	0	1	0	0	0	0
§2M3.3	1	1	0	0	0	0	0	0	0	0	0	0	0
§2M3.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.9	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M4.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M5.1	10	1	0	0	0	0	4	0	0	0	1	2	2
§2M5.2	63	22	0	0	2	0	9	0	1	7	2	18	2
§2M5.3	11	2	0	0	0	0	1	0	0	0	0	8	0
§2M6.1	3	3	0	0	0	0	0	0	0	0	0	0	0
§2M6.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2N1.1	3	0	0	0	0	0	0	0	1	0	0	2	0
§2N1.2	2	0	0	0	0	0	1	0	0	0	0	1	0

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward Departure		Above Range		Government Sponsored			Downward Departure		Below Range	
			Gdline Only	with Booker	with Booker	All Others	\$5K1.1	\$5K3.1	Other Gov't	Gdline Only	with Booker	with Booker	All Others
§2N1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2N2.1	39	38	0	0	0	0	1	0	0	0	0	0	0
§2N3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2P1.1	247	185	1	1	4	2	7	4	7	5	2	26	3
§2P1.2	112	81	0	2	2	1	5	0	12	3	0	5	1
§2P1.3	5	2	0	0	0	0	0	0	3	0	0	0	0
§2P1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.2	36	9	0	0	0	0	5	0	5	5	3	9	0
§2Q1.3	49	23	0	0	0	0	7	0	2	8	1	6	2
§2Q1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q2.1	138	69	1	0	0	0	19	0	13	0	1	27	8
§2Q2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2R1.1	12	0	0	0	0	0	11	0	1	0	0	0	0
§2S1.1	967	350	2	2	8	3	302	4	71	11	23	178	13
§2S1.2	3	2	0	0	0	0	0	0	0	0	1	0	0
§2S1.3	250	123	2	0	0	0	32	4	16	1	5	60	7
§2S1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.1	560	211	2	1	2	0	86	0	34	16	25	175	8
§2T1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.4	136	47	0	1	1	0	26	0	9	4	5	40	3
§2T1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.6	26	13	0	0	0	0	1	0	1	0	1	10	0
§2T1.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.9	7	2	0	0	0	0	1	0	0	0	0	4	0
§2T2.1	9	6	0	0	0	0	0	0	0	1	0	2	0
§2T2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T3.1	16	13	0	0	0	0	1	0	0	0	0	2	0
§2T3.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T4.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X1.1	16	8	0	0	0	0	3	0	1	0	0	4	0
§2X2.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X3.1	136	63	2	1	3	0	27	1	2	4	5	26	2
§2X4.1	446	255	3	1	7	0	52	1	35	14	4	67	7
§2X5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X5.2	179	162	0	0	8	2	0	0	3	0	0	3	1
§2X6.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X7.1	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	73,186	39,944	364	147	822	104	9,751	6,853	2,792	1,511	854	9,216	828

¹Of the 81,372 cases, 8,186 were excluded due to one or both of the following reasons: missing information from the submitted documents that prevented the comparison of the sentence and the guideline range (2,219) or missing guideline applied (8,095). Descriptions of variables used in this table are provided in Appendix A.

²In 935 cases, the defendant was convicted of one or more counts of violating 18 U.S.C. § 1028A. By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 935 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

³In 2,499 cases, the defendant was convicted of one or more counts of violating 18 U.S.C. § 924(c). By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 2,499 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, USSCFY09.

Table 6

ATTRIBUTION CATEGORY FOR CASES OUTSIDE OF THE GUIDELINE RANGE¹
Fiscal Year 2009

	TOTAL CASES	Pursuant to a Plea Agreement									
		§5K1.1		§5K3.1		Binding Plea		Plea w/ Departure Court		Plea Agreement States Gov't	
		Plea Agreement		Plea Agreement		Accepted by Court		Finds Reasonable		Will Not Oppose	
		N	%	N	%	N	%	N	%	N	%
TOTAL	34,162	6,683	19.6	6,919	20.3	2,613	7.6	1,542	4.5	155	0.5
Above Range	1,496	8	0.5	11	0.7	227	15.2	101	6.8	2	0.1
Upward Departure From Guideline Range	382	3	0.8	3	0.8	95	24.9	51	13.4	1	0.3
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	151	0	0.0	1	0.7	32	21.2	12	7.9	1	0.7
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	842	0	0.0	0	0.0	97	11.5	38	4.5	0	0.0
All Remaining Cases Above Guideline Range	121	5	4.1	7	5.8	3	2.5	0	0.0	0	0.0
Government Sponsored Below Range	20,011	6,675	33.4	6,908	34.5	2,386	11.9	1,441	7.2	153	0.8
§5K1.1 Substantial Assistance Departure	9,855	6,675	67.7	93	0.9	192	1.9	183	1.9	28	0.3
§5K3.1 Early Disposition Program Departure	7,242	0	0.0	6,815	94.1	904	12.5	332	4.6	19	0.3
Other Government Sponsored Below Range	2,914	0	0.0	0	0.0	1,290	44.3	926	31.8	106	3.6
Below Range	12,655	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure From Guideline Range	1,542	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553	861	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	9,358	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	894	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0

Table 6 (cont.)

	Pursuant to a Motion Not in a Plea Agreement												Other than a Plea/Motion by Parties		No Information Available	
	§5K1.1 Government Motion		§5K3.1 Government Motion		Other Government Motion		Defense Motion/ Government Did Not Object		Defense Motion/ Government Did Object							
	N	%	N	%	N	%	N	%	N	%	N	%				
TOTAL	3,006	8.8	222	0.6	848	2.5	3,324	9.7	3,943	11.5	5,756	16.8	4,110	12.0		
Above Range	3	0.2	0	0.0	190	12.7	11	0.7	7	0.5	719	48.1	348	23.3		
Upward Departure From Guideline Range	1	0.3	0	0.0	51	13.4	3	0.8	1	0.3	142	37.2	57	14.9		
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	49	32.5	3	2.0	2	1.3	103	68.2	29	19.2		
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	89	10.6	5	0.6	3	0.4	465	55.2	163	19.4		
All Remaining Cases Above Guideline Range	2	1.7	0	0.0	1	0.8	0	0.0	1	0.8	9	7.4	99	81.8		
Government Sponsored Below Range	3,003	15.0	222	1.1	658	3.3	853	4.3	577	2.9	818	4.1	579	2.9		
§5K1.1 Substantial Assistance Departure	3,003	30.5	2	0.0	196	2.0	352	3.6	281	2.9	421	4.3	216	2.2		
§5K3.1 Early Disposition Program Departure	0	0.0	220	3.0	33	0.5	266	3.7	190	2.6	147	2.0	214	3.0		
Other Government Sponsored Below Range	0	0.0	0	0.0	429	14.7	235	8.1	106	3.6	250	8.6	149	5.1		
Below Range	0	0.0	0	0.0	0	0.0	2,460	19.4	3,359	26.5	4,219	33.3	3,183	25.2		
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	546	35.4	333	21.6	471	30.5	221	14.3		
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	234	27.2	383	44.5	465	54.0	182	21.1		
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	1,650	17.6	2,616	28.0	3,252	34.8	1,973	21.1		
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	30	3.4	27	3.0	31	3.5	807	90.3		

¹Multiple attributions may be made on the SOR. Therefore, the numbers reported in this table may exceed the number of total cases. For example, among SORs with an attribution, 4,440 cases indicated more than one attribution. Note that only outside of the range cases are included in this table. Descriptions of variables used in this table are provided in Appendix A.

**§5K1.1 SUBSTANTIAL ASSISTANCE DEPARTURE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	9,296	36.0	30.0	48.9
Murder	10	73.5	77.0	44.4
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	9	120.0	90.0	35.9
Sexual Abuse	10	49.0	51.5	46.2
Assault	8	25.0	13.0	43.0
Robbery	112	37.0	23.0	34.8
Arson	15	36.0	34.0	55.0
Drugs - Trafficking	5,853	48.0	42.0	45.9
Drugs - Communication Facility	88	0.0	11.4	100.0
Drugs - Simple Possession	10	0.0	7.5	100.0
Firearms	897	60.0	32.6	42.9
Burglary/B&E	2	--	--	--
Auto Theft	13	30.0	35.0	53.8
Larceny	80	5.0	10.0	63.8
Fraud	987	8.0	15.0	68.0
Embezzlement	13	0.0	12.0	100.0
Forgery/Counterfeiting	100	7.0	9.0	55.9
Bribery	54	7.0	16.5	63.8
Tax	84	0.0	12.0	100.0
Money Laundering	188	12.0	25.0	66.2
Racketeering/Extortion	97	24.0	24.0	53.3
Gambling/Lottery	13	0.0	6.0	100.0
Civil Rights	9	12.0	30.0	86.3
Immigration	304	12.0	10.0	45.0
Pornography/Prostitution	74	37.0	28.5	49.5
Prison Offenses	14	5.2	8.0	56.9
Administration of Justice Offenses	100	0.0	12.0	100.0
Environmental/Wildlife	24	0.0	12.0	100.0
National Defense	8	21.5	28.0	53.3
Antitrust	12	12.0	29.0	65.3
Food & Drug	8	0.0	12.0	100.0
Other Miscellaneous Offenses	100	0.0	15.0	100.0

¹Of the 81,372 cases, 9,855 received a §5K1.1 substantial assistance departure. Of these, 9,447 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 141 cases were also excluded from this table. Of the remaining 9,306 cases, ten were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, USSCFY09.

**§5K3.1 EARLY DISPOSITION PROGRAM DEPARTURE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	6,701	18.0	7.0	33.2
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	2	--	--	--
Sexual Abuse	1	--	--	--
Assault	2	--	--	--
Robbery	1	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	1,355	13.0	9.0	40.0
Drugs - Communication Facility	2	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	17	57.0	13.0	19.8
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	1	--	--	--
Fraud	7	0.2	12.0	80.0
Embezzlement	0	--	--	--
Forgery/Counterfeiting	1	--	--	--
Bribery	1	--	--	--
Tax	0	--	--	--
Money Laundering	7	0.0	9.0	100.0
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	5,297	18.0	6.0	28.5
Pornography/Prostitution	0	--	--	--
Prison Offenses	4	6.0	3.5	29.2
Administration of Justice Offenses	2	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	1	--	--	--

¹Of the 81,372 cases, 7,242 received a §5K3.1 early disposition program departure. Of these, 6,703 had complete guideline application information. Of these, two were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**OTHER GOVERNMENT SPONSORED BELOW RANGE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	2,674	25.5	12.0	33.3
Murder	3	240.0	28.0	13.8
Manslaughter	2	--	--	--
Kidnapping/Hostage Taking	7	168.0	42.0	20.0
Sexual Abuse	25	48.0	47.0	44.4
Assault	62	21.0	16.6	51.9
Robbery	34	54.5	21.5	27.0
Arson	1	--	--	--
Drugs - Trafficking	815	60.0	22.0	28.6
Drugs - Communication Facility	24	27.0	18.5	48.9
Drugs - Simple Possession	3	3.1	10.0	74.2
Firearms	277	48.0	16.2	30.8
Burglary/B&E	0	--	--	--
Auto Theft	3	100.0	29.3	16.7
Larceny	32	0.0	10.0	100.0
Fraud	208	11.0	12.0	55.8
Embezzlement	10	0.0	6.0	99.8
Forgery/Counterfeiting	13	12.0	8.0	59.9
Bribery	5	8.3	15.7	65.4
Tax	34	3.0	10.0	75.0
Money Laundering	57	12.0	22.0	59.5
Racketeering/Extortion	76	57.0	22.0	25.8
Gambling/Lottery	4	0.0	6.0	100.0
Civil Rights	2	--	--	--
Immigration	667	12.0	5.4	33.2
Pornography/Prostitution	155	60.0	37.0	33.3
Prison Offenses	22	18.0	9.0	37.3
Administration of Justice Offenses	54	0.0	15.0	99.9
Environmental/Wildlife	16	0.5	6.5	98.3
National Defense	1	--	--	--
Antitrust	1	--	--	--
Food & Drug	7	0.0	12.0	100.0
Other Miscellaneous Offenses	54	0.0	12.0	100.0

¹Of the 81,372 cases, 2,914 received an other government sponsored downward departure. Of these, 2,701 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 17 cases were also excluded from this table. Of the remaining 2,684 cases, ten were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**DOWNWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,456	24.0	10.0	28.5
Murder	0	--	--	--
Manslaughter	7	13.0	18.0	56.7
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	7	41.0	10.0	40.0
Assault	21	24.0	7.0	22.1
Robbery	24	37.0	12.0	28.5
Arson	0	--	--	--
Drugs - Trafficking	391	51.0	15.0	25.0
Drugs - Communication Facility	14	27.0	15.0	35.3
Drugs - Simple Possession	5	1.0	11.0	85.0
Firearms	149	30.0	10.0	23.4
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	16	0.0	10.0	100.0
Fraud	97	12.0	10.0	62.5
Embezzlement	9	0.7	11.3	94.3
Forgery/Counterfeiting	9	0.0	12.0	100.0
Bribery	3	0.0	30.0	100.0
Tax	18	0.5	10.0	95.7
Money Laundering	6	32.5	11.0	21.6
Racketeering/Extortion	11	40.0	17.4	21.7
Gambling/Lottery	1	--	--	--
Civil Rights	0	--	--	--
Immigration	559	18.0	6.0	25.0
Pornography/Prostitution	31	60.0	24.0	23.1
Prison Offenses	8	8.6	3.0	13.9
Administration of Justice Offenses	28	0.0	9.9	100.0
Environmental/Wildlife	7	5.0	12.0	76.2
National Defense	6	15.0	18.5	55.6
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	28	2.0	9.0	91.7

¹Of the 81,372 cases, 1,542 received a downward departure from the guideline range. Of these, 1,461 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional three cases were also excluded from this table. Of the remaining 1,458 cases, two were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**DOWNWARD DEPARTURES WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	807	24.0	18.0	44.4
Murder	1	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	7	15.0	10.0	33.2
Assault	11	15.0	16.0	64.7
Robbery	26	39.5	21.5	35.8
Arson	1	--	--	--
Drugs - Trafficking	278	60.0	25.0	31.7
Drugs - Communication Facility	8	6.0	42.0	87.3
Drugs - Simple Possession	0	--	--	--
Firearms	96	19.5	17.0	42.8
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	14	0.0	9.5	100.0
Fraud	83	3.0	12.0	86.3
Embezzlement	10	0.0	11.0	99.9
Forgery/Counterfeiting	11	0.0	8.0	100.0
Bribery	2	--	--	--
Tax	28	2.0	12.0	83.3
Money Laundering	21	17.0	18.0	55.4
Racketeering/Extortion	6	16.0	27.5	72.8
Gambling/Lottery	3	0.0	12.0	99.8
Civil Rights	1	--	--	--
Immigration	116	23.5	16.0	39.6
Pornography/Prostitution	51	60.0	39.0	44.4
Prison Offenses	2	--	--	--
Administration of Justice Offenses	12	8.5	14.0	55.6
Environmental/Wildlife	3	0.0	8.0	100.0
National Defense	2	--	--	--
Antitrust	0	--	--	--
Food & Drug	1	--	--	--
Other Miscellaneous Offenses	11	0.0	10.0	100.0

¹Of the 81,372 cases, 861 received a downward departure from the guideline range with *Booker* /18 U.S.C § 3553. Of these, 811 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional three cases were also excluded from this table. Of the remaining 808 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**BELOW GUIDELINE RANGE WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	8,892	27.0	13.0	34.8
Murder	3	120.0	90.0	54.2
Manslaughter	4	12.0	10.5	50.0
Kidnapping/Hostage Taking	3	168.0	35.0	14.9
Sexual Abuse	58	24.0	15.0	35.2
Assault	80	12.0	9.0	55.4
Robbery	156	42.0	16.6	23.4
Arson	7	12.0	22.0	49.9
Drugs - Trafficking	3,083	60.0	18.0	28.2
Drugs - Communication Facility	93	12.0	16.0	55.4
Drugs - Simple Possession	8	7.5	19.0	58.3
Firearms	1,236	30.0	13.0	28.0
Burglary/B&E	1	--	--	--
Auto Theft	8	18.0	13.5	34.4
Larceny	159	0.0	10.0	100.0
Fraud	1,069	12.0	10.0	50.0
Embezzlement	83	0.3	8.0	91.8
Forgery/Counterfeiting	101	0.0	9.0	100.0
Bribery	37	12.0	9.0	49.9
Tax	190	5.5	10.0	72.8
Money Laundering	162	15.0	15.0	53.7
Racketeering/Extortion	91	30.0	19.0	34.8
Gambling/Lottery	7	0.0	6.0	100.0
Civil Rights	12	6.0	14.5	90.5
Immigration	1,216	24.0	11.0	33.3
Pornography/Prostitution	618	60.0	31.0	36.6
Prison Offenses	34	9.5	7.5	38.8
Administration of Justice Offenses	153	0.4	10.0	98.1
Environmental/Wildlife	28	0.0	12.0	100.0
National Defense	17	30.0	12.0	40.0
Antitrust	2	--	--	--
Food & Drug	6	6.0	11.5	50.0
Other Miscellaneous Offenses	167	0.0	10.0	100.0

¹Of the 81,372 cases, 9,358 were sentenced below the guideline range with *Booker* /18 U.S.C § 3553. Of these, 8,944 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 42 cases were also excluded from this table. Furthermore, one case was excluded due to several logical criteria. Of the remaining 8,901 cases, nine were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ALL REMAINING BELOW GUIDELINE RANGE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	770	12.0	6.0	38.5
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	3	9.8	8.0	45.8
Assault	9	5.0	7.0	66.7
Robbery	5	48.0	11.0	20.0
Arson	0	--	--	--
Drugs - Trafficking	175	48.0	12.0	27.1
Drugs - Communication Facility	6	21.0	6.0	50.0
Drugs - Simple Possession	4	1.2	4.0	89.6
Firearms	85	68.7	13.0	21.1
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	35	0.0	6.0	100.0
Fraud	114	3.2	6.0	69.4
Embezzlement	11	0.0	6.0	100.0
Forgery/Counterfeiting	11	9.0	6.0	50.0
Bribery	2	--	--	--
Tax	11	0.0	6.0	100.0
Money Laundering	13	6.0	24.0	72.1
Racketeering/Extortion	4	45.0	4.0	11.7
Gambling/Lottery	1	--	--	--
Civil Rights	3	2.0	11.8	80.0
Immigration	189	7.0	4.0	34.7
Pornography/Prostitution	28	72.0	21.5	23.1
Prison Offenses	4	11.4	5.1	30.7
Administration of Justice Offenses	14	0.0	8.5	99.9
Environmental/Wildlife	9	0.0	8.0	100.0
National Defense	3	42.0	4.0	8.7
Antitrust	0	--	--	--
Food & Drug	1	--	--	--
Other Miscellaneous Offenses	29	0.0	6.0	100.0

¹Of the 81,372 cases, 894 were otherwise sentenced below the guideline range. Of these, 779 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional six cases were also excluded from this table. Of the remaining 773 cases, three were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**UPWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	355	60.0	14.0	33.3
Murder	6	353.0	102.0	41.9
Manslaughter	4	96.0	26.5	39.8
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	13	240.0	38.0	22.9
Assault	15	78.0	21.0	30.2
Robbery	14	141.0	26.0	24.2
Arson	1	--	--	--
Drugs - Trafficking	55	84.0	16.0	23.7
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	3	36.0	6.0	33.3
Firearms	58	98.5	20.0	29.0
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	6	30.0	12.0	125.0
Fraud	39	40.0	14.0	50.0
Embezzlement	0	--	--	--
Forgery/Counterfeiting	7	60.0	18.0	46.3
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	3	50.0	12.0	24.4
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	100	27.0	6.0	33.3
Pornography/Prostitution	12	180.0	40.0	38.2
Prison Offenses	1	--	--	--
Administration of Justice Offenses	8	51.0	10.5	36.7
Environmental/Wildlife	1	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	6	90.0	20.5	38.2

¹Of the 81,372 cases, 382 received an upward departure from the guideline range. Of these, 355 had complete guideline application information. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**UPWARD DEPARTURES WITH *BOOKER* /18 U.S.C. § 3553: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	137	69.0	18.0	46.3
Murder	0	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	3	108.0	33.0	27.7
Assault	7	84.0	36.0	46.3
Robbery	3	188.0	105.0	116.1
Arson	0	--	--	--
Drugs - Trafficking	10	138.0	31.0	14.5
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	1	--	--	--
Firearms	35	87.0	16.0	37.5
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	2	--	--	--
Fraud	14	52.5	13.0	31.3
Embezzlement	0	--	--	--
Forgery/Counterfeiting	2	--	--	--
Bribery	0	--	--	--
Tax	2	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	7	240.0	98.0	92.1
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	35	45.0	12.0	71.4
Pornography/Prostitution	4	300.0	108.5	67.9
Prison Offenses	3	54.0	14.0	77.8
Administration of Justice Offenses	4	36.0	7.0	25.0
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	3	10.0	3.0	20.0

¹Of the 81,372 cases, 151 received an upward departure from the guideline range with *Booker*/18 U.S.C § 3553. Of these, 141 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, one additional case was also excluded from this table. Furthermore, three cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ABOVE GUIDELINE RANGE WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	779	48.0	12.0	37.5
Murder	1	--	--	--
Manslaughter	7	160.0	54.0	64.9
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	17	90.0	24.0	33.3
Assault	21	60.0	15.0	39.2
Robbery	26	120.0	27.0	29.0
Arson	0	--	--	--
Drugs - Trafficking	84	96.5	15.0	24.2
Drugs - Communication Facility	5	84.0	18.0	23.1
Drugs - Simple Possession	12	12.0	6.0	83.3
Firearms	111	96.0	15.0	25.0
Burglary/B&E	2	--	--	--
Auto Theft	4	60.0	23.0	62.2
Larceny	10	54.0	15.0	57.3
Fraud	101	60.0	14.0	40.0
Embezzlement	4	48.0	12.5	58.5
Forgery/Counterfeiting	12	37.0	8.5	39.5
Bribery	1	--	--	--
Tax	3	60.0	9.0	17.6
Money Laundering	2	--	--	--
Racketeering/Extortion	9	111.0	33.0	42.3
Gambling/Lottery	1	--	--	--
Civil Rights	1	--	--	--
Immigration	268	18.0	6.0	50.0
Pornography/Prostitution	34	147.0	33.0	33.3
Prison Offenses	6	21.0	7.0	60.0
Administration of Justice Offenses	19	36.0	6.0	20.3
Environmental/Wildlife	0	--	--	--
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	1	--	--	--
Other Miscellaneous Offenses	15	15.0	8.0	77.8

¹Of the 81,372 cases, 842 were sentenced above the guideline range with *Booker* /18 U.S.C § 3553. Of these, 789 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, an additional three cases were also excluded from this table. Furthermore, seven cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ALL REMAINING ABOVE GUIDELINE RANGE CASES: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	63	54.0	10.0	29.4
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	3	72.0	15.0	52.6
Assault	1	--	--	--
Robbery	1	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	14	72.0	8.5	15.4
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	1	--	--	--
Firearms	6	170.5	52.0	46.2
Burglary/B&E	1	--	--	--
Auto Theft	0	--	--	--
Larceny	1	--	--	--
Fraud	9	36.0	12.0	35.2
Embezzlement	0	--	--	--
Forgery/Counterfeiting	2	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	17	36.0	12.0	46.3
Pornography/Prostitution	2	--	--	--
Prison Offenses	1	--	--	--
Administration of Justice Offenses	0	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	2	--	--	--

¹Of the 81,372 cases, 121 were otherwise sentenced above the guideline range. Of these, 95 had complete guideline application information. Furthermore, 32 cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

Table 18

OFFENDERS RECEIVING SENTENCING OPTIONS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009

PRIMARY OFFENSE	TOTAL	TOTAL RECEIVING IMPRISONMENT		Prison Only		Prison/Community Split Sentence ²		TOTAL RECEIVING PROBATION		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	80,550	72,162	89.6	70,090	87.0	2,072	2.6	8,388	10.4	2,491	3.1	5,897	7.3
Murder	93	93	100.0	93	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Manslaughter	59	57	96.6	55	93.2	2	3.4	2	3.4	1	1.7	1	1.7
Kidnapping/Hostage Taking	41	41	100.0	40	97.6	1	2.4	0	0.0	0	0.0	0	0.0
Sexual Abuse	478	461	96.4	447	93.5	14	2.9	17	3.6	7	1.5	10	2.1
Assault	650	564	86.8	540	83.1	24	3.7	86	13.2	27	4.2	59	9.1
Robbery	1,007	987	98.0	964	95.7	23	2.3	20	2.0	9	0.9	11	1.1
Arson	60	59	98.3	57	95.0	2	3.3	1	1.7	1	1.7	0	0.0
Drugs - Trafficking	23,931	23,116	96.6	22,522	94.1	594	2.5	815	3.4	354	1.5	461	1.9
Drugs - Communication Facility	508	389	76.6	373	73.4	16	3.1	119	23.4	41	8.1	78	15.4
Drugs - Simple Possession	704	411	58.4	401	57.0	10	1.4	293	41.6	26	3.7	267	37.9
Firearms	8,229	7,720	93.8	7,510	91.3	210	2.6	509	6.2	197	2.4	312	3.8
Burglary/B&E	36	33	91.7	33	91.7	0	0.0	3	8.3	3	8.3	0	0.0
Auto Theft	77	69	89.6	67	87.0	2	2.6	8	10.4	2	2.6	6	7.8
Larceny	1,484	627	42.3	551	37.1	76	5.1	857	57.7	229	15.4	628	42.3
Fraud	7,583	5,900	77.8	5,491	72.4	409	5.4	1,683	22.2	601	7.9	1,082	14.3
Embezzlement	459	225	49.0	176	38.3	49	10.7	234	51.0	59	12.9	175	38.1
Forgery/Counterfeiting	883	638	72.3	593	67.2	45	5.1	245	27.7	104	11.8	141	16.0
Bribery	171	131	76.6	115	67.3	16	9.4	40	23.4	17	9.9	23	13.5
Tax	632	392	62.0	326	51.6	66	10.4	240	38.0	122	19.3	118	18.7
Money Laundering	811	639	78.8	591	72.9	48	5.9	172	21.2	62	7.6	110	13.6
Racketeering/Extortion	634	585	92.3	572	90.2	13	2.1	49	7.7	17	2.7	32	5.0
Gambling/Lottery	62	30	48.4	22	35.5	8	12.9	32	51.6	11	17.7	21	33.9
Civil Rights	62	36	58.1	33	53.2	3	4.8	26	41.9	10	16.1	16	25.8
Immigration	25,914	24,965	96.3	24,692	95.3	273	1.1	949	3.7	163	0.6	786	3.0
Pornography/Prostitution	1,969	1,914	97.2	1,891	96.0	23	1.2	55	2.8	40	2.0	15	0.8
Prison Offenses	445	426	95.7	414	93.0	12	2.7	19	4.3	7	1.6	12	2.7
Administration of Justice Offenses	981	633	64.5	589	60.0	44	4.5	348	35.5	102	10.4	246	25.1
Environmental/Wildlife	206	62	30.1	47	22.8	15	7.3	144	69.9	30	14.6	114	55.3
National Defense	67	58	86.6	52	77.6	6	9.0	9	13.4	4	6.0	5	7.5
Antitrust	20	17	85.0	16	80.0	1	5.0	3	15.0	1	5.0	2	10.0
Food & Drug	76	16	21.1	13	17.1	3	3.9	60	78.9	12	15.8	48	63.2
Other Miscellaneous Offenses	2,218	868	39.1	804	36.2	64	2.9	1,350	60.9	232	10.5	1,118	50.4

¹Of the 81,372 cases, 822 were excluded due to one or more of the following reasons: the offender received neither imprisonment nor probation (798), or missing sentencing information (24). Descriptions of variables used in this table are provided in Appendix A.

²Prison/Community Split Sentence includes all cases in which offenders received prison and conditions of confinement as described in USSG §5C1.1.

Table 19

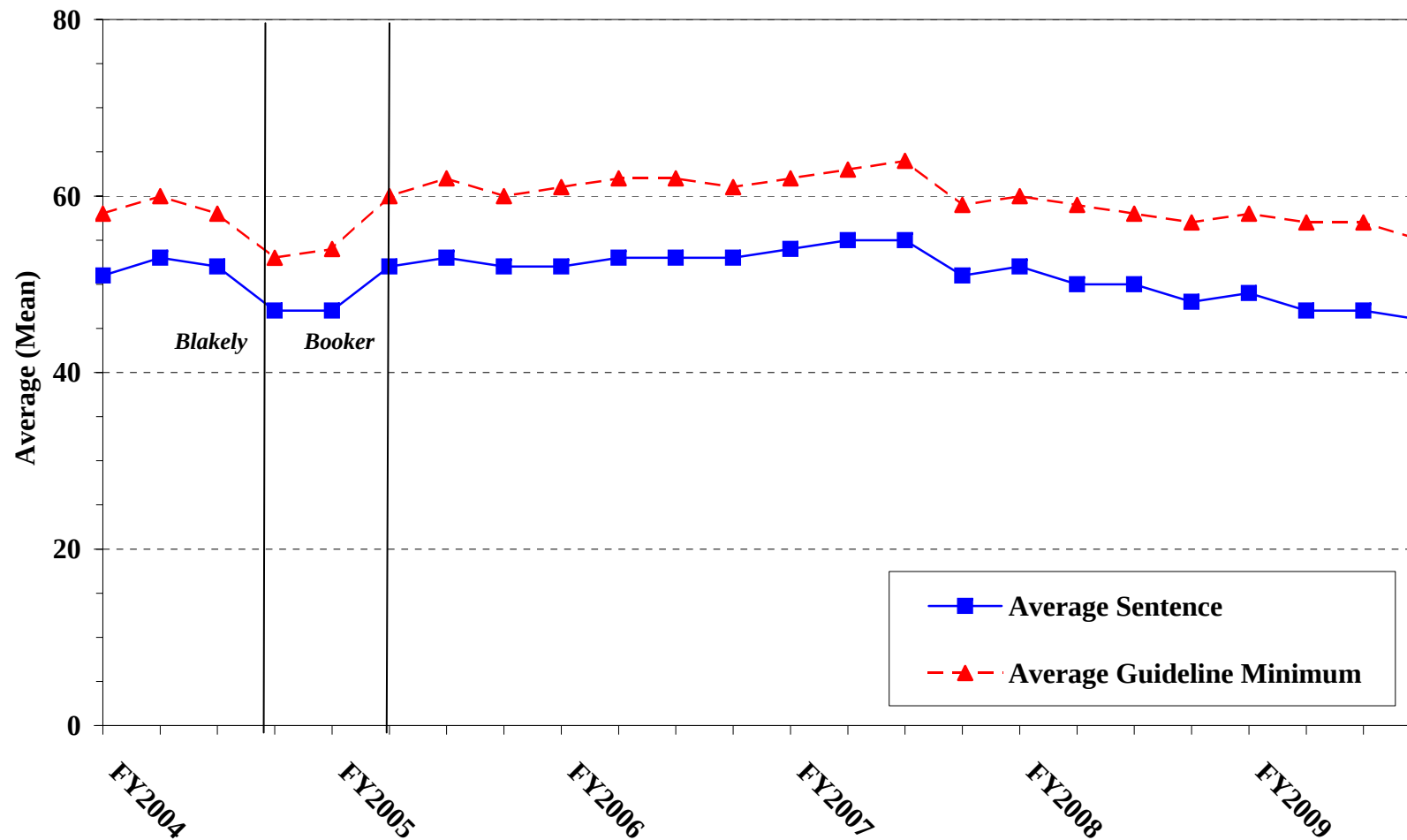
AVERAGE SENTENCE LENGTH IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009

PRIMARY OFFENSE	Mean Months	Median Months	N
TOTAL	46.8	24.0	81,347
Murder	274.5	270.0	93
Manslaughter	66.6	42.0	59
Kidnapping/Hostage Taking	212.8	168.0	41
Sexual Abuse	92.6	57.0	478
Assault	37.3	24.0	658
Robbery	80.0	60.0	1,011
Arson	58.2	60.0	60
Drugs - Trafficking	77.9	60.0	23,931
Drugs - Communication Facility	33.1	30.0	508
Drugs - Simple Possession	4.2	0.1	757
Firearms	85.4	57.0	8,239
Burglary/B&E	23.5	24.0	36
Auto Theft	53.0	27.0	77
Larceny	7.3	1.0	1,591
Fraud	21.8	10.0	7,617
Embezzlement	8.8	4.0	471
Forgery/Counterfeiting	15.6	12.0	887
Bribery	21.1	12.0	171
Tax	15.7	12.0	633
Money Laundering	32.9	18.0	812
Racketeering/Extortion	94.2	51.0	635
Gambling/Lottery	7.2	6.0	62
Civil Rights	26.3	8.0	63
Immigration	17.4	12.0	25,924
Pornography/Prostitution	117.8	78.0	1,969
Prison Offenses	15.5	12.0	445
Administration of Justice Offenses	15.2	8.0	998
Environmental/Wildlife	4.2	0.0	231
National Defense	47.3	27.0	67
Antitrust	13.2	9.0	21
Food & Drug	4.1	0.0	80
Other Miscellaneous Offenses	6.2	0.0	2,722

¹Of the 81,372 cases, 25 were excluded due to missing or indeterminable sentencing information. Sentences of probation only are included in this table as zero months of imprisonment. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

Figure C

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM
QUARTERLY DATA FOR ALL CASES¹
Fiscal Years 2004 - 2009**

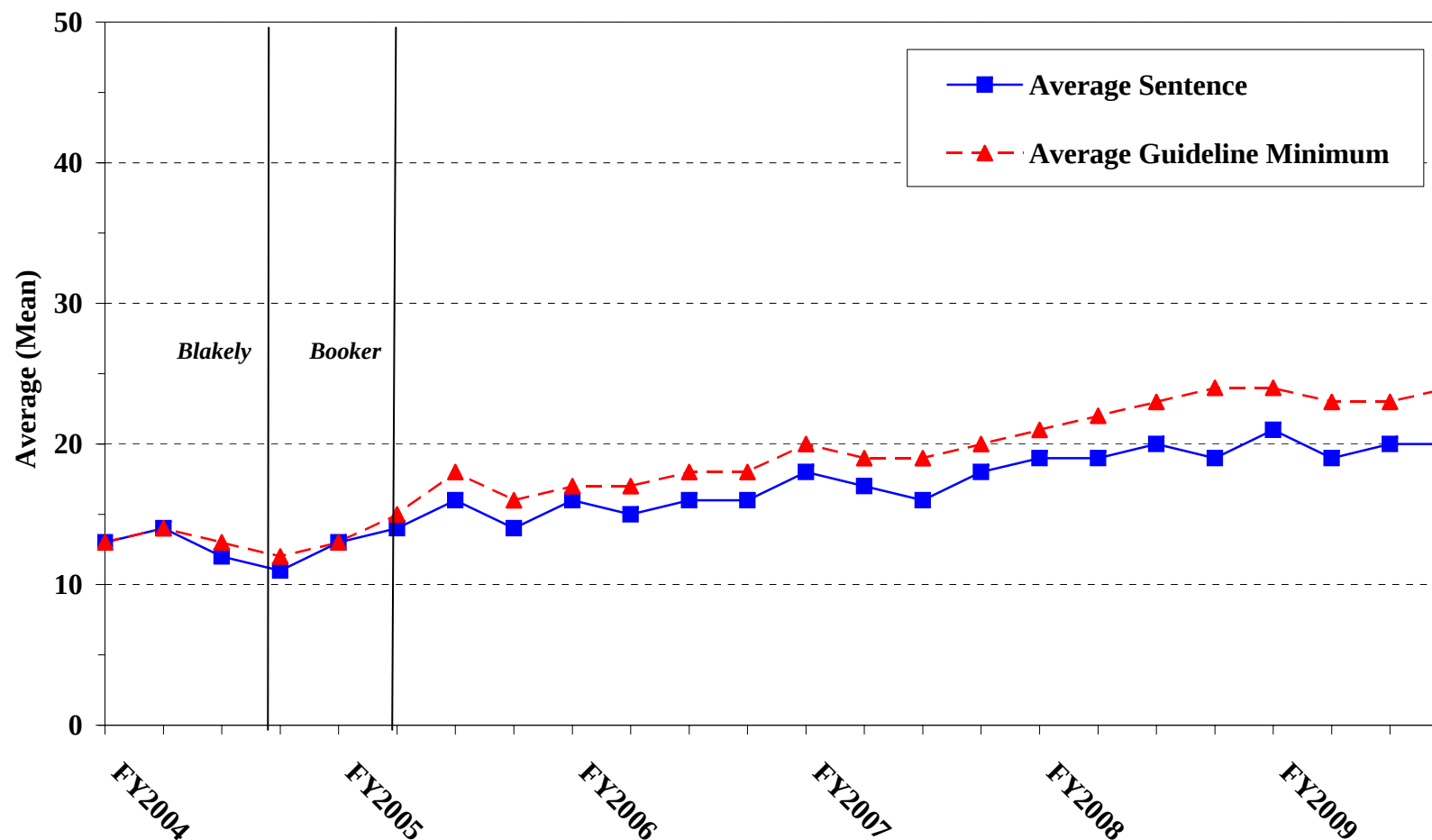


¹Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure D

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY
DATA FOR §2B1.1 OFFENDERS (THEFT, PROPERTY DESTRUCTION, AND FRAUD)¹**

Fiscal Years 2004 - 2009

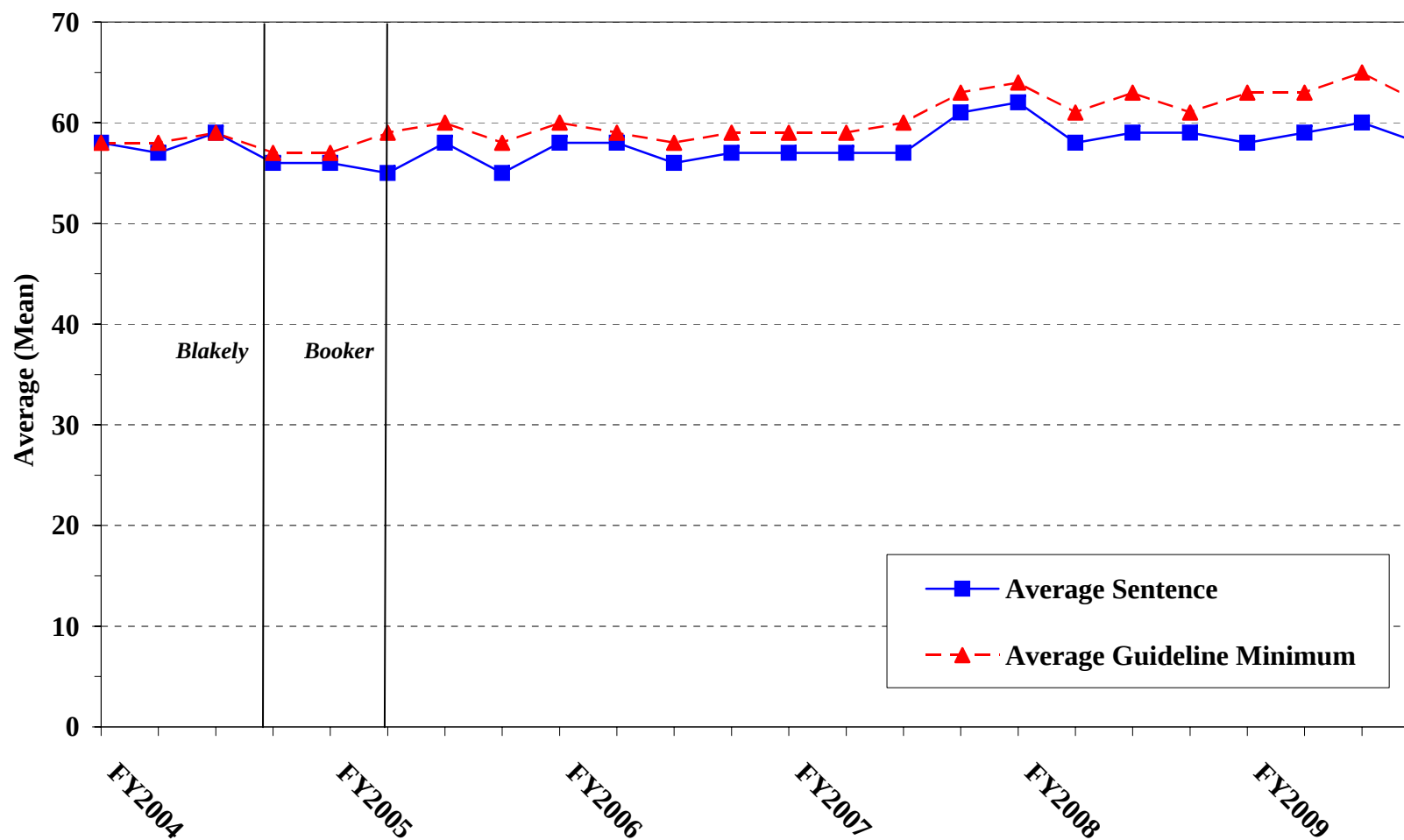


¹Figure includes only cases with a primary sentencing guideline of USSG §2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligation of the United States). Additionally, cases with an amendment year prior to 2001 were excluded from this figure because prior to this time fraud cases were reported separately as USSG §2F1.1. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure E

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY DATA
FOR §2K2.1 OFFENDERS (UNLAWFUL POSSESSION OF OR TRANSACTION IN FIREARMS)¹**

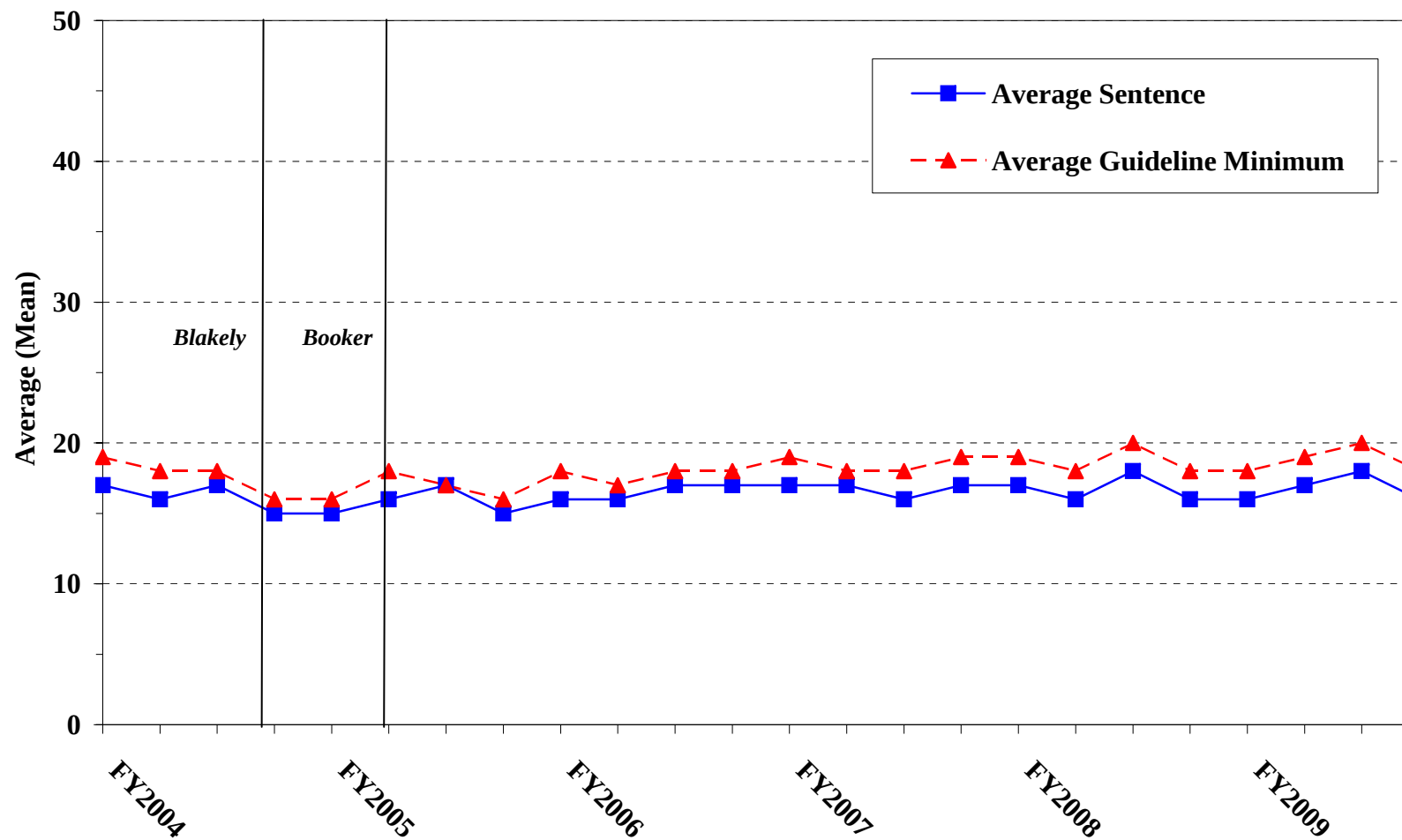
Fiscal Years 2004 - 2009



¹Figure includes only cases with a primary sentencing guideline of USSG §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure F

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM
QUARTERLY DATA FOR §2L1.1 OFFENDERS (ALIEN SMUGGLING)¹
Fiscal Years 2004 - 2009**

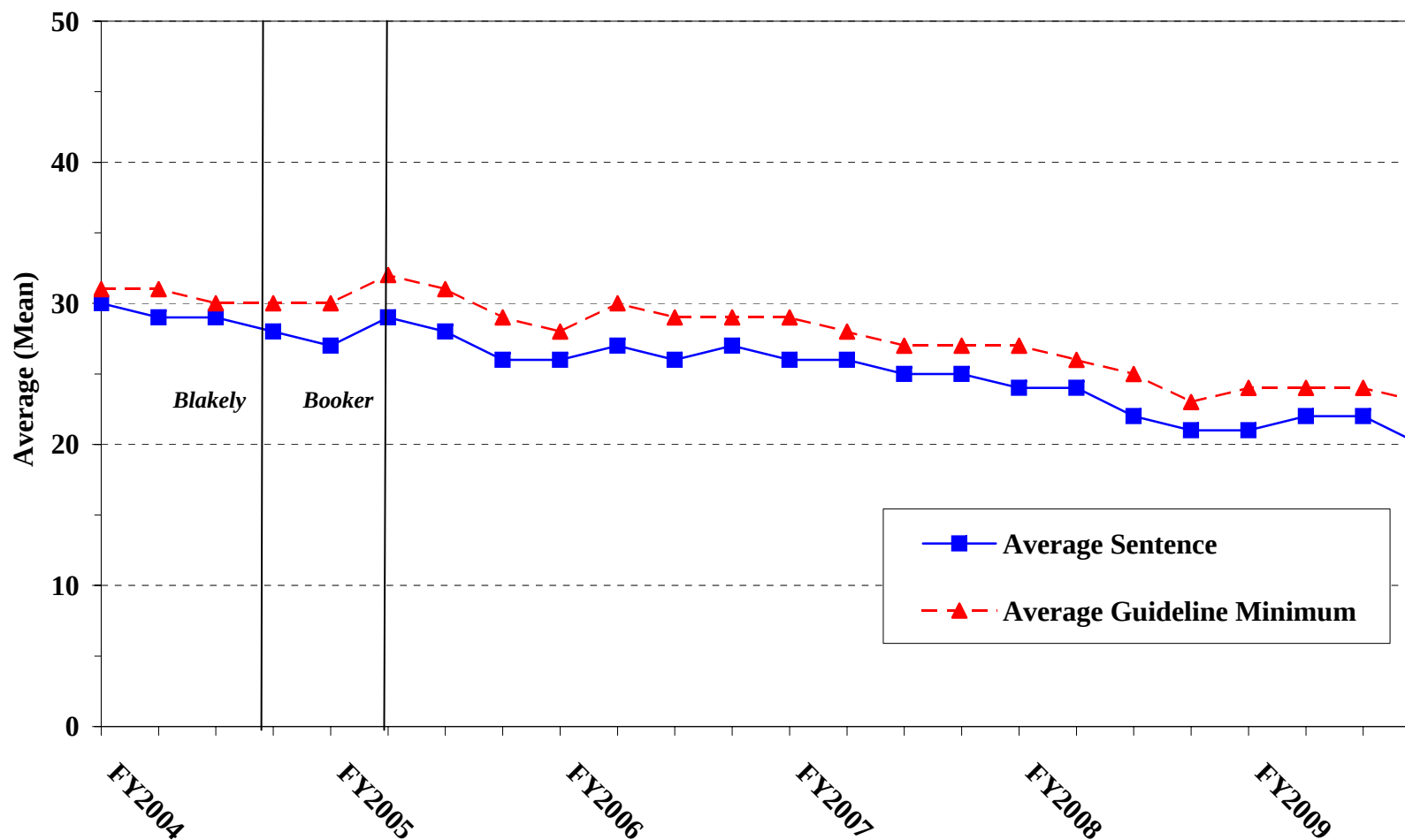


¹Figure includes only cases with a primary sentencing guideline of USSG §2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure G

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY DATA FOR
§2L1.2 OFFENDERS (UNLAWFUL ENTERING OR REMAINING IN THE UNITED STATES)¹**

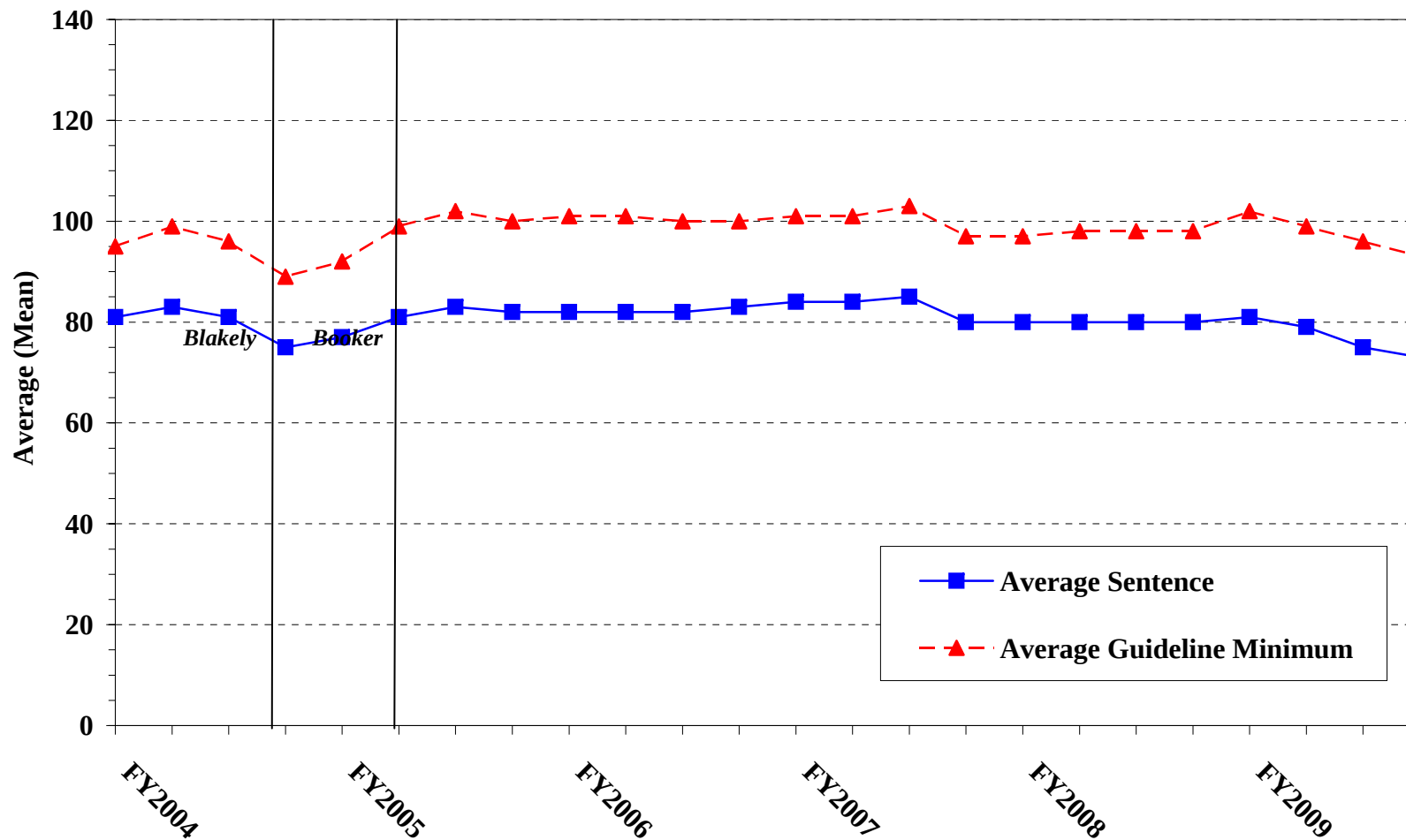
Fiscal Years 2004 - 2009



¹Figure includes only cases with a primary sentencing guideline of USSG §2L1.2. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure H

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY
DATA FOR §2D1.1 OFFENDERS (UNLAWFUL DRUG TRAFFICKING OR MANUFACTURING)¹
Fiscal Years 2004 - 2009**

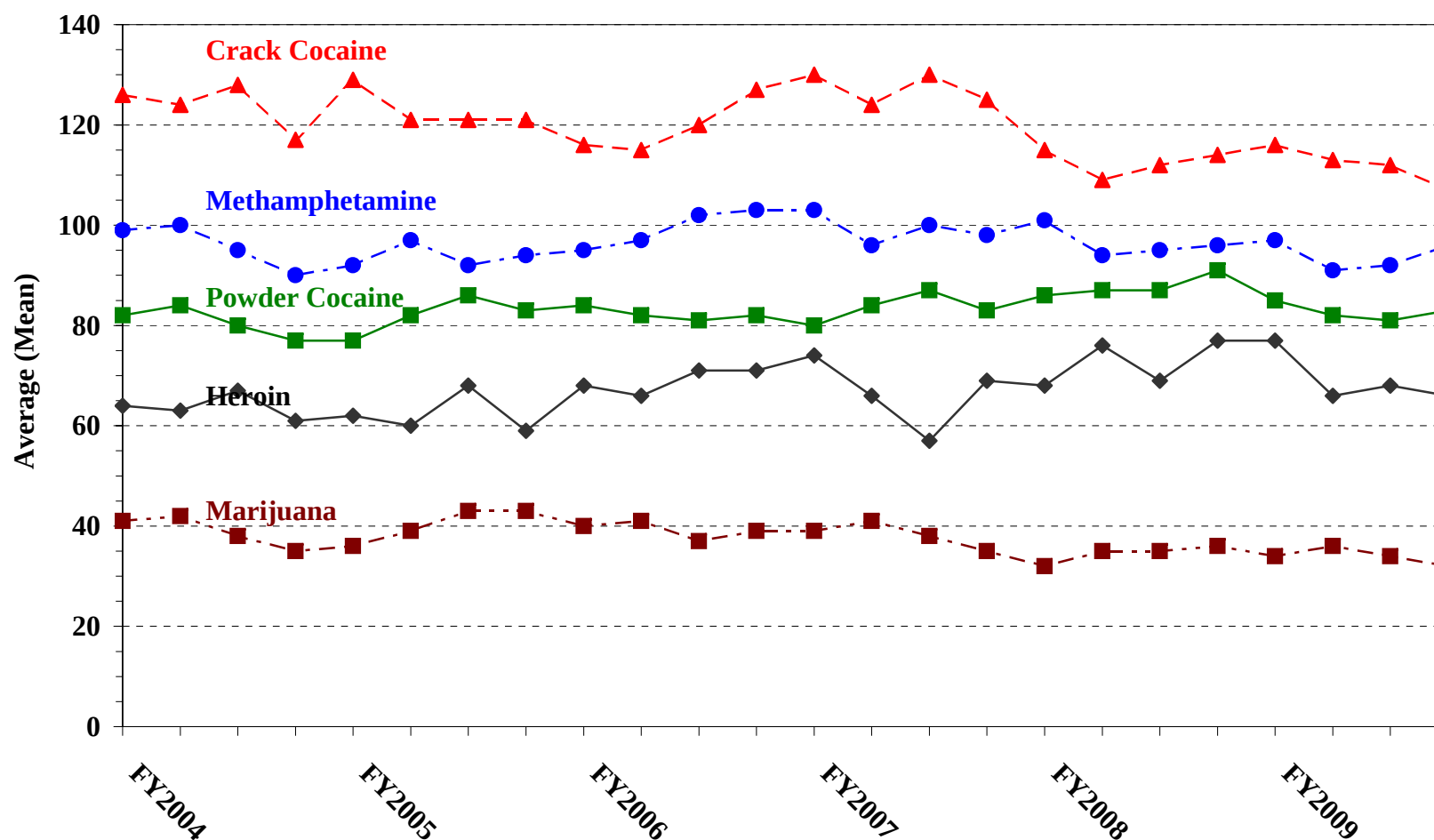


¹Figure includes only cases with a primary sentencing guideline of USSG §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure I

AVERAGE SENTENCE LENGTH FOR EACH DRUG TYPE¹

Fiscal Years 2004 - 2009



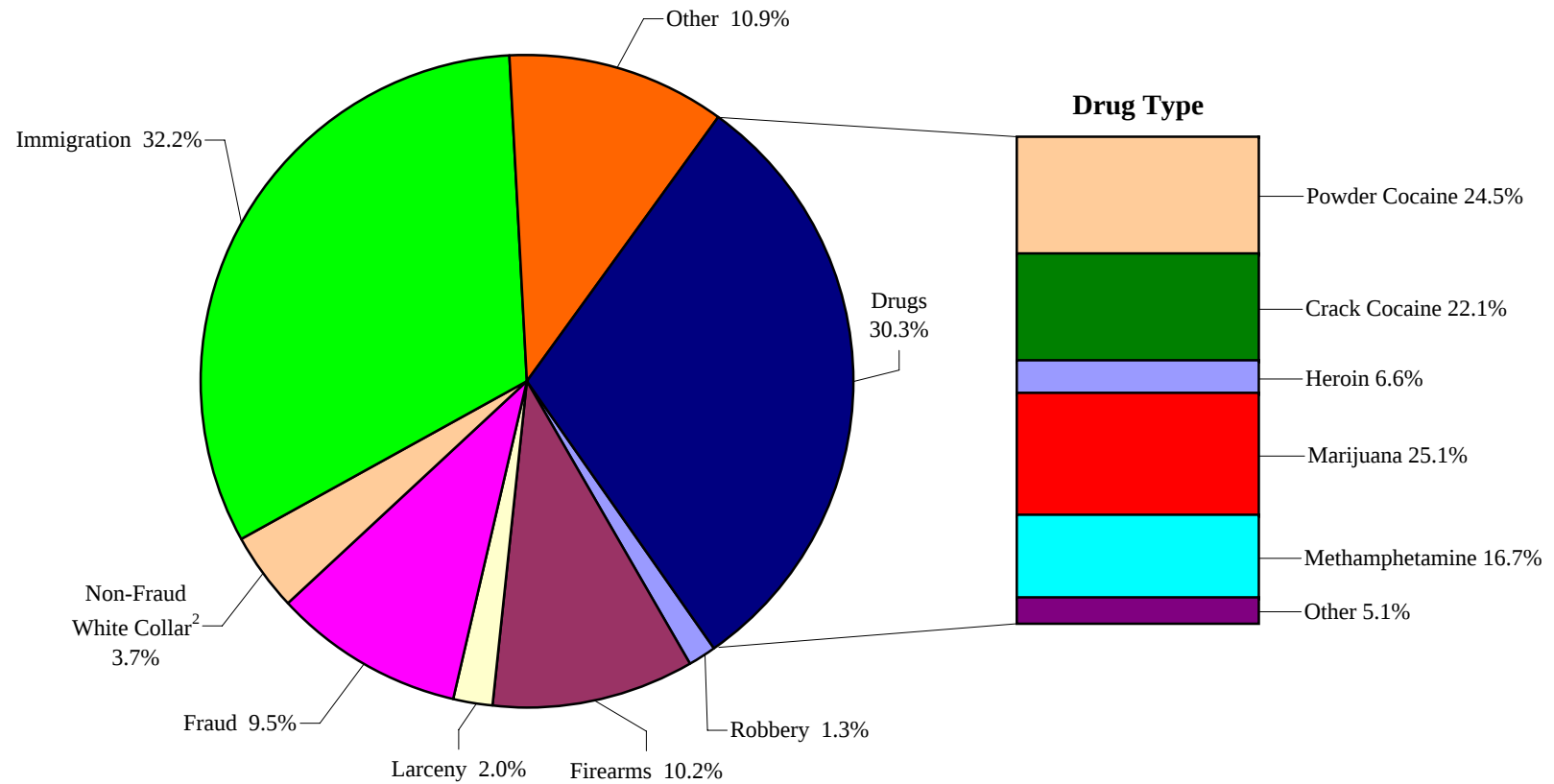
¹Only cases sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of a Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), or 2D2.1 (Simple Possession) are depicted in this figure. Figure includes only cases with a primary sentencing guideline of USSG §2D1.1. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

**WITHIN RANGE CASES: POSITION OF SENTENCE FOR OFFENDERS
IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009**

PRIMARY OFFENSE	TOTAL	Guideline Minimum		Lower Half of Range		Midpoint of Range		Upper Half of Range		Guideline Maximum	
		N	%	N	%	N	%	N	%	N	%
TOTAL	35,870	18,675	52.1	6,784	18.9	3,344	9.3	3,179	8.9	3,888	10.8
Murder	20	7	35.0	2	10.0	1	5.0	4	20.0	6	30.0
Manslaughter	33	9	27.3	4	12.1	4	12.1	5	15.2	11	33.3
Kidnapping/Hostage Taking	7	5	71.4	1	14.3	0	0.0	1	14.3	0	0.0
Sexual Abuse	247	116	47.0	37	15.0	19	7.7	28	11.3	47	19.0
Assault	300	126	42.0	50	16.7	28	9.3	30	10.0	66	22.0
Robbery	556	284	51.1	96	17.3	36	6.5	61	11.0	79	14.2
Arson	20	8	40.0	6	30.0	1	5.0	2	10.0	3	15.0
Drugs - Trafficking	9,490	6,525	68.8	1,303	13.7	639	6.7	428	4.5	595	6.3
Drugs - Communication Facility	107	67	62.6	7	6.5	11	10.3	4	3.7	18	16.8
Drugs - Simple Possession	207	142	68.6	24	11.6	16	7.7	7	3.4	18	8.7
Firearms	4,419	2,465	55.8	594	13.4	419	9.5	313	7.1	628	14.2
Burglary/B&E	27	15	55.6	4	14.8	2	7.4	1	3.7	5	18.5
Auto Theft	36	18	50.0	6	16.7	4	11.1	3	8.3	5	13.9
Larceny	855	607	71.0	96	11.2	52	6.1	32	3.7	68	8.0
Fraud	3,254	1,842	56.6	508	15.6	282	8.7	242	7.4	380	11.7
Embezzlement	278	213	76.6	37	13.3	10	3.6	10	3.6	8	2.9
Forgery/Counterfeiting	565	300	53.1	81	14.3	63	11.2	41	7.3	80	14.2
Bribery	59	30	50.8	13	22.0	3	5.1	3	5.1	10	16.9
Tax	201	112	55.7	40	19.9	20	10.0	8	4.0	21	10.4
Money Laundering	297	191	64.3	46	15.5	22	7.4	14	4.7	24	8.1
Racketeering/Extortion	179	98	54.7	31	17.3	13	7.3	16	8.9	21	11.7
Gambling/Lottery	31	20	64.5	2	6.5	3	9.7	2	6.5	4	12.9
Civil Rights	26	19	73.1	1	3.8	2	7.7	2	7.7	2	7.7
Immigration	12,298	3,960	32.2	3,494	28.4	1,544	12.6	1,787	14.5	1,513	12.3
Pornography/Prostitution	748	492	65.8	87	11.6	37	4.9	54	7.2	78	10.4
Prison Offenses	274	111	40.5	52	19.0	32	11.7	20	7.3	59	21.5
Administration of Justice Offenses	446	262	58.7	59	13.2	36	8.1	23	5.2	66	14.8
Environmental/Wildlife	81	69	85.2	5	6.2	2	2.5	2	2.5	3	3.7
National Defense	19	15	78.9	2	10.5	1	5.3	0	0.0	1	5.3
Antitrust	0	0	--	0	--	0	--	0	--	0	--
Food & Drug	41	37	90.2	2	4.9	1	2.4	0	0.0	1	2.4
Other Miscellaneous Offenses	749	510	68.1	94	12.6	41	5.5	36	4.8	68	9.1

¹Of the 81,372 cases, 44,991 were sentenced within the applicable guideline range. Of those, 38,826 had complete guideline application information. An additional 2,956 cases were excluded due to several logical criteria. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, USSCFY09.

Figure J**DISTRIBUTION OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹****Fiscal Year 2009**

¹Of the 81,372 guideline cases, 25,206 were drug cases. Of these, 771 were excluded due to missing drug type. The Drug category includes the following offense types: trafficking, use of a communication facility, and simple possession. Descriptions of variables used in this figure are provided in Appendix A.

²The 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, USSCFY09.

Table 21

GUIDELINE OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009

PRIMARY OFFENSE	N	%
TOTAL	81,372	100.0
Murder	93	0.1
Manslaughter	59	0.1
Kidnapping/Hostage Taking	41	0.1
Sexual Abuse	478	0.6
Assault	660	0.8
Robbery	1,011	1.2
Arson	60	0.1
Drugs - Trafficking	23,938	29.4
Drugs - Communication Facility	508	0.6
Drugs - Simple Possession	760	0.9
Firearms	8,243	10.1
Burglary/B&E	36	0.0
Auto Theft	77	0.1
Larceny	1,592	2.0
Fraud	7,618	9.4
Embezzlement	471	0.6
Forgery/Counterfeiting	887	1.1
Bribery	171	0.2
Tax	633	0.8
Money Laundering	812	1.0
Racketeering/Extortion	635	0.8
Gambling/Lottery	62	0.1
Civil Rights	63	0.1
Immigration	25,927	31.9
Pornography/Prostitution	1,969	2.4
Prison Offenses	445	0.5
Administration of Justice Offenses	998	1.2
Environmental/Wildlife	231	0.3
National Defense	67	0.1
Antitrust	21	0.0
Food & Drug	80	0.1
Other Miscellaneous Offenses	2,726	3.4

¹Of the 81,372 cases, none were excluded due to missing information on primary offense category. Descriptions of variables used in this table are provided in Appendix A.

Table 22

GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009

PRIMARY OFFENSE	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	81,370	78,398	96.3	2,972	3.7
Murder	93	68	73.1	25	26.9
Manslaughter	59	55	93.2	4	6.8
Kidnapping/Hostage Taking	41	36	87.8	5	12.2
Sexual Abuse	478	418	87.4	60	12.6
Assault	660	617	93.5	43	6.5
Robbery	1,011	970	95.9	41	4.1
Arson	60	54	90.0	6	10.0
Drugs - Trafficking	23,938	22,968	95.9	970	4.1
Drugs - Communication Facility	508	506	99.6	2	0.4
Drugs - Simple Possession	759	734	96.7	25	3.3
Firearms	8,243	7,649	92.8	594	7.2
Burglary/B&E	36	34	94.4	2	5.6
Auto Theft	77	76	98.7	1	1.3
Larceny	1,592	1,556	97.7	36	2.3
Fraud	7,618	7,231	94.9	387	5.1
Embezzlement	471	458	97.2	13	2.8
Forgery/Counterfeiting	887	872	98.3	15	1.7
Bribery	171	161	94.2	10	5.8
Tax	633	562	88.8	71	11.2
Money Laundering	812	759	93.5	53	6.5
Racketeering/Extortion	635	557	87.7	78	12.3
Gambling/Lottery	62	58	93.5	4	6.5
Civil Rights	63	56	88.9	7	11.1
Immigration	25,927	25,734	99.3	193	0.7
Pornography/Prostitution	1,969	1,859	94.4	110	5.6
Prison Offenses	445	437	98.2	8	1.8
Administration of Justice Offenses	998	948	95.0	50	5.0
Environmental/Wildlife	231	214	92.6	17	7.4
National Defense	67	61	91.0	6	9.0
Antitrust	21	21	100.0	0	0.0
Food & Drug	80	78	97.5	2	2.5
Other Miscellaneous Offenses	2,725	2,591	95.1	134	4.9

¹Of the 81,372 cases, two were excluded due to missing information on mode of conviction. Descriptions of variables used in this table are provided in Appendix A.

Figure K

QUARTERLY DATA FOR GUILTY PLEAS AND TRIALS¹

Fiscal Years 2004 - 2009

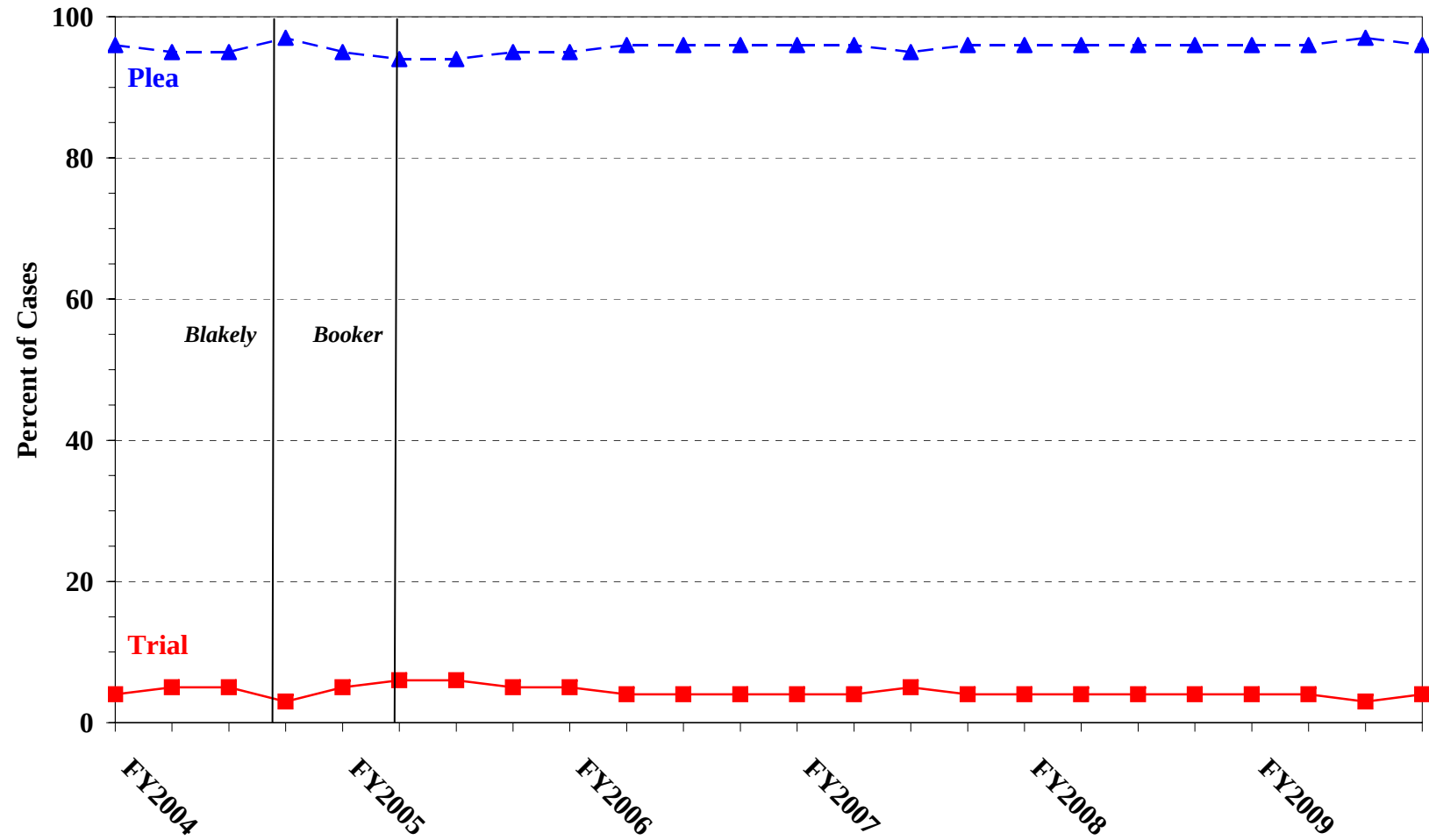
¹Descriptions of variables used in this table are provided in Appendix A.

Table 23

RACE OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009

PRIMARY OFFENSE	TOTAL	WHITE		BLACK		HISPANIC		OTHER	
		N	%	N	%	N	%	N	%
TOTAL	73,684	21,018	28.5	16,294	22.1	33,479	45.4	2,893	3.9
Murder	92	32	34.8	21	22.8	14	15.2	25	27.2
Manslaughter	59	4	6.8	1	1.7	3	5.1	51	86.4
Kidnapping/Hostage Taking	40	7	17.5	12	30.0	20	50.0	1	2.5
Sexual Abuse	474	246	51.9	45	9.5	49	10.3	134	28.3
Assault	584	154	26.4	86	14.7	91	15.6	253	43.3
Robbery	1,002	506	50.5	366	36.5	88	8.8	42	4.2
Arson	60	49	81.7	3	5.0	4	6.7	4	6.7
Drugs - Trafficking	23,725	6,227	26.2	7,025	29.6	9,628	40.6	845	3.6
Drugs - Communication Facility	506	140	27.7	188	37.2	155	30.6	23	4.5
Drugs - Simple Possession	326	160	49.1	107	32.8	42	12.9	17	5.2
Firearms	8,181	2,421	29.6	4,148	50.7	1,397	17.1	215	2.6
Burglary/B&E	36	9	25.0	7	19.4	1	2.8	19	52.8
Auto Theft	74	43	58.1	17	23.0	13	17.6	1	1.4
Larceny	1,292	664	51.4	384	29.7	157	12.2	87	6.7
Fraud	6,460	3,010	46.6	1,925	29.8	1,156	17.9	369	5.7
Embezzlement	439	272	62.0	102	23.2	23	5.2	42	9.6
Forgery/Counterfeiting	878	383	43.6	323	36.8	141	16.1	31	3.5
Bribery	168	88	52.4	32	19.0	30	17.9	18	10.7
Tax	611	423	69.2	86	14.1	44	7.2	58	9.5
Money Laundering	798	311	39.0	94	11.8	325	40.7	68	8.5
Racketeering/Extortion	616	237	38.5	158	25.6	180	29.2	41	6.7
Gambling/Lottery	62	44	71.0	0	0.0	8	12.9	10	16.1
Civil Rights	59	38	64.4	10	16.9	9	15.3	2	3.4
Immigration	22,200	2,437	11.0	394	1.8	19,158	86.3	211	1.0
Pornography/Prostitution	1,966	1,678	85.4	101	5.1	134	6.8	53	2.7
Prison Offenses	380	99	26.1	155	40.8	97	25.5	29	7.6
Administration of Justice Offenses	906	386	42.6	212	23.4	255	28.1	53	5.8
Environmental/Wildlife	176	130	73.9	2	1.1	10	5.7	34	19.3
National Defense	65	22	33.8	3	4.6	28	43.1	12	18.5
Antitrust	16	11	68.8	0	0.0	4	25.0	1	6.3
Food & Drug	74	44	59.5	5	6.8	14	18.9	11	14.9
Other Miscellaneous Offenses	1,359	743	54.7	282	20.8	201	14.8	133	9.8

¹Of the 81,372 cases, 7,688 were excluded due to missing race. Descriptions of variables used in this table are provided in Appendix A.

Table 24

GENDER OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009

PRIMARY OFFENSE	TOTAL	MALE		FEMALE	
		N	%	N	%
TOTAL	79,320	69,071	87.1	10,249	12.9
Murder	93	80	86.0	13	14.0
Manslaughter	59	45	76.3	14	23.7
Kidnapping/Hostage Taking	41	39	95.1	2	4.9
Sexual Abuse	477	458	96.0	19	4.0
Assault	645	569	88.2	76	11.8
Robbery	1,008	915	90.8	93	9.2
Arson	60	54	90.0	6	10.0
Drugs - Trafficking	23,909	20,989	87.8	2,920	12.2
Drugs - Communication Facility	508	413	81.3	95	18.7
Drugs - Simple Possession	634	506	79.8	128	20.2
Firearms	8,232	7,952	96.6	280	3.4
Burglary/B&E	36	32	88.9	4	11.1
Auto Theft	77	71	92.2	6	7.8
Larceny	1,486	930	62.6	556	37.4
Fraud	7,563	5,250	69.4	2,313	30.6
Embezzlement	468	206	44.0	262	56.0
Forgery/Counterfeiting	885	644	72.8	241	27.2
Bribery	171	146	85.4	25	14.6
Tax	631	495	78.4	136	21.6
Money Laundering	811	611	75.3	200	24.7
Racketeering/Extortion	631	578	91.6	53	8.4
Gambling/Lottery	62	59	95.2	3	4.8
Civil Rights	63	56	88.9	7	11.1
Immigration	24,636	22,825	92.6	1,811	7.4
Pornography/Prostitution	1,969	1,913	97.2	56	2.8
Prison Offenses	442	406	91.9	36	8.1
Administration of Justice Offenses	969	650	67.1	319	32.9
Environmental/Wildlife	220	204	92.7	16	7.3
National Defense	66	64	97.0	2	3.0
Antitrust	21	21	100.0	0	0.0
Food & Drug	78	66	84.6	12	15.4
Other Miscellaneous Offenses	2,369	1,824	77.0	545	23.0

¹Of the 81,372 cases, 2,052 were excluded due to missing gender. Descriptions of variables used in this table are provided in Appendix A.

Table 25

AGE, RACE, AND GENDER OF OFFENDERS¹
Fiscal Year 2009

Gender and Age	White		Black		Hispanic		Other	
	N	%	N	%	N	%	N	%
Males	17,456	100.0	14,254	100.0	30,685	100.0	2,346	100.0
Under 21	467	2.7	453	3.2	1,325	4.3	85	3.6
21 - 25	1,959	11.2	2,452	17.2	5,204	17.0	374	15.9
26 - 30	2,616	15.0	3,479	24.4	6,673	21.7	463	19.7
31 - 35	2,441	14.0	2,783	19.5	6,320	20.6	342	14.6
36 - 40	2,394	13.7	2,036	14.3	4,665	15.2	338	14.4
41 - 50	4,022	23.0	2,123	14.9	4,865	15.9	442	18.8
Over 50	3,557	20.4	928	6.5	1,633	5.3	302	12.9
Females	3,559	100.0	2,039	100.0	2,772	100.0	543	100.0
Under 21	131	3.7	52	2.6	149	5.4	15	2.8
21 - 25	528	14.8	308	15.1	443	16.0	75	13.8
26 - 30	574	16.1	420	20.6	530	19.1	81	14.9
31 - 35	472	13.3	360	17.7	478	17.2	87	16.0
36 - 40	493	13.9	258	12.7	412	14.9	75	13.8
41 - 50	799	22.5	414	20.3	547	19.7	126	23.2
Over 50	562	15.8	227	11.1	213	7.7	84	15.5

¹Of the 81,372 cases, 7,718 were excluded due to one or more of the following reasons: missing race (7,688), missing gender (2,052), or missing age (432). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, USSCFY09.

Table 26

CITIZENSHIP OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2009

PRIMARY OFFENSE	TOTAL	U.S. CITIZEN		NON-U.S. CITIZEN	
		N	%	N	%
TOTAL	78,550	43,416	55.3	35,134	44.7
Murder	92	82	89.1	10	10.9
Manslaughter	59	58	98.3	1	1.7
Kidnapping/Hostage Taking	40	20	50.0	20	50.0
Sexual Abuse	477	452	94.8	25	5.2
Assault	595	526	88.4	69	11.6
Robbery	1,005	976	97.1	29	2.9
Arson	60	59	98.3	1	1.7
Drugs - Trafficking	23,811	16,968	71.3	6,843	28.7
Drugs - Communication Facility	507	425	83.8	82	16.2
Drugs - Simple Possession	459	335	73.0	124	27.0
Firearms	8,202	7,528	91.8	674	8.2
Burglary/B&E	36	36	100.0	0	0.0
Auto Theft	74	72	97.3	2	2.7
Larceny	1,314	1,238	94.2	76	5.8
Fraud	7,384	5,250	71.1	2,134	28.9
Embezzlement	447	437	97.8	10	2.2
Forgery/Counterfeiting	881	795	90.2	86	9.8
Bribery	169	147	87.0	22	13.0
Tax	616	569	92.4	47	7.6
Money Laundering	801	552	68.9	249	31.1
Racketeering/Extortion	620	525	84.7	95	15.3
Gambling/Lottery	62	57	91.9	5	8.1
Civil Rights	60	53	88.3	7	11.7
Immigration	25,710	1,758	6.8	23,952	93.2
Pornography/Prostitution	1,967	1,885	95.8	82	4.2
Prison Offenses	389	356	91.5	33	8.5
Administration of Justice Offenses	917	738	80.5	179	19.5
Environmental/Wildlife	184	163	88.6	21	11.4
National Defense	65	30	46.2	35	53.8
Antitrust	19	10	52.6	9	47.4
Food & Drug	74	59	79.7	15	20.3
Other Miscellaneous Offenses	1,454	1,257	86.5	197	13.5

¹Of the 81,372 cases, 2,822 were excluded due to missing citizenship information. Descriptions of variables used in this table are provided in Appendix A.

Table 27

DOCUMENT SUBMISSION BY EACH CIRCUIT AND DISTRICT¹
Fiscal Year 2009

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received N	Received N	Received N	Received N	No Written Plea/Trial N	Received N	Received N	Waived N
TOTAL	81,372	374,922	81,350	79,309	58,717	22,300	81,241	74,305	7,002
D.C. CIRCUIT	378	1,835	378	376	336	41	376	369	7
District of Columbia	378	1,835	378	376	336	41	376	369	7
FIRST CIRCUIT	1,782	8,171	1,782	1,772	1,139	628	1,779	1,699	81
Maine	227	1,016	227	227	109	115	227	226	0
Massachusetts	522	2,280	522	518	204	315	521	515	6
New Hampshire	205	1,001	205	204	183	21	204	205	0
Puerto Rico	697	3,265	697	692	558	136	696	622	75
Rhode Island	131	609	131	131	85	41	131	131	0
SECOND CIRCUIT	4,726	21,985	4,726	4,648	3,400	1,306	4,715	4,496	225
Connecticut	407	2,007	407	407	381	25	406	406	1
New York									
Eastern	1,213	5,908	1,213	1,207	1,075	134	1,210	1,203	10
Northern	547	2,319	547	499	270	273	547	456	90
Southern	1,649	7,310	1,649	1,625	802	836	1,644	1,590	55
Western	715	3,478	715	715	688	27	713	647	68
Vermont	195	963	195	195	184	11	195	194	1
THIRD CIRCUIT	3,083	14,648	3,078	3,065	2,404	664	3,074	3,027	53
Delaware	159	784	159	158	149	9	159	159	0
New Jersey	892	4,334	887	886	786	104	887	888	2
Pennsylvania									
Eastern	865	4,020	865	863	575	290	863	854	10
Middle	634	3,112	634	630	588	46	634	626	8
Western	460	2,067	460	459	260	188	458	430	30
Virgin Islands	73	331	73	69	46	27	73	70	3
FOURTH CIRCUIT	6,875	30,918	6,868	6,491	4,750	2,080	6,850	5,959	910
Maryland	801	3,663	800	710	635	159	800	718	81
North Carolina									
Eastern	659	3,089	659	641	509	149	659	621	38
Middle	431	2,119	431	430	397	33	431	430	1
Western	530	2,509	530	528	393	134	530	528	1
South Carolina	1,140	5,211	1,140	1,136	660	480	1,140	1,135	5
Virginia									
Eastern	2,117	8,512	2,111	1,852	1,094	990	2,094	1,361	753
Western	500	2,408	500	498	411	89	500	499	1
West Virginia									
Northern	413	2,007	413	412	386	27	413	383	30
Southern	284	1,400	284	284	265	19	283	284	0

Table 27 (cont.)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
FIFTH CIRCUIT	19,506	86,508	19,502	19,334	10,801	8,629	19,486	17,385	2,117
Louisiana									
Eastern	440	2,045	440	430	295	145	440	440	0
Middle	176	842	176	176	138	38	176	176	0
Western	351	1,639	350	350	255	95	350	334	17
Mississippi									
Northern	139	683	139	139	133	6	139	133	6
Southern	358	1,675	357	339	299	53	356	324	34
Texas									
Eastern	927	4,547	927	926	844	82	927	923	4
Northern	1,008	4,763	1,008	1,006	736	271	1,007	1,006	2
Southern	7,602	35,289	7,601	7,598	4,999	2,600	7,602	7,489	112
Western	8,505	35,025	8,504	8,370	3,102	5,339	8,489	6,560	1,942
SIXTH CIRCUIT	5,235	24,820	5,234	5,195	4,163	1,015	5,229	4,999	235
Kentucky									
Eastern	703	3,420	703	703	627	75	702	685	18
Western	425	1,907	425	418	335	88	424	305	120
Michigan									
Eastern	716	3,459	716	716	601	112	714	712	4
Western	484	2,259	484	483	347	134	484	461	23
Ohio									
Northern	673	3,131	673	669	446	224	673	670	3
Southern	619	3,047	618	617	586	30	618	608	10
Tennessee									
Eastern	652	3,084	652	647	488	163	651	646	6
Middle	320	1,452	320	301	208	72	320	303	17
Western	643	3,061	643	641	525	117	643	609	34
SEVENTH CIRCUIT	2,927	14,059	2,926	2,901	2,405	516	2,925	2,902	25
Illinois									
Central	349	1,613	348	349	218	131	349	349	0
Northern	919	4,378	919	904	731	185	917	907	12
Southern	314	1,477	314	313	226	87	314	310	4
Indiana									
Northern	452	2,197	452	443	400	52	452	450	2
Southern	233	1,134	233	233	204	28	233	231	2
Wisconsin									
Eastern	468	2,315	468	468	448	20	468	463	5
Western	192	945	192	191	178	13	192	192	0
EIGHTH CIRCUIT	5,440	26,016	5,440	5,403	4,349	1,079	5,432	5,392	46
Arkansas									
Eastern	416	1,967	416	412	319	96	415	405	11
Western	255	1,267	255	254	249	6	255	254	1
Iowa									
Northern	349	1,605	349	349	211	138	348	348	1
Southern	469	2,234	469	469	358	110	469	469	0
Minnesota	625	3,066	625	624	572	53	625	620	5
Missouri									
Eastern	1,053	5,192	1,053	1,044	996	48	1,050	1,049	3
Western	832	3,819	832	820	513	319	831	823	8
Nebraska	651	3,165	651	650	566	85	651	647	4
North Dakota	278	1,224	278	269	136	141	276	265	13
South Dakota	512	2,477	512	512	429	83	512	512	0

Table 27 (cont.)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
NINTH CIRCUIT	17,246	81,003	17,244	16,169	15,583	1,616	17,214	14,793	2,423
Alaska	184	833	184	183	113	70	183	170	13
Arizona	4,784	21,667	4,784	3,802	4,493	290	4,774	3,814	959
California									
Central	1,937	9,349	1,937	1,916	1,699	220	1,928	1,869	66
Eastern	1,036	5,078	1,036	1,027	950	78	1,035	1,030	6
Northern	907	4,260	907	879	760	142	901	813	92
Southern	4,838	22,825	4,836	4,824	4,542	291	4,834	3,789	1,035
Guam	62	295	62	61	49	13	62	61	1
Hawaii	303	1,378	303	302	176	126	303	294	9
Idaho	336	1,627	336	331	293	43	336	331	5
Montana	405	1,922	405	400	313	91	405	399	6
Nevada	406	1,940	406	406	323	81	405	400	6
Northern Mariana Islands	26	125	26	26	21	5	26	26	0
Oregon	640	3,110	640	631	588	52	640	611	29
Washington									
Eastern	429	2,062	429	429	354	72	429	421	8
Western	953	4,532	953	952	909	42	953	765	188
TENTH CIRCUIT	6,777	31,265	6,777	6,747	4,596	2,158	6,775	6,370	404
Colorado	524	2,586	524	517	511	13	524	510	14
Kansas	741	3,564	741	727	646	94	740	710	31
New Mexico	3,427	15,654	3,427	3,423	1,968	1,459	3,427	3,409	17
Oklahoma									
Eastern	98	452	98	98	60	37	98	98	0
Northern	218	997	218	218	126	92	218	217	1
Western	502	2,067	502	499	257	226	502	307	194
Utah	835	3,961	835	833	730	104	834	729	106
Wyoming	432	1,984	432	432	298	133	432	390	41
ELEVENTH CIRCUIT	7,397	33,694	7,395	7,208	4,791	2,568	7,386	6,914	476
Alabama									
Middle	236	1,132	236	235	191	45	235	235	1
Northern	489	2,271	488	475	363	121	489	456	33
Southern	430	2,053	430	430	338	92	430	425	5
Florida									
Middle	1,648	7,589	1,648	1,645	1,002	646	1,648	1,646	2
Northern	406	1,870	406	402	266	140	405	391	15
Southern	2,418	10,832	2,417	2,278	1,417	982	2,410	2,310	102
Georgia									
Middle	423	1,797	423	418	221	199	423	312	111
Northern	789	3,726	789	767	619	168	788	763	25
Southern	558	2,424	558	558	374	175	558	376	182

¹Descriptions of variables used in this table are provided in Appendix A.²The figures presented in this table regarding Plea Agreement Submission exclude from the analysis 173 cases for which the Commission was unable to determine definitively whether the defendant's guilty plea was entered pursuant to a written plea agreement.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, USSCFY09.

Table 28

**RATE OF SUBMISSION OF STATEMENT OF REASONS FORM
IN EACH CIRCUIT AND DISTRICT
Fiscal Year 2009**

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
TOTAL	81,372	69,670	85.6	9,702	11.9	2,000	2.5
D.C. CIRCUIT	378	378	100.0	0	0.0	0	0.0
District of Columbia	378	378	100.0	0	0.0	0	0.0
FIRST CIRCUIT	1,782	1,773	99.5	1	0.1	8	0.4
Maine	227	227	100.0	0	0.0	0	0.0
Massachusetts	522	518	99.2	1	0.2	3	0.6
New Hampshire	205	205	100.0	0	0.0	0	0.0
Puerto Rico	697	692	99.3	0	0.0	5	0.7
Rhode Island	131	131	100.0	0	0.0	0	0.0
SECOND CIRCUIT	4,726	4,567	96.6	82	1.7	77	1.6
Connecticut	407	407	100.0	0	0.0	0	0.0
New York							
Eastern	1,213	1,137	93.7	70	5.8	6	0.5
Northern	547	498	91.0	1	0.2	48	8.8
Southern	1,649	1,616	98.0	10	0.6	23	1.4
Western	715	715	100.0	0	0.0	0	0.0
Vermont	195	194	99.5	1	0.5	0	0.0
THIRD CIRCUIT	3,083	2,186	70.9	880	28.5	17	0.6
Delaware	159	158	99.4	0	0.0	1	0.6
New Jersey	892	8	0.9	878	98.4	6	0.7
Pennsylvania							
Eastern	865	862	99.7	1	0.1	2	0.2
Middle	634	631	99.5	0	0.0	3	0.5
Western	460	459	99.8	0	0.0	1	0.2
Virgin Islands	73	68	93.2	1	1.4	4	5.5
FOURTH CIRCUIT	6,875	6,423	93.4	92	1.3	360	5.2
Maryland	801	723	90.3	9	1.1	69	8.6
North Carolina							
Eastern	659	640	97.1	2	0.3	17	2.6
Middle	431	430	99.8	0	0.0	1	0.2
Western	530	528	99.6	0	0.0	2	0.4
South Carolina	1,140	1,135	99.6	1	0.1	4	0.4
Virginia							
Eastern	2,117	1,774	83.8	79	3.7	264	12.5
Western	500	498	99.6	0	0.0	2	0.4
West Virginia							
Northern	413	412	99.8	0	0.0	1	0.2
Southern	284	283	99.6	1	0.4	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
FIFTH CIRCUIT	19,506	11,712	60.0	7,631	39.1	163	0.8
Louisiana							
Eastern	440	433	98.4	2	0.5	5	1.1
Middle	176	176	100.0	0	0.0	0	0.0
Western	351	322	91.7	28	8.0	1	0.3
Mississippi							
Northern	139	139	100.0	0	0.0	0	0.0
Southern	358	340	95.0	1	0.3	17	4.7
Texas							
Eastern	927	926	99.9	0	0.0	1	0.1
Northern	1,008	1,003	99.5	3	0.3	2	0.2
Southern	7,602	7,598	99.9	0	0.0	4	0.1
Western	8,505	775	9.1	7,597	89.3	133	1.6
SIXTH CIRCUIT	5,235	5,063	96.7	134	2.6	38	0.7
Kentucky							
Eastern	703	703	100.0	0	0.0	0	0.0
Western	425	418	98.4	0	0.0	7	1.6
Michigan							
Eastern	716	715	99.9	1	0.1	0	0.0
Western	484	483	99.8	0	0.0	1	0.2
Ohio							
Northern	673	670	99.6	0	0.0	3	0.4
Southern	619	564	91.1	53	8.6	2	0.3
Tennessee							
Eastern	652	647	99.2	1	0.2	4	0.6
Middle	320	238	74.4	63	19.7	19	5.9
Western	643	625	97.2	16	2.5	2	0.3
SEVENTH CIRCUIT	2,927	2,826	96.5	75	2.6	26	0.9
Illinois							
Central	349	349	100.0	0	0.0	0	0.0
Northern	919	902	98.2	2	0.2	15	1.6
Southern	314	313	99.7	0	0.0	1	0.3
Indiana							
Northern	452	443	98.0	0	0.0	9	2.0
Southern	233	233	100.0	0	0.0	0	0.0
Wisconsin							
Eastern	468	395	84.4	73	15.6	0	0.0
Western	192	191	99.5	0	0.0	1	0.5
EIGHTH CIRCUIT	5,440	5,347	98.3	57	1.0	36	0.7
Arkansas							
Eastern	416	412	99.0	0	0.0	4	1.0
Western	255	254	99.6	0	0.0	1	0.4
Iowa							
Northern	349	349	100.0	0	0.0	0	0.0
Southern	469	469	100.0	0	0.0	0	0.0
Minnesota	625	570	91.2	54	8.6	1	0.2
Missouri							
Eastern	1,053	1,043	99.1	2	0.2	8	0.8
Western	832	820	98.6	0	0.0	12	1.4
Nebraska	651	649	99.7	1	0.2	1	0.2
North Dakota	278	269	96.8	0	0.0	9	3.2
South Dakota	512	512	100.0	0	0.0	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
NINTH CIRCUIT	17,246	15,621	90.6	560	3.2	1,065	6.2
Alaska	184	183	99.5	0	0.0	1	0.5
Arizona	4,784	3,810	79.6	0	0.0	974	20.4
California							
Central	1,937	1,914	98.8	4	0.2	19	1.0
Eastern	1,036	1,027	99.1	0	0.0	9	0.9
Northern	907	878	96.8	2	0.2	27	3.0
Southern	4,838	4,823	99.7	2	0.0	13	0.3
Guam	62	61	98.4	0	0.0	1	1.6
Hawaii	303	294	97.0	8	2.6	1	0.3
Idaho	336	331	98.5	0	0.0	5	1.5
Montana	405	398	98.3	2	0.5	5	1.2
Nevada	406	406	100.0	0	0.0	0	0.0
Northern Mariana Islands	26	26	100.0	0	0.0	0	0.0
Oregon	640	89	13.9	542	84.7	9	1.4
Washington							
Eastern	429	429	100.0	0	0.0	0	0.0
Western	953	952	99.9	0	0.0	1	0.1
TENTH CIRCUIT	6,777	6,643	98.0	107	1.6	27	0.4
Colorado	524	515	98.3	3	0.6	6	1.1
Kansas	741	727	98.1	0	0.0	14	1.9
New Mexico	3,427	3,422	99.9	1	0.0	4	0.1
Oklahoma							
Eastern	98	98	100.0	0	0.0	0	0.0
Northern	218	218	100.0	0	0.0	0	0.0
Western	502	499	99.4	0	0.0	3	0.6
Utah	835	732	87.7	103	12.3	0	0.0
Wyoming	432	432	100.0	0	0.0	0	0.0
ELEVENTH CIRCUIT	7,397	7,131	96.4	83	1.1	183	2.5
Alabama							
Middle	236	235	99.6	0	0.0	1	0.4
Northern	489	477	97.5	0	0.0	12	2.5
Southern	430	430	100.0	0	0.0	0	0.0
Florida							
Middle	1,648	1,646	99.9	0	0.0	2	0.1
Northern	406	402	99.0	0	0.0	4	1.0
Southern	2,418	2,281	94.3	0	0.0	137	5.7
Georgia							
Middle	423	384	90.8	34	8.0	5	1.2
Northern	789	718	91.0	49	6.2	22	2.8
Southern	558	558	100.0	0	0.0	0	0.0

¹Cases included in this category are those in which the court submitted Form AO 245B (Revision 06/05) to the Commission. Only cases in which all required pages of this form were submitted with no deletions or substantive changes are included in this category. Form AO 245B was approved by the Executive Committee of the Judicial Conference of the United States in June 2005.

²Cases are included in this category for one or more of the following reasons: one or more of the required pages of Form AO 245B (Revision 06/05) were missing; deletions or substantive changes were made in Form AO 245B (Revision 06/05) that prevented the USSC from collecting the information required to be submitted by 18 U.S.C. §3553(c); the outdated version of Form AO 245B was submitted; or a unique, district created, or modified form was submitted.

Appendix A

Descriptions of Datafiles and Variables

Introduction

Federal courts are required to forward to the Commission sentencing documentation on all offenders sentenced under the Sentencing Reform Act of 1984 (SRA), except in cases that solely involve petty offenses. Standard information on each case is extracted from sentencing documents received and computerized for analysis.

Given the nature of the datafile and reporting requirements, the following are not included: cases initiated but for which no convictions were obtained, offenders convicted for whom no sentences were yet issued, and offenders sentenced but for whom no sentencing documents were submitted to the Commission. Because the Commission collects information only on cases sentenced under the guidelines, information on cases sentenced under prior law (pre-guidelines) during the current fiscal year is not available in this dataset. When cases are sentenced under both prior law and the guidelines, only the guideline relevant information is coded in the dataset.

Note that for all tables, total percentages may not add up to exactly 100 percent due to rounding.

Variables

The following section describes the variables used in this report.

Above Guideline Range With *Booker*/18 U.S.C. § 3553

Above Guideline Range with Booker/18 U.S.C. § 3553 consist of cases sentenced above 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 of the guideline system.

Age

The *Age* of the offender on the day of sentencing is calculated using the offender's date of birth as reported in the presentence report and the date of sentencing as reported in the Judgment and Commitment Order.

All Remaining Cases Above Guideline Range

All Remaining Cases Above Guideline Range consist of cases sentenced above the guideline range that could not be classified into any of the other three above the range categories. This category includes cases in which no reason was provided for a sentence above the guideline range.

All Remaining Cases Below Guideline Range

All Remaining Cases Below Guideline Range consist of cases sentenced below the guideline range that could not be classified into any of the other three below the range categories. This category includes cases in which no reason was provided for a sentence below the guideline range.

Average Sentence Length

Using sentencing information obtained from the Judgment and Commitment Order, *Average Sentence Length* is reported as the mean and median terms of imprisonment ordered (including any months of alternative confinement as defined in §5C1.1). Cases that receive no term of imprisonment (i.e.

probation) are also included in the average. Cases for which a term of imprisonment is ordered but the length is indeterminable are excluded. In most cases for which the exact term is unknown, the Judgment and Commitment Order merely specifies a sentence of time served. Prior to fiscal year 1993, the Commission defined life sentences as 360 months. However, to reflect life expectancy of federal criminal offenders more precisely and to provide more accurate length of imprisonment information, life sentences are now defined as 470 months.

Below Guideline Range With *Booker*/18 U.S.C. § 3553

Below Guideline Range with Booker/18 U.S.C. § 3553 consist of cases sentenced below 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 of the guideline system.

Circuit

Information on judicial *Circuit* is generated by computer using the location of the judicial district in which the offender was sentenced.

Citizenship Status

Information on the *Citizenship Status* of offenders is obtained from the presentence report. Offenders are categorized as one of the following: “U.S. citizen,” “resident alien,” “illegal alien,” and “non-U.S. citizen, alien status unknown.” The latter three categories are collapsed into the category of “non-U.S. citizen.”

Degree of Decrease

Degree of Decrease is calculated based on the difference between the length of imprisonment (not including any months of alternative confinement as defined in §5C1.1) and the guideline minimum for the following categories of below range cases: departures below the guideline range, departures below the guideline range with *Booker*/18 U.S.C. § 3553, below the guideline range with *Booker*/18 U.S.C. § 3553, all other below range cases, §5K1.1 substantial assistance cases, and §5K3.1 early disposition program cases, and other government sponsored cases. Life sentences, and cases where the guideline minimum is zero months or life are all excluded from all degree of decrease calculations due to the logical difficulty in calculating a decrease from these values.

Degree of Increase

Degree of Increase is calculated based on the difference between the guideline maximum and the length of imprisonment (not including any months of alternative confinement as defined in §5C1.1) for the following categories of above range cases: departures above the guideline range, departures above the guideline range with *Booker*/18 U.S.C. § 3553, above the guideline range with *Booker*/18 U.S.C. § 3553, and all other above range cases. Life sentences, sentences of probation, and cases where the guideline minimum is life are all excluded from all degree of increase calculations due to the logical difficulty in calculating an increase from these values.

District

Information on the judicial *District* in which sentencing occurred is obtained from the Judgment and Commitment Order.

Document Submission Rates

Five documents are represented in the document submission rate table: Judgment and Commitment Order (J&C), Presentence Report (PSR), Statement of Reasons (SOR), Indictment/Information (Ind), and Plea Agreements (Plea). The J&C and PSR generally are submitted in a standardized format. PSRs waived by

the court are indicated in a separate column. Standardized forms for the Statement of Reasons are most frequently submitted; however, transcripts or partial transcripts from the sentencing hearing are also included as *Statement of Reasons Received*. Cases in which the Commission was unable to determine definitively whether the offender's guilty plea was entered pursuant to a written agreement are excluded from the Plea Agreement totals.

Downward Departure From Guideline Range

Downward Departure from Guideline Range consist of cases with downward 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*.

Downward Departure With *Booker*/18 U.S.C. § 3553

Downward Departure with Booker/18 U.S.C. § 3553 consist of cases sentenced below the guideline range in which the court indicated both a departure (see Downward Departure From Guideline Range) 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.

Drug Offense Guideline

Drug Offense Guideline information is obtained from the presentence report and is based on the guidelines in USSG Chapter Two, Part D. The six guidelines featured in the tables (§2D1.1, §2D1.2, §2D1.5, §2D1.6, §2D1.8, and §2D2.1) represent the vast majority of drug cases.

Drug Type

Information on *Drug Type* is obtained from the Judgment and Commitment Order or the presentence report. It is recorded only if at least one of the statutes of conviction recorded by the Commission is a title 21 U.S. Code offense or a non-title 21 offense when the underlying conduct involves a controlled substance. Information about type of drug in the text and tables is derived from the primary drug type (*i.e.*, the type that produces the highest base offense level). The category *Marijuana* includes Hashish and Hashish oil. The category *Methamphetamine* includes pure (actual) methamphetamine, "ICE", methamphetamine mixture, and methamphetamine precursors (specifically including ephedrine and pseudoephedrine). ("ICE" has been included in the methamphetamine category since FY1996). All drug types not listed separately in this report are collapsed into the "other" drug category.

Education

Information on education of the offender is obtained from the presentence report and is collapsed into general categories. Technical, military, and vocational training as well as course work at community colleges are included in the *Some College* category. A general equivalency degree (GED) is included in the *High School Graduate* category.

Gender

Gender of the offender is obtained from the presentence report or probation office.

Government Sponsored

Government sponsorship of a departure is determined by a yearly case review by USSC staff of both the reasons for departure and the coding by USSC staff of any indication of government sponsorship as indicated on the Statement of Reasons. The SOR form AO245B version 12/03 and 06/05 have specific check-boxes to indicate the origins of the departure, but cases which do not use this form may also indicate in writing the origins of the departure. Additionally, all cases with one or more of the following

reasons were classified as being sponsored by the government regardless of whether the SOR indicated sponsorship: pursuant to a plea agreement (binding, non-binding, or unknown), fast track, savings to the government, early plea, deportation, waiver of indictment and/or appeal, other government motion, global disposition, due to stipulations, facilitated early release of a material witness, joint recommendation, and large number of immigration cases. Note that since the USSC reviews the reasons on a yearly basis this list might be modified slightly from year to year. Unless otherwise broken out in the table or chart, this category also includes cases with §5K3.1 Early Disposition Program (EDP) departures.

Guideline Offenders Sentenced

Each *Guideline Offender Sentenced* or case, as recorded by the USSC, involves a single sentencing event for a single offender. Multiple counts, and even multiple indictments, are considered a single sentencing event if sentenced at the same time by the same judge. A single offender may appear in more than one case if involved in more than one sentencing event during the fiscal year. Co-offenders in the same sentencing will each appear as separate cases.

Guideline Sentencing Range

The *Guideline Sentencing Range* is taken from the Statement of Reasons provided by the sentencing court. Alternatively, if the Statement of Reasons is missing, then the information is taken from the presentence report.

For tables in this report, unless otherwise indicated, the guideline sentencing range does not take into account applicable statutory restrictions on either the maximum or the minimum of the range; therefore, it may differ from the available range, which does take into account the statutory restrictions.

Mode of Conviction

Information on *Mode of Conviction* is obtained from the Judgment and Commitment Order. Offenders sentenced subsequent to a plea of guilty or *nolo contendere* are included in the *Plea* category. Offenders sentenced subsequent to a trial by judge or jury are included in the *Trial* category. Rare cases involving both a plea and a trial are included in the *Plea* category.

Outside of the Range Attribution Categories

All categories replicate the list of checkboxes available on the SOR Form AO245B (Both 12/03 and 06/05). Not all checkbox categories are available in both the departure section and sentences outside the guideline system section on this form and that multiple checkboxes may be indicated in a single case so that totals in a table may exceed the total number of cases. USSC uses these checkboxes in determining government sponsorship: all cases in which one of the pursuant to a plea agreement boxes is indicated are attributed to the government. Additionally cases where a §5K1.1, §5K3.1, or other government motion checkbox was indicated in the pursuant to a motion not in a plea agreement section are also attributed to one of the government sponsored categories. Additionally other types of SOR forms may indicate sponsorship in writing and these attributions are also included in the appropriate category.

Position of Sentence

The *Position of Sentence* describes within-range guideline sentences in terms of their relative positions within their applicable guideline ranges. Only cases with complete information from the Statement of Reasons are used for this table. The *Position of Sentence* is determined by dividing the available range in half. This allows a sentence to fall into one of five distinct categories: the guideline minimum; the exact midpoint of the range; the guideline maximum; the lower-half of the range (when not at the guideline minimum); and the upper-half of the range (when not at the guideline maximum). The “available range”

is the guideline range with applicable statutory restrictions on either the maximum or the minimum of the range taken into account. (For cases in which guideline §5C1.2 was applied, in accordance with the provisions of the guideline, the statutory restrictions on the range are those from 18 U.S.C. § 3553(f).) In cases in which the sentence is located outside the available sentencing range, departure information is provided as reported by the sentencing court. Differences in the number and percentage of cases in each range quarter may differ from other tables presented in this report; this is due to the exclusion of any case missing both complete information from the Statement of Reasons and information on statutory minima and maxima.

Primary Offense Category

Information on *Primary Offense Category* is obtained from the Judgment and Commitment Order. The “primary” offense code for the case is determined to be the offense code applicable for the count of conviction with the highest statutory maximum. If two or more counts are found to have the same statutory maximum, “primary” offense is selected according to which count of conviction has the highest statutory minimum. Finally, in the event of a small number of cases still tied, the offense type that best represented the nature of the criminal behavior is chosen.

For convenience in analysis, a summary variable describing “primary offense category” is derived. This code is generated by grouping similar primary offense codes into a smaller set of categories. Note that the primary offense categories differ between the individual and organizational offender datafiles. Listed below are the offense types that are grouped into each of the primary offense categories used in the individual datafile tables for this report:

Murder includes first degree murder, felony with death resulting, second degree murder, and conspiracy to murder (with death resulting).

Manslaughter includes both involuntary and voluntary manslaughter.

Kidnapping/Hostage includes ransom taking and hostage/kidnapping.

Sexual Abuse includes sexual abuse of a minor, sexual abuse of a ward, criminal sexual abuse, and abusive sexual contact.

Assault includes attempt to commit murder, assault with intent to murder, threatening communication, aggravated assault, conspiracy with attempt to murder, obstructing or impeding officers, minor assault, and conspiracy that includes assault with attempt to murder.

Robbery includes bank robbery, aggravated bank robbery, Hobbs Act robbery, mail robbery, other robbery, and carjacking.

Arson also includes damage by explosives.

Drugs: Trafficking includes drug distribution/manufacture, drug distribution/manufacture – conspiracy, continuing criminal enterprise, drug distribution – employee under 21, drug distribution near school, drug import/export, drug distribution to person under 21, and establish/rent drug operation.

Drugs: Communication Facility includes use of a communication facility in a drug trafficking offense.

Drugs: Simple Possession includes distribution of a small amount of marijuana and simple possession.

Firearms includes unlawful possession/transportation of firearms or ammunition; possession of guns/explosives on aircraft; unlawful trafficking, etc. in explosives; possession of guns/explosives in federal facility/schools; use of fire or explosives to commit felony; and use of firearms or ammunition during crime.

Burglary/Breaking & Entering includes post office burglary, burglary of DEA premises (pharmacy), burglary of other structure, bank burglary, and burglary of a residence.

Auto Theft includes auto theft (including parts), receipt/possession of stolen auto or parts, and altered identification numbers/trafficking in altered (auto).

Larceny includes bank larceny, theft from benefit plans, other theft – mail/post office, receipt/possession of stolen property (not auto), other theft – property, larceny/theft-mail/post office, larceny/theft – property (not auto), and theft from labor union.

Fraud includes odometer laws and regulations, insider trading, and fraud and deceit.

Embezzlement includes embezzlement – property, embezzlement from labor unions, embezzlement – mail/post office, embezzlement from benefit plans, and bank embezzlement.

Forgery/Counterfeiting includes counterfeit bearer obligations and forgery/counterfeit (non-bearer obligations).

Bribery includes payment to obtain office, bribe involving officials, bribery – bank loan/commercial, loan or gratuity to bank examiner, etc., gratuity involving officials, and bribe or gratuity affecting employee plan.

Tax Offenses include receipt/trafficking in smuggled property, aid, etc., in tax fraud; fraud – tax returns, statements, etc.; fraud, false statement – perjury; failure to file or pay; tax evasion; evading import duties (smuggle); failure to collect or account for taxes; regulatory offenses – taxes; failure to deposit taxes in trust account; non-payment of taxes; conspiracy to avoid taxes; and offenses relating to withholding statements.

Money Laundering includes laundering of monetary instruments, monetary transaction from unlawful activity, failure to file currency report, and failure to report monetary transactions.

Extortion/Racketeering includes extortionate extension of credit, blackmail, extortion by force or treat, Hobbs Act extortion, travel in aid of racketeering, crime relating to racketeering, and violent crimes in aid of racketeering.

Gambling/Lottery includes engaging in a gambling business, transmission of wagering

information, obstruction to facilitate gambling, and interstate transportation of wagering paraphernalia.

Civil Rights includes interference with rights under color of law; force or threats to deny benefits or rights; obstructing an election or registration; manufacture, etc. – eavesdropping device; other deprivations/discrimination; obstructing correspondence; peonage, servitude, and slave trade; intercept communication or eavesdropping; and conspiracy to deprive individual of civil rights.

Immigration includes trafficking in U.S. passports; trafficking in entry documents; failure to surrender naturalization certificate; fraudulently acquiring U.S. passports; smuggling, etc.; unlawful alien; fraudulently acquiring entry documents; and unlawfully entering U.S.

Pornography, Prostitution includes dealing in obscene matter, transportation of minor for prostitution/sex, transportation for prostitution/sex (adult), sexual exploitation of minors, materials involving sexual exploitation of minors, obscene telephone or broadcasting, and selling or buying children for pornography.

Offenses In Prisons includes contraband in prisons, riots in federal facilities, and escape.

Administration of Justice includes commission of offense while on release, bribery of a witness, failure to appear by offender, contempt, failure to appear by material witness, obstruction of justice, payment of witness, perjury or subornation of perjury, misprision of a felony, and accessory after the fact.

Environmental/Fish And Wildlife includes waste discharge, specially protected fish, wildlife, and plants (waste discharge is presented as a separate offense category in Tables 51 and 52).

National Defense includes evasion of export controls and exportation of arms, etc., without license.

Antitrust includes bid-rigging, price-fixing, and market allocation agreement.

Food and Drug includes false information or tampering with products, tampering to injure business, tampering with risk of death or injury, and violation of regulations involving food, drugs, etc.

Other Miscellaneous Offenses includes illegal use of regulatory number – drugs; illegal transfer of drugs; illegal regulatory number to get drugs; drug paraphernalia; forgery/fraud for drugs; dangerous devices to protect drugs; manufacture drugs against quota; endangering life while manufacturing drugs; operate carrier under drugs; endangerment from hazardous/toxic substances; mishandling substances, records, etc.; threat of tampering with public water system; hazardous devices of federal lands; mishandling other pollutants, records, etc.; improper storage of explosives; record keeping violation – explosives; possession of other weapon – on aircraft, in federal facility; failure to report theft of explosives; feloniously mailing injurious articles; transport of hazardous material in commerce; interference with flight crew, other offense

– aboard aircraft; criminal infringement of copyright/trademark; conflict of interest; unauthorized payment; non-drug forfeiture; impersonation; false statement to Employee Act; reporting offenses – labor related; criminal infringement of trademark; unlawful conduct relating to control/cigarettes; trespass; destruction of property; destruction of mail; aircraft piracy; conspiracy to murder (no death, assault, or attempt); conspiracy to commit murder; and all other miscellaneous offenses not previously listed in any of the other categories.

Race

Information on *Race* of the offender is obtained from the presentence report in separate categories of race and ethnicity (*White, Black, Native American or Alaskan Native, and Asian or Pacific Islander*). Ethnicity data indicate whether an offender is of Hispanic origin. (For purposes of this report, offenders whose ethnic background is designated as Hispanic are represented as Hispanic in all tables regardless of racial background.) The *Other* category includes offenders of Native American, Alaskan Native, and Asian or Pacific Islander origin.

Type of Guideline Sentence Imposed

Using sentencing information obtained from the Judgment and Commitment Order, the *Total Receiving Prison* column includes the number of offenders sentenced (and percent of *Total Cases*) who received a commitment to the Bureau of Prisons. This column is the sum of cases in *Prison* and the *Prison/Community Split Sentence* categories.

The *Prison* category includes offenders sentenced to a term of imprisonment only, with no additional conditions of community confinement, home detention or intermittent confinement.

The *Prison/Community Split Sentence* category includes all cases in which offenders received prison and conditions of alternative confinement as defined in USSG §5C1.1. This category includes, but is not limited to, Zone A, Zone B, or Zone C cases receiving prison with additional conditions of a term of community confinement, home detention, or intermittent confinement.

The *Total Receiving Probation* column includes the number of offenders sentenced (and the percent of *Total Cases*) who received a term of probation with or without a condition of community confinement, intermittent confinement, or home detention. This column also represents the total of the *Probation Only* and *Probation and Confinement* categories.

The *Probation Only* column includes the number of offenders who received a term of probation without a condition of community confinement, intermittent confinement, or home detention.

Probation and Confinement includes the number of offenders who received a term of probation with a condition of community confinement, intermittent confinement, or home detention.

Upward Departure From Guideline Range

Upward Departure from Guideline Range consist of cases with upward 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*.

Upward Departure With Booker/18 U.S.C. § 3553

Upward Departure with Booker/18 U.S.C. § 3553 consist of cases sentenced above the guideline range in which the court indicated both a departure (see Upward Departure From Guideline Range) 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.

Year

Information on Year is obtained from the Judgment and Commitment Order. Unless otherwise indicated, the sentencing year is defined as the fiscal year in which the offender was sentenced.

Zone

The *Sentencing Table* is categorized into sentencing *Zones*. Courts may impose various types of punishment as alternatives to imprisonment. Alternative types of punishment include: probation, home detention, community confinement, and intermittent confinement. Imposition of alternative types of punishment is restricted to offenders within specific sentencing zones.

Zone A: a guideline range is in Zone A when the minimum term of imprisonment specified is zero months;

Zone B: a guideline range is in Zone B when the minimum term of imprisonment specified is at least one but not more than six months;

Zone C: a guideline range is in Zone C when the minimum term of imprisonment specified is eight months when criminal history category is four or less, and nine months if the criminal history category is greater than four;

Zone D: a guideline range is in Zone D when the minimum term of imprisonment specified is twelve months or more.

See Chapter 5 of the *Guidelines Manual* for a description of alternatives to imprisonment and the conditions under which they are applicable.

Appendix B:
List of Quarterly Report Tables and Figures
and Comparable FY09 *Sourcebook* Number/Letter

<u>Quarterly Report Tables/Figures</u>	<u>Comparable <i>Sourcebook</i> Tables/Figures</u>
Table 1	Table N
Table 2	Table 26
Table 3	Table 27
Figure A	N/A
Figure B	N/A
Table 4	N/A
Table 5	Table 28
Table 6	Table 28A
Table 7	Table 30
Table 8	Table 30A
Table 9	Table 31
Table 10	Table 31A
Table 11	Table 31B
Table 12	Table 31C
Table 13	Table 31D
Table 14	Table 32
Table 15	Table 32A
Table 16	Table 32B
Table 17	Table 32C
Table 18	Table 15
Table 19	Table 13
Figure C	N/A
Figure D	N/A
Figure E	N/A
Figure F	N/A
Figure G	N/A
Figure H	N/A
Figure I	N/A
Table 20	Table 29
Figure J	Figure A
Table 21	Table 3
Table 22	Table 11
Figure K	N/A
Table 23	Table 4

Table 24	Table 5
Table 25	Table 7
Table 26	Table 9
Table 27	Tables 1
Table 28	N/A