

U.S. Sentencing Commission Preliminary Quarterly Data Report



**2nd Quarter Release
Preliminary Fiscal Year 2009 Data
Through March 31, 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 the 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 1995-2008 *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.

Users of the quarterly releases are cautioned that the quarterly data are preliminary only and subject to change as the Commission collects, analyzes, and reports on additional cases throughout the fiscal year. When data for each new quarter is made available, the Commission will update the previous preliminary quarterly totals in the most recent release until the release of the final fiscal year data in the Commission's *Sourcebook*. For example, the data reported in the initial release for the second quarter of the fiscal year may change as the Commission receives and analyzes documents during the remaining quarters for additional cases sentenced during the second quarter.⁶ Any subsequent changes in the quarterly data for the second quarter would be reflected initially in the subsequent quarterly releases and finally in the Commission's *Annual Report and Sourcebook of Federal Sentencing Statistics*. As a result, **quarterly data should not be considered final until publication of the Commission's *Annual Report and Sourcebook*.**

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.

⁶The reasons for data changes in previous quarters is due to one or more of the following reasons: the courts have up to 30 days to submit court documents to the Commission; the Commission both extracts information from the documents and screens cases through the quality control procedures and does not include any case in a data release unless it has been fully entered and reviewed; some documents are sent in later than other documents and the datafiles are then updated with the new information; the Commission receives amended court documents and updates the datafile based on the new information; the Commission matches its datafile to datafiles from the Administrative Office of the United States Courts and requests any case documents not received - a process that can only be completed after the documents have been received and the information entered into the Commission's database. For all of the above reasons, data may be excluded/included or reported differently from one quarter to another.

CONTENTS

Information on Sentences Relative to the Guideline Range

Table 1: National Comparison of Sentence Imposed and Position Relative to the Guideline Range	1
Table 2: Sentences Relative to the Guideline Range by Circuit and District	2
Table 3: Sentences Relative to the Guideline Range by Each Primary Offense Category	8
Figure A: Quarterly Data for Within Range and Out of Range Sentences	10
Figure B: Quarterly Data for Within Range/Government Sponsored and Other Out of Range Sentences	11
Table 4: Quarterly Data for Within Range and Out of Range Sentences	12
Table 5: Sentences Relative to the Guideline Range by Each Primary Sentencing Guideline ..	13
Table 6: Sentences Relative to the Guideline Range in Each Outside of the Range Attribution Category	17
Table 7: §5K1.1 Substantial Assistance Departure Cases: Degree of Decrease for Offenders in Each Primary Offense Category	19
Table 8: §5K3.1 Early Disposition Program Departure Cases: Degree of Decrease for Offenders in Each Primary Offense Category	20
Table 9: Other Government Sponsored Below Range Cases: Degree of Decrease for Offenders in Each Primary Offense Category	21
Table 10: Downward Departures from Guideline Range: Degree of Decrease for Offenders in Each Primary Offense Category	22
Table 11: Downward Departures with <i>Booker</i> /18 U.S.C. § 3553: Degree of Decrease for Offenders in Each Primary Offense Category	23
Table 12: Below Guideline Range with <i>Booker</i> /18 U.S.C. § 3553: Degree of Decrease for Offenders in Each Primary Offense Category	24
Table 13: All Remaining Below Guideline Range Cases: Degree of Decrease for Offenders in Each Primary Offense Category	25

Table 14: Upward Departures from Guideline Range: Degree of Increase for Offenders in Each Primary Offense Category 26

Table 15: Upward Departures with *Booker*/18 U.S.C. § 3553: Degree of Increase for Offenders in Each Primary Offense Category 27

Table 16: Above Guideline Range with *Booker*/18 U.S.C. § 3553: Degree of Increase for Offenders in Each Primary Offense Category 28

Table 17: All Remaining Above Guideline Range Cases: Degree of Increase for Offenders in Each Primary Offense Category 29

Sentence Imposed Information

Table 18: Offenders Receiving Sentencing Options in Each Primary Offense Category 30

Table 19: Average Sentence Length in Each Primary Offense Category 31

Figure C: Average Sentence Length and Average Guideline Minimum Quarterly Data for All Offenders 32

Figure D: Average Sentence Length and Average Guideline Minimum Quarterly Data for §2B1.1 Offenders 33

Figure E: Average Sentence Length and Average Guideline Minimum Quarterly Data for §2K2.1 Offenders 34

Figure F: Average Sentence Length and Average Guideline Minimum Quarterly Data for §2L1.1 Offenders 35

Figure G: Average Sentence Length and Average Guideline Minimum Quarterly Data for §2L1.2 Offenders 36

Figure H: Average Sentence Length and Average Guideline Minimum Quarterly Data for §2D1.1 Offenders 37

Figure I: Average Sentence Length for Each Drug Type 38

Table 20: Within Range Cases: Position of Sentence for Offenders in Each Primary Offense Category 39

General Information (Primary Offenses, Mode of Conviction, and Document Submission)

Figure J: Distribution of Offenders in Each Primary Offense Category 40

Table 21: Guideline Offenders in Each Primary Offense Category 41

Table 22: Guilty Pleas and Trials in Each Primary Offense Category 42

Figure K: Quarterly Data for Guilty Pleas and Trials 43

Table 23: Race of Offenders in Each Primary Offense Category 44

Table 24: Gender of Offenders in Each Primary Offense Category 45

Table 25: Age, Race, and Gender of Offenders 46

Table 26: Citizenship of Offenders in Each Primary Offense Category 47

Table 27: Document Submission by Each Circuit and District 48

Table 28: Rate of Submission of Statement of Reasons Form in Each Circuit and District ... 54

Appendices

Appendix A: Descriptions of Datafiles and Variables A-1

Appendix B: List of Quarterly Report Tables and Figures and their Comparable
Sourcebook Number/Letter B-1

**NATIONAL COMPARISON OF SENTENCE IMPOSED AND
POSITION RELATIVE TO THE GUIDELINE RANGE¹**
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

	N	%
TOTAL CASES	37,368	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	21,744	58.2
CASES SENTENCED ABOVE GUIDELINE RANGE	662	1.8
DEPARTURE ABOVE GUIDELINE RANGE	259	0.7
Upward Departure From Guideline Range ²	191	0.5
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	68	0.2
OTHERWISE ABOVE GUIDELINE RANGE	403	1.1
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	362	1.0
All Remaining Cases Above Guideline Range ⁵	41	0.1
GOVERNMENT SPONSORED BELOW RANGE⁶	9,241	24.7
§5K1.1 Substantial Assistance Departure	4,639	12.4
§5K3.1 Early Disposition Program Departure	3,225	8.6
Other Government Sponsored Below Range	1,377	3.7
NON-GOVERNMENT SPONSORED BELOW RANGE	5,721	15.3
DEPARTURE BELOW GUIDELINE RANGE	1,154	3.1
Downward Departure From Guideline Range ²	749	2.0
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	405	1.1
OTHERWISE BELOW GUIDELINE RANGE	4,567	12.2
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	4,124	11.0
All Remaining Cases Below Guideline Range ⁵	443	1.2

¹This table reflects the 38,105 cases sentenced on or after October 1, 2008, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by May 14, 2009. Of these, 737 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, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through March 31, 2009).

SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 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	37,368	21,744	58.2	191	0.5	68	0.2	362	1.0	41	0.1
D.C. CIRCUIT	198	80	40.4	1	0.5	0	0.0	1	0.5	0	0.0
District of Columbia	198	80	40.4	1	0.5	0	0.0	1	0.5	0	0.0
FIRST CIRCUIT	803	445	55.4	2	0.2	0	0.0	6	0.7	1	0.1
Maine	100	60	60.0	0	0.0	0	0.0	0	0.0	0	0.0
Massachusetts	240	87	36.3	2	0.8	0	0.0	4	1.7	1	0.4
New Hampshire	88	39	44.3	0	0.0	0	0.0	1	1.1	0	0.0
Puerto Rico	320	234	73.1	0	0.0	0	0.0	0	0.0	0	0.0
Rhode Island	55	25	45.5	0	0.0	0	0.0	1	1.8	0	0.0
SECOND CIRCUIT	2,121	969	45.7	3	0.1	3	0.1	3	0.1	0	0.0
Connecticut	189	78	41.3	2	1.1	0	0.0	0	0.0	0	0.0
New York											
Eastern	535	182	34.0	0	0.0	1	0.2	1	0.2	0	0.0
Northern	245	161	65.7	0	0.0	0	0.0	0	0.0	0	0.0
Southern	723	333	46.1	0	0.0	1	0.1	1	0.1	0	0.0
Western	334	183	54.8	1	0.3	1	0.3	1	0.3	0	0.0
Vermont	95	32	33.7	0	0.0	0	0.0	0	0.0	0	0.0
THIRD CIRCUIT	1,403	660	47.0	2	0.1	1	0.1	10	0.7	1	0.1
Delaware	60	25	41.7	0	0.0	0	0.0	0	0.0	0	0.0
New Jersey	430	197	45.8	0	0.0	0	0.0	0	0.0	0	0.0
Pennsylvania											
Eastern	384	149	38.8	1	0.3	0	0.0	4	1.0	0	0.0
Middle	287	136	47.4	1	0.3	1	0.3	1	0.3	1	0.3
Western	215	135	62.8	0	0.0	0	0.0	1	0.5	0	0.0
Virgin Islands	27	18	66.7	0	0.0	0	0.0	4	14.8	0	0.0
FOURTH CIRCUIT	3,021	1,932	64.0	30	1.0	10	0.3	33	1.1	6	0.2
Maryland	326	151	46.3	0	0.0	2	0.6	3	0.9	0	0.0
North Carolina											
Eastern	306	183	59.8	6	2.0	2	0.7	2	0.7	0	0.0
Middle	195	141	72.3	1	0.5	0	0.0	1	0.5	0	0.0
Western	298	168	56.4	2	0.7	1	0.3	3	1.0	1	0.3
South Carolina	505	320	63.4	8	1.6	1	0.2	2	0.4	0	0.0
Virginia											
Eastern	822	615	74.8	10	1.2	4	0.5	10	1.2	4	0.5
Western	239	129	54.0	3	1.3	0	0.0	5	2.1	0	0.0
West Virginia											
Northern	187	127	67.9	0	0.0	0	0.0	2	1.1	0	0.0
Southern	143	98	68.5	0	0.0	0	0.0	5	3.5	1	0.7

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	4,639	12.4	3,225	8.6	1,377	3.7	749	2.0	405	1.1	4,124	11.0	443	1.2
D.C. CIRCUIT	50	25.3	0	0.0	35	17.7	0	0.0	1	0.5	23	11.6	7	3.5
District of Columbia	50	25.3	0	0.0	35	17.7	0	0.0	1	0.5	23	11.6	7	3.5
FIRST CIRCUIT	96	12.0	11	1.4	47	5.9	12	1.5	15	1.9	152	18.9	16	2.0
Maine	24	24.0	0	0.0	0	0.0	0	0.0	0	0.0	15	15.0	1	1.0
Massachusetts	16	6.7	0	0.0	24	10.0	8	3.3	9	3.8	88	36.7	1	0.4
New Hampshire	27	30.7	0	0.0	6	6.8	1	1.1	0	0.0	13	14.8	1	1.1
Puerto Rico	20	6.3	11	3.4	16	5.0	3	0.9	6	1.9	17	5.3	13	4.1
Rhode Island	9	16.4	0	0.0	1	1.8	0	0.0	0	0.0	19	34.5	0	0.0
SECOND CIRCUIT	441	20.8	1	0.0	77	3.6	59	2.8	56	2.6	476	22.4	33	1.6
Connecticut	37	19.6	0	0.0	8	4.2	11	5.8	13	6.9	39	20.6	1	0.5
New York														
Eastern	150	28.0	1	0.2	28	5.2	14	2.6	14	2.6	129	24.1	15	2.8
Northern	43	17.6	0	0.0	7	2.9	9	3.7	2	0.8	22	9.0	1	0.4
Southern	99	13.7	0	0.0	17	2.4	14	1.9	16	2.2	231	32.0	11	1.5
Western	94	28.1	0	0.0	12	3.6	1	0.3	0	0.0	37	11.1	4	1.2
Vermont	18	18.9	0	0.0	5	5.3	10	10.5	11	11.6	18	18.9	1	1.1
THIRD CIRCUIT	346	24.7	0	0.0	41	2.9	20	1.4	22	1.6	268	19.1	32	2.3
Delaware	9	15.0	0	0.0	1	1.7	0	0.0	0	0.0	11	18.3	14	23.3
New Jersey	127	29.5	0	0.0	9	2.1	5	1.2	2	0.5	82	19.1	8	1.9
Pennsylvania														
Eastern	122	31.8	0	0.0	7	1.8	3	0.8	7	1.8	87	22.7	4	1.0
Middle	64	22.3	0	0.0	23	8.0	7	2.4	1	0.3	49	17.1	3	1.0
Western	23	10.7	0	0.0	1	0.5	5	2.3	11	5.1	38	17.7	1	0.5
Virgin Islands	1	3.7	0	0.0	0	0.0	0	0.0	1	3.7	1	3.7	2	7.4
FOURTH CIRCUIT	507	16.8	0	0.0	69	2.3	47	1.6	16	0.5	340	11.3	31	1.0
Maryland	70	21.5	0	0.0	24	7.4	9	2.8	7	2.1	52	16.0	8	2.5
North Carolina														
Eastern	93	30.4	0	0.0	0	0.0	1	0.3	0	0.0	17	5.6	2	0.7
Middle	37	19.0	0	0.0	0	0.0	0	0.0	1	0.5	14	7.2	0	0.0
Western	86	28.9	0	0.0	2	0.7	2	0.7	3	1.0	26	8.7	4	1.3
South Carolina	94	18.6	0	0.0	20	4.0	6	1.2	2	0.4	47	9.3	5	1.0
Virginia														
Eastern	42	5.1	0	0.0	6	0.7	19	2.3	3	0.4	98	11.9	11	1.3
Western	62	25.9	0	0.0	5	2.1	5	2.1	0	0.0	29	12.1	1	0.4
West Virginia														
Northern	15	8.0	0	0.0	11	5.9	2	1.1	0	0.0	30	16.0	0	0.0
Southern	8	5.6	0	0.0	1	0.7	3	2.1	0	0.0	27	18.9	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	9,372	6,766	72.2	57	0.6	17	0.2	122	1.3	9	0.1
Louisiana											
Eastern	215	142	66.0	3	1.4	1	0.5	4	1.9	0	0.0
Middle	83	50	60.2	2	2.4	0	0.0	1	1.2	0	0.0
Western	187	145	77.5	4	2.1	2	1.1	7	3.7	1	0.5
Mississippi											
Northern	55	30	54.5	0	0.0	0	0.0	0	0.0	0	0.0
Southern	133	108	81.2	2	1.5	0	0.0	2	1.5	1	0.8
Texas											
Eastern	507	397	78.3	7	1.4	0	0.0	3	0.6	0	0.0
Northern	442	298	67.4	11	2.5	6	1.4	10	2.3	0	0.0
Southern	3,647	2,318	63.6	19	0.5	6	0.2	23	0.6	3	0.1
Western	4,103	3,278	79.9	9	0.2	2	0.0	72	1.8	4	0.1
SIXTH CIRCUIT	2,543	1,342	52.8	12	0.5	7	0.3	24	0.9	3	0.1
Kentucky											
Eastern	339	160	47.2	1	0.3	0	0.0	5	1.5	0	0.0
Western	197	126	64.0	1	0.5	0	0.0	3	1.5	0	0.0
Michigan											
Eastern	371	208	56.1	2	0.5	0	0.0	2	0.5	0	0.0
Western	239	136	56.9	2	0.8	2	0.8	5	2.1	1	0.4
Ohio											
Northern	339	170	50.1	0	0.0	0	0.0	2	0.6	0	0.0
Southern	307	119	38.8	3	1.0	2	0.7	2	0.7	0	0.0
Tennessee											
Eastern	281	189	67.3	1	0.4	0	0.0	1	0.4	2	0.7
Middle	160	81	50.6	0	0.0	1	0.6	0	0.0	0	0.0
Western	310	153	49.4	2	0.6	2	0.6	4	1.3	0	0.0
SEVENTH CIRCUIT	1,333	737	55.3	2	0.2	4	0.3	26	2.0	3	0.2
Illinois											
Central	173	91	52.6	0	0.0	0	0.0	1	0.6	0	0.0
Northern	354	168	47.5	0	0.0	1	0.3	5	1.4	2	0.6
Southern	154	116	75.3	0	0.0	3	1.9	1	0.6	0	0.0
Indiana											
Northern	219	146	66.7	0	0.0	0	0.0	5	2.3	0	0.0
Southern	112	65	58.0	1	0.9	0	0.0	3	2.7	0	0.0
Wisconsin											
Eastern	226	86	38.1	1	0.4	0	0.0	9	4.0	1	0.4
Western	95	65	68.4	0	0.0	0	0.0	2	2.1	0	0.0
EIGHTH CIRCUIT	2,629	1,519	57.8	13	0.5	6	0.2	30	1.1	4	0.2
Arkansas											
Eastern	201	123	61.2	0	0.0	2	1.0	6	3.0	0	0.0
Western	148	107	72.3	0	0.0	0	0.0	2	1.4	0	0.0
Iowa											
Northern	154	75	48.7	6	3.9	0	0.0	1	0.6	2	1.3
Southern	215	111	51.6	0	0.0	0	0.0	3	1.4	0	0.0
Minnesota	314	110	35.0	0	0.0	0	0.0	0	0.0	1	0.3
Missouri											
Eastern	502	284	56.6	0	0.0	0	0.0	5	1.0	0	0.0
Western	386	234	60.6	0	0.0	0	0.0	7	1.8	0	0.0
Nebraska	336	205	61.0	5	1.5	0	0.0	1	0.3	1	0.3
North Dakota	127	82	64.6	0	0.0	1	0.8	2	1.6	0	0.0
South Dakota	246	188	76.4	2	0.8	3	1.2	3	1.2	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	630	6.7	637	6.8	279	3.0	249	2.7	26	0.3	511	5.5	69	0.7
Louisiana														
Eastern	28	13.0	0	0.0	11	5.1	7	3.3	1	0.5	15	7.0	3	1.4
Middle	23	27.7	0	0.0	0	0.0	0	0.0	1	1.2	6	7.2	0	0.0
Western	5	2.7	0	0.0	1	0.5	1	0.5	2	1.1	17	9.1	2	1.1
Mississippi														
Northern	16	29.1	0	0.0	3	5.5	0	0.0	0	0.0	5	9.1	1	1.8
Southern	8	6.0	0	0.0	1	0.8	2	1.5	0	0.0	8	6.0	1	0.8
Texas														
Eastern	39	7.7	0	0.0	28	5.5	8	1.6	4	0.8	17	3.4	4	0.8
Northern	57	12.9	0	0.0	8	1.8	1	0.2	2	0.5	45	10.2	4	0.9
Southern	202	5.5	540	14.8	173	4.7	146	4.0	7	0.2	200	5.5	10	0.3
Western	252	6.1	97	2.4	54	1.3	84	2.0	9	0.2	198	4.8	44	1.1
SIXTH CIRCUIT	608	23.9	0	0.0	71	2.8	35	1.4	46	1.8	361	14.2	34	1.3
Kentucky														
Eastern	137	40.4	0	0.0	2	0.6	2	0.6	1	0.3	29	8.6	2	0.6
Western	35	17.8	0	0.0	11	5.6	4	2.0	0	0.0	15	7.6	2	1.0
Michigan														
Eastern	66	17.8	0	0.0	8	2.2	5	1.3	5	1.3	71	19.1	4	1.1
Western	32	13.4	0	0.0	5	2.1	2	0.8	4	1.7	48	20.1	2	0.8
Ohio														
Northern	87	25.7	0	0.0	5	1.5	2	0.6	9	2.7	58	17.1	6	1.8
Southern	88	28.7	0	0.0	21	6.8	10	3.3	17	5.5	37	12.1	8	2.6
Tennessee														
Eastern	56	19.9	0	0.0	1	0.4	4	1.4	1	0.4	24	8.5	2	0.7
Middle	33	20.6	0	0.0	4	2.5	2	1.3	7	4.4	30	18.8	2	1.3
Western	74	23.9	0	0.0	14	4.5	4	1.3	2	0.6	49	15.8	6	1.9
SEVENTH CIRCUIT	216	16.2	0	0.0	42	3.2	19	1.4	46	3.5	223	16.7	15	1.1
Illinois														
Central	44	25.4	0	0.0	4	2.3	2	1.2	3	1.7	27	15.6	1	0.6
Northern	56	15.8	0	0.0	5	1.4	11	3.1	32	9.0	68	19.2	6	1.7
Southern	16	10.4	0	0.0	1	0.6	2	1.3	7	4.5	7	4.5	1	0.6
Indiana														
Northern	41	18.7	0	0.0	7	3.2	3	1.4	1	0.5	13	5.9	3	1.4
Southern	13	11.6	0	0.0	7	6.3	0	0.0	0	0.0	23	20.5	0	0.0
Wisconsin														
Eastern	38	16.8	0	0.0	18	8.0	0	0.0	2	0.9	67	29.6	4	1.8
Western	8	8.4	0	0.0	0	0.0	1	1.1	1	1.1	18	18.9	0	0.0
EIGHTH CIRCUIT	422	16.1	11	0.4	79	3.0	41	1.6	35	1.3	440	16.7	29	1.1
Arkansas														
Eastern	30	14.9	0	0.0	7	3.5	1	0.5	5	2.5	25	12.4	2	1.0
Western	23	15.5	0	0.0	1	0.7	3	2.0	0	0.0	11	7.4	1	0.7
Iowa														
Northern	34	22.1	0	0.0	2	1.3	1	0.6	0	0.0	33	21.4	0	0.0
Southern	45	20.9	0	0.0	7	3.3	2	0.9	3	1.4	43	20.0	1	0.5
Minnesota	100	31.8	0	0.0	3	1.0	11	3.5	7	2.2	79	25.2	3	1.0
Missouri														
Eastern	80	15.9	0	0.0	15	3.0	11	2.2	8	1.6	91	18.1	8	1.6
Western	73	18.9	0	0.0	11	2.8	0	0.0	1	0.3	51	13.2	9	2.3
Nebraska	7	2.1	11	3.3	23	6.8	5	1.5	4	1.2	70	20.8	4	1.2
North Dakota	22	17.3	0	0.0	4	3.1	3	2.4	1	0.8	12	9.4	0	0.0
South Dakota	8	3.3	0	0.0	6	2.4	4	1.6	6	2.4	25	10.2	1	0.4

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	7,508	3,117	41.5	51	0.7	12	0.2	44	0.6	9	0.1
Alaska	84	39	46.4	1	1.2	1	1.2	0	0.0	0	0.0
Arizona	1,769	502	28.4	29	1.6	0	0.0	4	0.2	0	0.0
California											
Central	941	313	33.3	6	0.6	4	0.4	5	0.5	1	0.1
Eastern	505	223	44.2	3	0.6	0	0.0	5	1.0	1	0.2
Northern	312	153	49.0	0	0.0	2	0.6	6	1.9	1	0.3
Southern	2,185	991	45.4	8	0.4	0	0.0	7	0.3	5	0.2
Guam	18	12	66.7	0	0.0	0	0.0	0	0.0	0	0.0
Hawaii	164	82	50.0	0	0.0	0	0.0	2	1.2	0	0.0
Idaho	171	79	46.2	1	0.6	1	0.6	2	1.2	0	0.0
Montana	215	153	71.2	0	0.0	3	1.4	2	0.9	1	0.5
Nevada	188	123	65.4	1	0.5	0	0.0	0	0.0	0	0.0
Northern Mariana Islands	13	13	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	306	144	47.1	1	0.3	0	0.0	2	0.7	0	0.0
Washington											
Eastern	188	79	42.0	0	0.0	1	0.5	4	2.1	0	0.0
Western	449	211	47.0	1	0.2	0	0.0	5	1.1	0	0.0
TENTH CIRCUIT	2,978	1,892	63.5	12	0.4	1	0.0	25	0.8	0	0.0
Colorado	265	148	55.8	1	0.4	1	0.4	4	1.5	0	0.0
Kansas	349	202	57.9	3	0.9	0	0.0	14	4.0	0	0.0
New Mexico	1,479	952	64.4	3	0.2	0	0.0	1	0.1	0	0.0
Oklahoma											
Eastern	38	26	68.4	1	2.6	0	0.0	0	0.0	0	0.0
Northern	122	94	77.0	0	0.0	0	0.0	0	0.0	0	0.0
Western	201	171	85.1	0	0.0	0	0.0	3	1.5	0	0.0
Utah	344	184	53.5	3	0.9	0	0.0	1	0.3	0	0.0
Wyoming	180	115	63.9	1	0.6	0	0.0	2	1.1	0	0.0
ELEVENTH CIRCUIT	3,459	2,285	66.1	6	0.2	7	0.2	38	1.1	5	0.1
Alabama											
Middle	112	64	57.1	1	0.9	0	0.0	1	0.9	0	0.0
Northern	239	134	56.1	0	0.0	0	0.0	2	0.8	0	0.0
Southern	222	147	66.2	0	0.0	0	0.0	0	0.0	0	0.0
Florida											
Middle	867	514	59.3	0	0.0	1	0.1	10	1.2	2	0.2
Northern	196	136	69.4	0	0.0	0	0.0	3	1.5	0	0.0
Southern	1,051	759	72.2	2	0.2	5	0.5	5	0.5	3	0.3
Georgia											
Middle	141	106	75.2	1	0.7	0	0.0	5	3.5	0	0.0
Northern	342	198	57.9	0	0.0	1	0.3	3	0.9	0	0.0
Southern	289	227	78.5	2	0.7	0	0.0	9	3.1	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	601	8.0	2,254	30.0	378	5.0	175	2.3	93	1.2	646	8.6	128	1.7
Alaska	15	17.9	0	0.0	10	11.9	1	1.2	7	8.3	3	3.6	7	8.3
Arizona	91	5.1	942	53.3	46	2.6	31	1.8	16	0.9	86	4.9	22	1.2
California														
Central	81	8.6	245	26.0	65	6.9	32	3.4	31	3.3	117	12.4	41	4.4
Eastern	67	13.3	126	25.0	22	4.4	8	1.6	5	1.0	41	8.1	4	0.8
Northern	22	7.1	33	10.6	42	13.5	3	1.0	4	1.3	42	13.5	4	1.3
Southern	88	4.0	821	37.6	45	2.1	75	3.4	13	0.6	92	4.2	40	1.8
Guam	3	16.7	0	0.0	0	0.0	0	0.0	0	0.0	3	16.7	0	0.0
Hawaii	57	34.8	0	0.0	0	0.0	1	0.6	0	0.0	20	12.2	2	1.2
Idaho	31	18.1	22	12.9	4	2.3	3	1.8	2	1.2	24	14.0	2	1.2
Montana	21	9.8	0	0.0	2	0.9	2	0.9	3	1.4	27	12.6	1	0.5
Nevada	12	6.4	0	0.0	11	5.9	1	0.5	0	0.0	38	20.2	2	1.1
Northern Mariana Islands	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	54	17.6	12	3.9	36	11.8	4	1.3	2	0.7	49	16.0	2	0.7
Washington														
Eastern	12	6.4	40	21.3	10	5.3	3	1.6	0	0.0	39	20.7	0	0.0
Western	47	10.5	13	2.9	85	18.9	11	2.4	10	2.2	65	14.5	1	0.2
TENTH CIRCUIT	189	6.3	296	9.9	229	7.7	62	2.1	25	0.8	233	7.8	14	0.5
Colorado	48	18.1	0	0.0	8	3.0	8	3.0	2	0.8	44	16.6	1	0.4
Kansas	63	18.1	0	0.0	34	9.7	0	0.0	1	0.3	31	8.9	1	0.3
New Mexico	23	1.6	221	14.9	156	10.5	38	2.6	9	0.6	72	4.9	4	0.3
Oklahoma														
Eastern	5	13.2	0	0.0	1	2.6	1	2.6	1	2.6	3	7.9	0	0.0
Northern	17	13.9	0	0.0	1	0.8	0	0.0	1	0.8	9	7.4	0	0.0
Western	10	5.0	0	0.0	2	1.0	0	0.0	0	0.0	15	7.5	0	0.0
Utah	10	2.9	75	21.8	18	5.2	11	3.2	2	0.6	34	9.9	6	1.7
Wyoming	13	7.2	0	0.0	9	5.0	4	2.2	9	5.0	25	13.9	2	1.1
ELEVENTH CIRCUIT	533	15.4	15	0.4	30	0.9	30	0.9	24	0.7	451	13.0	35	1.0
Alabama														
Middle	34	30.4	0	0.0	1	0.9	0	0.0	1	0.9	7	6.3	3	2.7
Northern	62	25.9	0	0.0	0	0.0	1	0.4	1	0.4	36	15.1	3	1.3
Southern	51	23.0	0	0.0	0	0.0	2	0.9	0	0.0	22	9.9	0	0.0
Florida														
Middle	176	20.3	14	1.6	2	0.2	11	1.3	8	0.9	122	14.1	7	0.8
Northern	42	21.4	0	0.0	0	0.0	0	0.0	1	0.5	12	6.1	2	1.0
Southern	80	7.6	0	0.0	11	1.0	7	0.7	4	0.4	163	15.5	12	1.1
Georgia														
Middle	15	10.6	0	0.0	1	0.7	0	0.0	1	0.7	12	8.5	0	0.0
Northern	48	14.0	1	0.3	12	3.5	6	1.8	8	2.3	59	17.3	6	1.8
Southern	25	8.7	0	0.0	3	1.0	3	1.0	0	0.0	18	6.2	2	0.7

¹Of the 38,105 cases, 737 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 (30.2%), Eastern Virginia (17.6%), Northern New York (10.3%), Virgin Islands (10.0%), Arizona (8.2%), Southern Mississippi (7.0%) Western Oklahoma (6.5%), Middle Tennessee (6.4%), Maryland (6.1%), Northern West Virginia (6.0%), and Northern Mississippi (5.2%). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through March 31, 2009).

Table 3

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURES		UPWARD DEPARTURES W/ <i>BOOKER</i>		ABOVE RANGE WITH W/ <i>BOOKER</i>		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
TOTAL	37,368	21,744	58.2	191	0.5	68	0.2	362	1.0	41	0.1
Murder	37	22	59.5	0	0.0	1	2.7	1	2.7	0	0.0
Manslaughter	25	16	64.0	2	8.0	0	0.0	0	0.0	0	0.0
Kidnapping/Hostage Taking	17	6	35.3	1	5.9	0	0.0	1	5.9	1	5.9
Sexual Abuse	219	158	72.1	4	1.8	1	0.5	9	4.1	0	0.0
Assault	291	183	62.9	8	2.7	4	1.4	10	3.4	1	0.3
Robbery	472	286	60.6	7	1.5	2	0.4	15	3.2	1	0.2
Arson	24	13	54.2	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	11,303	5,454	48.3	29	0.3	7	0.1	42	0.4	9	0.1
Drugs - Communication Facility	246	125	50.8	0	0.0	0	0.0	2	0.8	0	0.0
Drugs - Simple Possession	214	187	87.4	2	0.9	0	0.0	5	2.3	2	0.9
Firearms	3,926	2,501	63.7	35	0.9	14	0.4	52	1.3	5	0.1
Burglary/B&E	14	13	92.9	0	0.0	0	0.0	0	0.0	1	7.1
Auto Theft	39	24	61.5	0	0.0	0	0.0	1	2.6	0	0.0
Larceny	663	489	73.8	6	0.9	0	0.0	7	1.1	0	0.0
Fraud	3,362	2,042	60.7	18	0.5	7	0.2	42	1.2	5	0.1
Embezzlement	212	141	66.5	0	0.0	0	0.0	4	1.9	0	0.0
Forgery/Counterfeiting	408	278	68.1	5	1.2	1	0.2	8	2.0	1	0.2
Bribery	81	28	34.6	0	0.0	0	0.0	0	0.0	0	0.0
Tax	314	130	41.4	0	0.0	0	0.0	2	0.6	0	0.0
Money Laundering	403	168	41.7	1	0.2	1	0.2	2	0.5	0	0.0
Racketeering/Extortion	312	145	46.5	1	0.3	5	1.6	3	1.0	0	0.0
Gambling/Lottery	27	10	37.0	0	0.0	0	0.0	1	3.7	0	0.0
Civil Rights	28	12	42.9	0	0.0	0	0.0	1	3.6	0	0.0
Immigration	12,007	7,632	63.6	58	0.5	17	0.1	115	1.0	11	0.1
Pornography/Prostitution	963	473	49.1	8	0.8	2	0.2	19	2.0	0	0.0
Prison Offenses	218	156	71.6	0	0.0	2	0.9	3	1.4	2	0.9
Administration of Justice Offenses	461	275	59.7	2	0.4	2	0.4	8	1.7	0	0.0
Environmental/Wildlife	83	40	48.2	1	1.2	0	0.0	0	0.0	0	0.0
National Defense	33	14	42.4	0	0.0	0	0.0	0	0.0	0	0.0
Antitrust	10	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Food & Drug	37	22	59.5	0	0.0	0	0.0	0	0.0	0	0.0
Other Miscellaneous Offenses	919	701	76.3	3	0.3	2	0.2	9	1.0	2	0.2

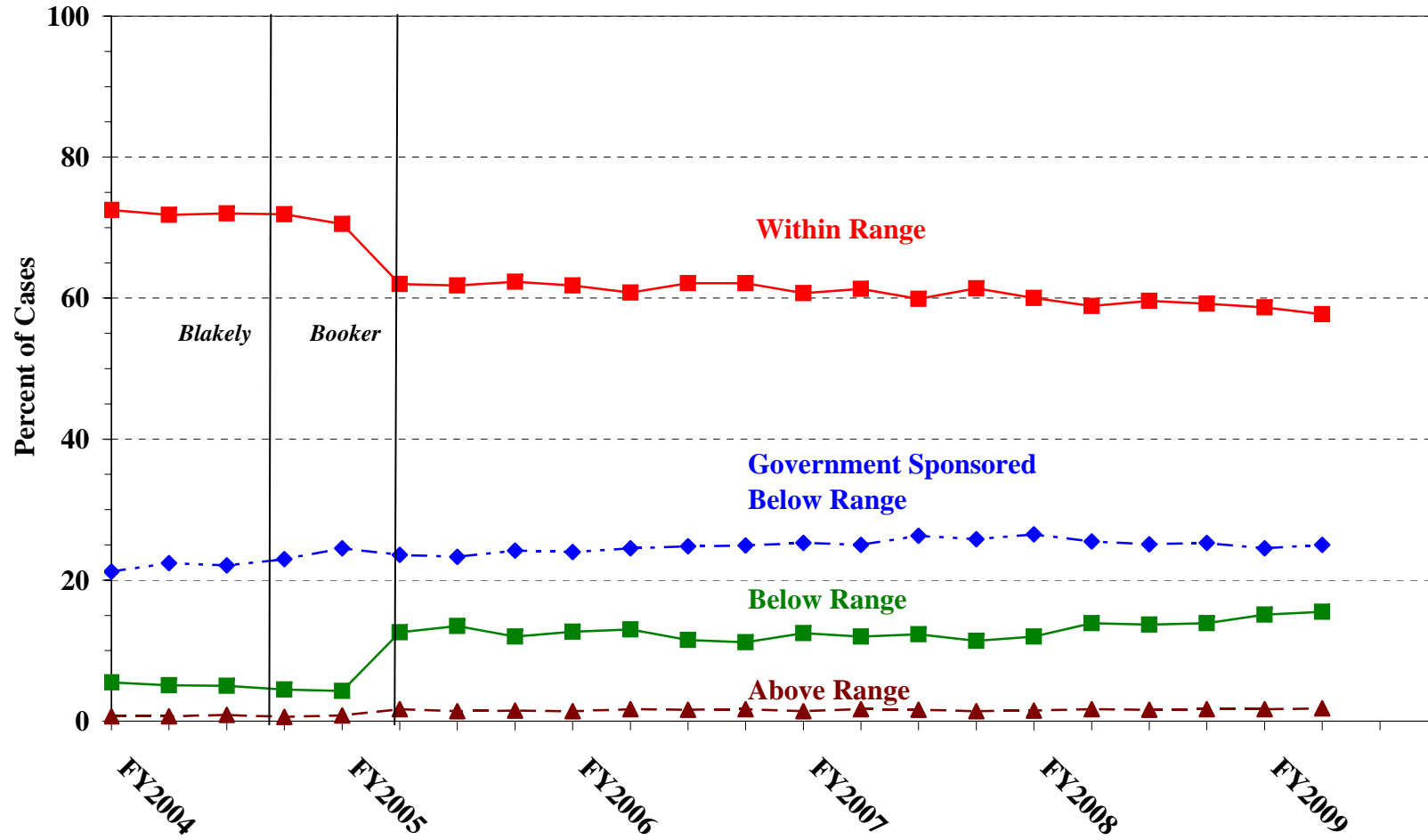
Table 3 (cont.)

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	4,639	12.4	3,225	8.6	1,377	3.7	749	2.0	405	1.1	4,124	11.0	443	1.2
Murder	9	24.3	0	0.0	1	2.7	0	0.0	1	2.7	2	5.4	0	0.0
Manslaughter	0	0.0	0	0.0	1	4.0	3	12.0	0	0.0	3	12.0	0	0.0
Kidnapping/Hostage Taking	6	35.3	1	5.9	1	5.9	0	0.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	4	1.8	1	0.5	10	4.6	4	1.8	2	0.9	24	11.0	2	0.9
Assault	4	1.4	0	0.0	29	10.0	11	3.8	7	2.4	30	10.3	4	1.4
Robbery	58	12.3	1	0.2	13	2.8	8	1.7	12	2.5	66	14.0	3	0.6
Arson	9	37.5	0	0.0	0	0.0	0	0.0	1	4.2	1	4.2	0	0.0
Drugs - Trafficking	2,933	25.9	535	4.7	441	3.9	217	1.9	152	1.3	1,384	12.2	100	0.9
Drugs - Communication Facility	45	18.3	0	0.0	9	3.7	5	2.0	1	0.4	55	22.4	4	1.6
Drugs - Simple Possession	6	2.8	0	0.0	1	0.5	3	1.4	0	0.0	4	1.9	4	1.9
Firearms	453	11.5	11	0.3	147	3.7	73	1.9	44	1.1	529	13.5	62	1.6
Burglary/B&E	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Auto Theft	4	10.3	0	0.0	2	5.1	1	2.6	1	2.6	6	15.4	0	0.0
Larceny	39	5.9	0	0.0	15	2.3	5	0.8	4	0.6	86	13.0	12	1.8
Fraud	487	14.5	3	0.1	91	2.7	59	1.8	36	1.1	508	15.1	64	1.9
Embezzlement	6	2.8	0	0.0	8	3.8	3	1.4	4	1.9	39	18.4	7	3.3
Forgery/Counterfeiting	39	9.6	0	0.0	5	1.2	2	0.5	5	1.2	60	14.7	4	1.0
Bribery	22	27.2	0	0.0	4	4.9	2	2.5	0	0.0	25	30.9	0	0.0
Tax	37	11.8	0	0.0	15	4.8	13	4.1	12	3.8	100	31.8	5	1.6
Money Laundering	94	23.3	5	1.2	33	8.2	6	1.5	8	2.0	80	19.9	5	1.2
Racketeering/Extortion	62	19.9	0	0.0	41	13.1	4	1.3	7	2.2	43	13.8	1	0.3
Gambling/Lottery	8	29.6	0	0.0	3	11.1	1	3.7	1	3.7	3	11.1	0	0.0
Civil Rights	5	17.9	0	0.0	2	7.1	0	0.0	0	0.0	7	25.0	1	3.6
Immigration	150	1.2	2,667	22.2	343	2.9	257	2.1	63	0.5	576	4.8	118	1.0
Pornography/Prostitution	34	3.5	0	0.0	70	7.3	21	2.2	29	3.0	293	30.4	14	1.5
Prison Offenses	10	4.6	0	0.0	18	8.3	7	3.2	0	0.0	17	7.8	3	1.4
Administration of Justice Offenses	43	9.3	1	0.2	27	5.9	22	4.8	7	1.5	71	15.4	3	0.7
Environmental/Wildlife	5	6.0	0	0.0	10	12.0	3	3.6	0	0.0	17	20.5	7	8.4
National Defense	2	6.1	0	0.0	2	6.1	5	15.2	1	3.0	8	24.2	1	3.0
Antitrust	10	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Food & Drug	6	16.2	0	0.0	7	18.9	0	0.0	0	0.0	2	5.4	0	0.0
Other Miscellaneous Offenses	49	5.3	0	0.0	28	3.0	14	1.5	7	0.8	85	9.2	19	2.1

¹Of the 38,105 cases, 737 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.

Figure A

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹
 Fiscal Years 2004 - 2008,
 2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)



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

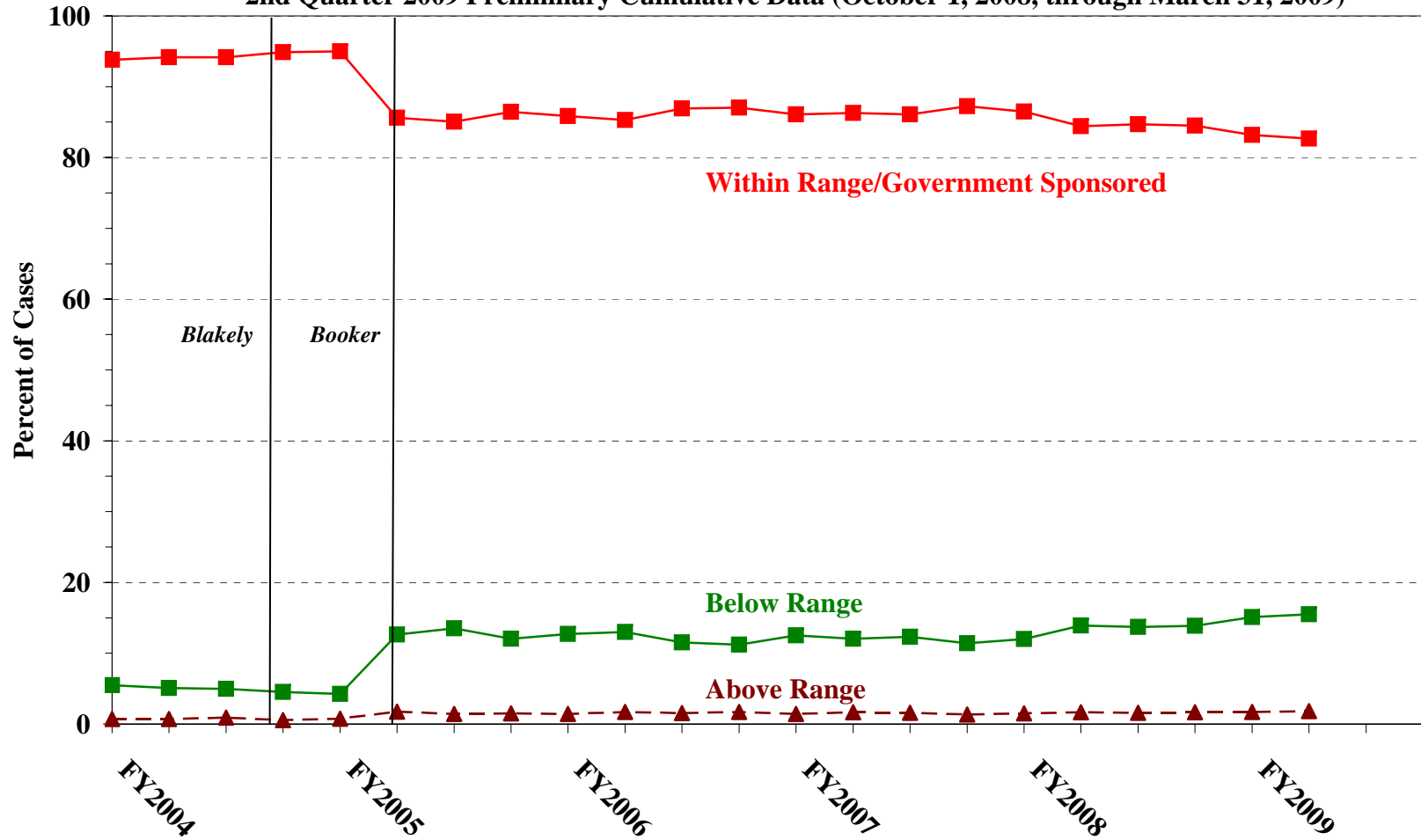
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through March 31, 2009).

Figure B

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

Fiscal Years 2004 - 2008,

2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)



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

SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through March 31, 2009).

Table 4

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹
Fiscal Years 2004 - 2008,
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 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	58.7	24.5	15.1	1.7
2ndQuarter	57.7	25.0	15.5	1.8
3rd Quarter	--	--	--	--
4th Quarter	--	--	--	--

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

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward				Government Sponsored			Downward		Below Range	
			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
§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	65	25	2	0	1	0	11	0	5	3	1	16	1
§2J1.3	42	13	0	0	1	0	7	0	2	3	4	11	1
§2J1.4	10	7	0	0	1	0	0	0	0	0	1	1	0
§2J1.5	1	1	0	0	0	0	0	0	0	0	0	0	0
§2J1.6	26	20	0	0	0	0	0	0	0	0	1	4	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	1	1	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	13	7	0	0	1	0	0	0	1	0	1	3	0
§2K1.4	33	17	0	0	1	0	12	0	0	0	1	2	0
§2K1.5	2	2	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	3,064	1,987	23	11	35	2	293	12	105	67	40	453	36
§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	4	3	0	0	1	0	0	0	0	0	0	0	0
§2K2.6	0	0	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	1,776	853	21	10	7	4	91	540	94	33	10	91	22
§2L1.2	7,849	4,747	27	6	92	6	32	1,983	221	202	45	416	72
§2L1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.1	164	92	0	0	6	0	30	3	11	3	2	15	2
§2L2.2	830	767	7	1	16	0	6	0	4	6	2	11	10
§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	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.2	1	0	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	3	0	0	0	0	0	2	0	0	0	0	1	0
§2M5.2	29	11	0	0	0	0	4	0	0	6	1	5	2
§2M5.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M6.1	2	2	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	2	0	0	0	0	0	0	0	0	0	0	2	0
§2N1.2	1	0	0	0	0	0	1	0	0	0	0	0	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	19	19	0	0	0	0	0	0	0	0	0	0	0
§2N3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2P1.1	131	101	0	0	3	1	5	0	2	4	0	14	1
§2P1.2	57	41	0	2	0	1	3	0	4	3	0	2	1
§2P1.3	3	0	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	21	9	0	0	0	0	4	0	2	2	1	3	0
§2Q1.3	14	8	0	0	0	0	1	0	1	2	0	2	0
§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	58	26	1	0	0	0	3	0	5	0	0	16	7
§2Q2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2R1.1	4	0	0	0	0	0	4	0	0	0	0	0	0
§2S1.1	493	182	1	1	5	1	149	3	38	8	11	87	7
§2S1.2	2	2	0	0	0	0	0	0	0	0	0	0	0
§2S1.3	119	56	1	0	0	0	18	2	12	1	3	24	2
§2S1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.1	263	107	1	0	1	0	44	0	11	12	9	76	2
§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	69	26	0	0	0	0	6	0	4	3	4	24	2
§2T1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.6	15	10	0	0	0	0	1	0	0	0	0	4	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	5	1	0	0	0	0	1	0	0	0	0	3	0
§2T2.1	4	4	0	0	0	0	0	0	0	0	0	0	0
§2T2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T3.1	8	7	0	0	0	0	0	0	0	0	0	1	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	8	5	0	0	0	0	1	0	0	0	0	2	0
§2X2.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X3.1	62	32	1	1	1	0	10	1	1	4	3	8	0
§2X4.1	230	140	1	1	4	0	27	0	12	10	1	33	1
§2X5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X5.2	84	74	0	0	4	1	0	0	1	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	34,534	19,302	188	66	361	36	4,589	3,071	1,319	732	402	4,054	414

¹Of the 38,105 cases, 3,571 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 (737) or missing guideline applied (3,497). Descriptions of variables used in this table are provided in Appendix A.

²In 456 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 456 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

³In 1,161 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 1,161 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
IN EACH OUTSIDE OF THE RANGE ATTRIBUTION CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

	Pursuant to a Plea Agreement										
	TOTAL CASES	§5K1.1 Plea Agreement		§5K3.1 Plea Agreement		Binding Plea Accepted by Court		Plea w/ Departure Court Finds Reasonable		Plea Agreement States Gov't Will Not Oppose	
		N	%	N	%	N	%	N	%	N	%
TOTAL	15,624	3,215	20.6	3,102	19.9	1,176	7.5	783	5.0	61	0.4
Above Range	662	3	0.5	3	0.5	112	16.9	56	8.5	1	0.2
Upward Departure From Guideline Range	191	1	0.5	1	0.5	51	26.7	33	17.3	1	0.5
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	68	0	0.0	0	0.0	17	25.0	5	7.4	0	0.0
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	362	0	0.0	0	0.0	43	11.9	18	5.0	0	0.0
All Remaining Cases Above Guideline Range	41	2	4.9	2	4.9	1	2.4	0	0.0	0	0.0
Government Sponsored Below Range	9,241	3,212	34.8	3,099	33.5	1,064	11.5	727	7.9	60	0.6
§5K1.1 Substantial Assistance Departure	4,639	3,212	69.2	48	1.0	103	2.2	88	1.9	11	0.2
§5K3.1 Early Disposition Program Departure	3,225	0	0.0	3,051	94.6	413	12.8	120	3.7	4	0.1
Other Government Sponsored Below Range	1,377	0	0.0	0	0.0	548	39.8	519	37.7	45	3.3
Below Range	5,721	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure From Guideline Range	749	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	405	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	4,124	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	443	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													
	§5K1.1 Government Motion		§5K3.1 Government Motion		Other Government Motion		Defense Motion/ Government Did Not Object		Defense Motion/ Government Did Object		Other than a Plea/Motion by Parties		No Information Available	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	1,377	8.8	109	0.7	365	2.3	1,489	9.5	1,780	11.4	2,588	16.6	1,845	11.8
Above Range	0	0.0	0	0.0	67	10.1	5	0.8	6	0.9	332	50.2	138	20.8
Upward Departure From Guideline Range	0	0.0	0	0.0	19	9.9	1	0.5	1	0.5	75	39.3	24	12.6
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	19	27.9	1	1.5	1	1.5	52	76.5	12	17.6
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	29	8.0	3	0.8	3	0.8	204	56.4	68	18.8
All Remaining Cases Above Guideline Range	0	0.0	0	0.0	0	0.0	0	0.0	1	2.4	1	2.4	34	82.9
Government Sponsored Below Range	1,377	14.9	109	1.2	298	3.2	392	4.2	256	2.8	347	3.8	243	2.6
§5K1.1 Substantial Assistance Departure	1,377	29.7	1	0.0	88	1.9	162	3.5	117	2.5	168	3.6	95	2.0
§5K3.1 Early Disposition Program Departure	0	0.0	108	3.3	15	0.5	116	3.6	87	2.7	60	1.9	81	2.5
Other Government Sponsored Below Range	0	0.0	0	0.0	195	14.2	114	8.3	52	3.8	119	8.6	67	4.9
Below Range	0	0.0	0	0.0	0	0.0	1,092	19.1	1,518	26.5	1,909	33.4	1,464	25.6
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	253	33.8	161	21.5	225	30.0	120	16.0
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	118	29.1	188	46.4	230	56.8	67	16.5
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	702	17.0	1,160	28.1	1,446	35.1	870	21.1
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	19	4.3	9	2.0	8	1.8	407	91.9

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, 2,016 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
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	4,382	36.0	30.0	48.6
Murder	4	85.5	108.5	48.3
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	4	114.0	75.0	39.3
Sexual Abuse	3	30.0	24.0	33.3
Assault	4	30.0	18.5	43.0
Robbery	57	40.0	23.0	33.3
Arson	9	36.0	29.0	55.0
Drugs - Trafficking	2,780	48.0	42.0	46.4
Drugs - Communication Facility	42	0.0	10.0	100.0
Drugs - Simple Possession	6	0.0	7.5	100.0
Firearms	424	50.5	30.0	42.8
Burglary/B&E	0	--	--	--
Auto Theft	4	35.5	41.0	65.0
Larceny	35	6.0	10.0	50.0
Fraud	460	10.0	15.0	63.5
Embezzlement	5	0.0	8.0	100.0
Forgery/Counterfeiting	39	10.0	8.0	43.9
Bribery	22	6.0	23.0	69.4
Tax	36	0.0	12.0	100.0
Money Laundering	93	12.0	24.0	66.7
Racketeering/Extortion	51	22.0	22.0	53.3
Gambling/Lottery	8	1.5	6.0	83.3
Civil Rights	5	25.0	30.0	75.0
Immigration	143	12.0	10.0	44.4
Pornography/Prostitution	33	63.0	55.0	35.1
Prison Offenses	9	5.0	8.0	58.3
Administration of Justice Offenses	40	0.1	11.8	98.9
Environmental/Wildlife	5	0.0	10.0	100.0
National Defense	2	--	--	--
Antitrust	5	8.0	15.0	66.7
Food & Drug	5	0.0	12.0	100.0
Other Miscellaneous Offenses	49	0.0	18.0	100.0

¹Of the 38,105 cases, 4,639 received a §5K1.1 substantial assistance departure. Of these, 4,462 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 76 cases were also excluded from this table. Of the remaining 4,386 cases, four 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, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through March 31, 2009).

**§5K3.1 EARLY DISPOSITION PROGRAM DEPARTURE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	3,012	18.0	6.4	31.7
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	1	--	--	--
Assault	0	--	--	--
Robbery	1	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	508	18.0	9.0	35.0
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	11	57.0	13.0	18.6
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	0	--	--	--
Fraud	2	--	--	--
Embezzlement	0	--	--	--
Forgery/Counterfeiting	0	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	4	0.0	9.5	100.0
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	2,483	18.0	6.0	28.6
Pornography/Prostitution	0	--	--	--
Prison Offenses	0	--	--	--
Administration of Justice Offenses	1	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	0	--	--	--

¹Of the 38,105 cases, 3,225 received a §5K3.1 early disposition program departure. Of these, 3,012 had complete guideline application 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, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through March 31, 2009).

**OTHER GOVERNMENT SPONSORED BELOW RANGE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,276	25.0	12.0	33.3
Murder	1	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	10	69.0	49.0	46.1
Assault	24	24.0	15.8	43.5
Robbery	13	48.0	11.0	20.5
Arson	0	--	--	--
Drugs - Trafficking	414	60.0	22.0	28.6
Drugs - Communication Facility	8	30.0	21.0	49.2
Drugs - Simple Possession	1	--	--	--
Firearms	139	46.0	13.0	25.0
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	14	0.0	11.0	100.0
Fraud	82	12.0	12.0	58.5
Embezzlement	7	0.0	6.0	100.0
Forgery/Counterfeiting	5	12.0	14.0	59.9
Bribery	2	--	--	--
Tax	14	3.0	9.5	87.5
Money Laundering	33	12.0	19.0	59.5
Racketeering/Extortion	37	36.0	13.0	25.8
Gambling/Lottery	3	0.0	6.0	100.0
Civil Rights	1	--	--	--
Immigration	322	12.0	5.0	33.3
Pornography/Prostitution	69	63.0	31.0	27.0
Prison Offenses	10	23.0	10.5	34.2
Administration of Justice Offenses	25	6.0	12.0	69.4
Environmental/Wildlife	8	0.0	6.0	100.0
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	6	0.0	12.0	100.0
Other Miscellaneous Offenses	25	0.0	12.0	100.0

¹Of the 38,105 cases, 1,377 received an other government sponsored downward departure. Of these, 1,283 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 1,277 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.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through March 31, 2009).

**DOWNWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	700	24.0	10.0	28.6
Murder	0	--	--	--
Manslaughter	3	51.0	17.0	20.5
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	4	60.0	31.5	47.4
Assault	10	30.0	6.5	23.5
Robbery	8	26.5	13.5	39.2
Arson	0	--	--	--
Drugs - Trafficking	206	60.0	14.0	23.8
Drugs - Communication Facility	5	24.0	10.0	37.5
Drugs - Simple Possession	3	0.3	12.0	85.0
Firearms	72	36.5	10.5	27.8
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	5	0.0	10.0	100.0
Fraud	52	10.5	10.0	59.0
Embezzlement	3	18.0	12.0	35.1
Forgery/Counterfeiting	2	--	--	--
Bribery	2	--	--	--
Tax	13	0.1	10.0	99.7
Money Laundering	3	24.0	10.0	20.0
Racketeering/Extortion	3	54.0	20.0	37.8
Gambling/Lottery	1	--	--	--
Civil Rights	0	--	--	--
Immigration	237	17.3	6.0	25.5
Pornography/Prostitution	20	45.5	22.0	23.7
Prison Offenses	7	10.0	3.0	11.1
Administration of Justice Offenses	20	0.0	9.9	100.0
Environmental/Wildlife	3	0.0	12.0	100.0
National Defense	5	12.0	19.0	59.9
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	12	12.0	8.5	44.2

¹Of the 38,105 cases, 749 received a downward departure from the guideline range. Of these, 702 had complete guideline application information. Of the remaining 702 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
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	381	24.0	18.0	42.8
Murder	1	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	2	--	--	--
Assault	7	15.0	15.0	46.8
Robbery	12	24.5	34.0	45.0
Arson	1	--	--	--
Drugs - Trafficking	143	60.0	26.0	29.4
Drugs - Communication Facility	1	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	42	8.0	18.3	63.9
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	4	12.0	15.0	51.3
Fraud	31	0.0	12.0	100.0
Embezzlement	4	0.0	11.0	99.7
Forgery/Counterfeiting	5	12.0	8.0	51.4
Bribery	0	--	--	--
Tax	11	0.0	13.0	100.0
Money Laundering	8	11.5	19.0	63.8
Racketeering/Extortion	5	60.0	56.9	66.7
Gambling/Lottery	1	--	--	--
Civil Rights	0	--	--	--
Immigration	58	24.0	14.5	34.8
Pornography/Prostitution	29	60.0	39.0	46.2
Prison Offenses	0	--	--	--
Administration of Justice Offenses	7	0.0	10.0	100.0
Environmental/Wildlife	0	--	--	--
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	7	0.0	10.0	100.0

¹Of the 38,105 cases, 405 received a downward departure from the guideline range with *Booker*/18 U.S.C § 3553. Of these, 384 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, one additional case was also excluded from this table. Of the remaining 383 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.

**BELOW GUIDELINE RANGE WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	3,919	27.0	13.0	33.3
Murder	2	--	--	--
Manslaughter	3	12.0	6.0	50.0
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	20	15.0	16.9	30.5
Assault	29	20.0	9.0	31.8
Robbery	66	37.5	13.0	22.7
Arson	1	--	--	--
Drugs - Trafficking	1,327	60.0	17.5	25.9
Drugs - Communication Facility	53	12.0	18.0	74.9
Drugs - Simple Possession	4	13.0	27.7	58.3
Firearms	513	30.0	13.0	25.0
Burglary/B&E	0	--	--	--
Auto Theft	6	21.0	11.0	24.4
Larceny	81	0.0	9.7	100.0
Fraud	487	12.0	10.0	47.4
Embezzlement	36	3.5	9.0	80.6
Forgery/Counterfeiting	58	0.0	9.0	100.0
Bribery	23	6.9	9.0	55.7
Tax	96	4.5	10.0	70.0
Money Laundering	76	15.0	15.0	50.4
Racketeering/Extortion	41	30.0	22.0	34.8
Gambling/Lottery	3	0.0	6.0	100.0
Civil Rights	7	40.0	18.0	29.8
Immigration	517	24.0	10.0	33.2
Pornography/Prostitution	284	60.0	31.0	35.9
Prison Offenses	17	10.0	6.0	33.2
Administration of Justice Offenses	64	0.0	10.0	99.8
Environmental/Wildlife	17	0.0	10.0	100.0
National Defense	5	36.0	24.0	40.0
Antitrust	0	--	--	--
Food & Drug	2	--	--	--
Other Miscellaneous Offenses	81	0.0	10.0	100.0

¹Of the 38,105 cases, 4,124 were sentenced below the guideline range with *Booker*/18 U.S.C § 3553. Of these, 3,939 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 15 cases were also excluded from this table. Furthermore, one case was excluded due to several logical criteria. Of the remaining 3,923 cases, four 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
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	386	16.9	6.0	33.8
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	2	--	--	--
Assault	4	2.5	7.0	83.2
Robbery	3	37.0	11.0	20.0
Arson	0	--	--	--
Drugs - Trafficking	90	60.0	13.0	25.9
Drugs - Communication Facility	4	9.0	4.5	57.1
Drugs - Simple Possession	3	0.0	1.0	100.0
Firearms	58	70.3	15.5	24.7
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	11	0.0	6.0	100.0
Fraud	57	3.7	6.0	50.0
Embezzlement	7	0.0	6.0	100.0
Forgery/Counterfeiting	4	10.5	6.0	34.9
Bribery	0	--	--	--
Tax	4	0.0	9.0	100.0
Money Laundering	4	10.9	46.1	74.5
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	1	--	--	--
Immigration	96	11.0	4.5	30.3
Pornography/Prostitution	13	60.0	18.0	23.1
Prison Offenses	2	--	--	--
Administration of Justice Offenses	2	--	--	--
Environmental/Wildlife	7	0.0	8.0	100.0
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	13	0.0	6.0	100.0

¹Of the 38,105 cases, 443 were otherwise sentenced below the guideline range. Of these, 389 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 two cases were also excluded from this table. Of the remaining 387 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.

**UPWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	185	60.0	14.0	35.7
Murder	0	--	--	--
Manslaughter	2	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	4	120.0	36.0	36.4
Assault	7	78.0	26.0	33.9
Robbery	7	150.0	29.0	24.4
Arson	0	--	--	--
Drugs - Trafficking	28	82.0	12.0	25.0
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	2	--	--	--
Firearms	34	101.5	22.5	35.7
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	6	30.0	12.0	125.0
Fraud	18	36.0	16.5	71.7
Embezzlement	0	--	--	--
Forgery/Counterfeiting	5	48.0	18.0	60.0
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	55	30.0	6.0	42.9
Pornography/Prostitution	8	155.0	40.0	26.1
Prison Offenses	0	--	--	--
Administration of Justice Offenses	2	--	--	--
Environmental/Wildlife	1	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	3	36.0	12.0	43.0

¹Of the 38,105 cases, 191 received an upward departure from the guideline range. Of these, 185 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.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through March 31, 2009).

**UPWARD DEPARTURES WITH *BOOKER*/18 U.S.C. § 3553: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	63	75.0	19.0	38.9
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	1	--	--	--
Assault	4	156.0	39.5	34.4
Robbery	2	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	4	120.5	16.5	19.6
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	13	84.0	33.0	37.5
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	0	--	--	--
Fraud	7	48.0	19.0	29.2
Embezzlement	0	--	--	--
Forgery/Counterfeiting	1	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	5	240.0	105.0	77.8
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	17	50.0	12.0	50.0
Pornography/Prostitution	2	--	--	--
Prison Offenses	2	--	--	--
Administration of Justice Offenses	2	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	2	--	--	--

¹Of the 38,105 cases, 68 received an upward departure from the guideline range with *Booker*/18 U.S.C § 3553. Of these, 64 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. 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
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	345	48.0	11.0	33.8
Murder	1	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	8	102.0	22.5	25.9
Assault	10	71.5	17.5	31.9
Robbery	15	120.0	19.0	17.4
Arson	0	--	--	--
Drugs - Trafficking	37	102.0	15.0	19.7
Drugs - Communication Facility	2	--	--	--
Drugs - Simple Possession	5	24.0	18.0	100.0
Firearms	50	96.0	14.0	23.9
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	7	60.0	23.0	52.4
Fraud	38	60.0	11.0	37.3
Embezzlement	4	48.0	12.5	58.5
Forgery/Counterfeiting	8	39.5	7.5	32.0
Bribery	0	--	--	--
Tax	2	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	3	60.0	19.0	46.3
Gambling/Lottery	1	--	--	--
Civil Rights	1	--	--	--
Immigration	112	15.0	6.0	50.0
Pornography/Prostitution	19	144.0	25.0	23.7
Prison Offenses	3	18.0	10.0	60.0
Administration of Justice Offenses	8	36.0	3.0	15.7
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	9	15.0	9.0	100.0

¹Of the 38,105 cases, 362 were sentenced above the guideline range with *Booker*/18 U.S.C § 3553. Of these, 350 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, four 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
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	22	45.0	9.0	25.4
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	0	--	--	--
Assault	1	--	--	--
Robbery	1	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	6	87.0	8.0	10.2
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	2	--	--	--
Burglary/B&E	1	--	--	--
Auto Theft	0	--	--	--
Larceny	0	--	--	--
Fraud	2	--	--	--
Embezzlement	0	--	--	--
Forgery/Counterfeiting	0	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	0	--	--	--
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	7	36.0	3.0	14.3
Pornography/Prostitution	0	--	--	--
Prison Offenses	1	--	--	--
Administration of Justice Offenses	0	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	1	--	--	--

¹Of the 38,105 cases, 41 were otherwise sentenced above the guideline range. Of these, 34 had complete guideline application information. Of the remaining 34 cases, 12 additional 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.

OFFENDERS RECEIVING SENTENCING OPTIONS IN EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 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	37,792	34,050	90.1	33,085	87.5	965	2.6	3,742	9.9	1,148	3.0	2,594	6.9
Murder	37	37	100.0	37	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Manslaughter	25	25	100.0	25	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Kidnapping/Hostage Taking	17	17	100.0	16	94.1	1	5.9	0	0.0	0	0.0	0	0.0
Sexual Abuse	219	213	97.3	204	93.2	9	4.1	6	2.7	3	1.4	3	1.4
Assault	300	265	88.3	255	85.0	10	3.3	35	11.7	12	4.0	23	7.7
Robbery	470	463	98.5	451	96.0	12	2.6	7	1.5	3	0.6	4	0.9
Arson	24	23	95.8	23	95.8	0	0.0	1	4.2	1	4.2	0	0.0
Drugs - Trafficking	11,323	10,964	96.8	10,701	94.5	263	2.3	359	3.2	155	1.4	204	1.8
Drugs - Communication Facility	247	175	70.9	170	68.8	5	2.0	72	29.1	26	10.5	46	18.6
Drugs - Simple Possession	234	117	50.0	110	47.0	7	3.0	117	50.0	18	7.7	99	42.3
Firearms	3,927	3,688	93.9	3,595	91.5	93	2.4	239	6.1	94	2.4	145	3.7
Burglary/B&E	14	14	100.0	14	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Auto Theft	39	36	92.3	35	89.7	1	2.6	3	7.7	0	0.0	3	7.7
Larceny	655	289	44.1	254	38.8	35	5.3	366	55.9	103	15.7	263	40.2
Fraud	3,465	2,746	79.2	2,553	73.7	193	5.6	719	20.8	262	7.6	457	13.2
Embezzlement	212	107	50.5	86	40.6	21	9.9	105	49.5	24	11.3	81	38.2
Forgery/Counterfeiting	408	299	73.3	277	67.9	22	5.4	109	26.7	48	11.8	61	15.0
Bribery	81	60	74.1	56	69.1	4	4.9	21	25.9	10	12.3	11	13.6
Tax	314	201	64.0	162	51.6	39	12.4	113	36.0	60	19.1	53	16.9
Money Laundering	404	310	76.7	282	69.8	28	6.9	94	23.3	32	7.9	62	15.3
Racketeering/Extortion	319	295	92.5	288	90.3	7	2.2	24	7.5	10	3.1	14	4.4
Gambling/Lottery	27	13	48.1	9	33.3	4	14.8	14	51.9	6	22.2	8	29.6
Civil Rights	28	17	60.7	17	60.7	0	0.0	11	39.3	3	10.7	8	28.6
Immigration	12,175	11,736	96.4	11,606	95.3	130	1.1	439	3.6	88	0.7	351	2.9
Pornography/Prostitution	966	944	97.7	930	96.3	14	1.4	22	2.3	17	1.8	5	0.5
Prison Offenses	228	219	96.1	208	91.2	11	4.8	9	3.9	2	0.9	7	3.1
Administration of Justice Offenses	461	308	66.8	291	63.1	17	3.7	153	33.2	44	9.5	109	23.6
Environmental/Wildlife	84	21	25.0	17	20.2	4	4.8	63	75.0	16	19.0	47	56.0
National Defense	34	28	82.4	26	76.5	2	5.9	6	17.6	1	2.9	5	14.7
Antitrust	11	10	90.9	10	90.9	0	0.0	1	9.1	0	0.0	1	9.1
Food & Drug	34	5	14.7	4	11.8	1	2.9	29	85.3	8	23.5	21	61.8
Other Miscellaneous Offenses	1,010	405	40.1	373	36.9	32	3.2	605	59.9	102	10.1	503	49.8

¹Of the 38,105 cases, 313 were excluded due to one or more of the following reasons: the offender received neither imprisonment nor probation (311), or missing sentencing information (2). 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
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

PRIMARY OFFENSE	Mean Months	Median Months	N
TOTAL	48.0	24.0	38,103
Murder	265.7	264.0	37
Manslaughter	52.6	51.0	25
Kidnapping/Hostage Taking	218.3	156.0	17
Sexual Abuse	95.8	60.0	219
Assault	41.6	30.0	305
Robbery	81.4	63.0	473
Arson	57.1	54.0	24
Drugs - Trafficking	80.7	60.0	11,325
Drugs - Communication Facility	30.4	24.0	247
Drugs - Simple Possession	6.3	0.0	260
Firearms	83.2	57.0	3,930
Burglary/B&E	21.8	24.0	14
Auto Theft	65.9	27.0	39
Larceny	8.6	3.0	696
Fraud	21.7	12.0	3,476
Embezzlement	9.2	4.0	215
Forgery/Counterfeiting	16.0	12.0	409
Bribery	18.6	12.0	81
Tax	16.0	12.0	315
Money Laundering	30.0	18.0	405
Racketeering/Extortion	91.6	51.0	320
Gambling/Lottery	6.7	6.0	27
Civil Rights	39.8	17.2	28
Immigration	17.7	12.0	12,177
Pornography/Prostitution	117.8	78.0	966
Prison Offenses	16.4	12.0	228
Administration of Justice Offenses	15.2	8.0	468
Environmental/Wildlife	4.4	0.0	89
National Defense	48.4	28.5	34
Antitrust	12.6	8.0	11
Food & Drug	4.7	0.0	38
Other Miscellaneous Offenses	5.9	0.0	1,205

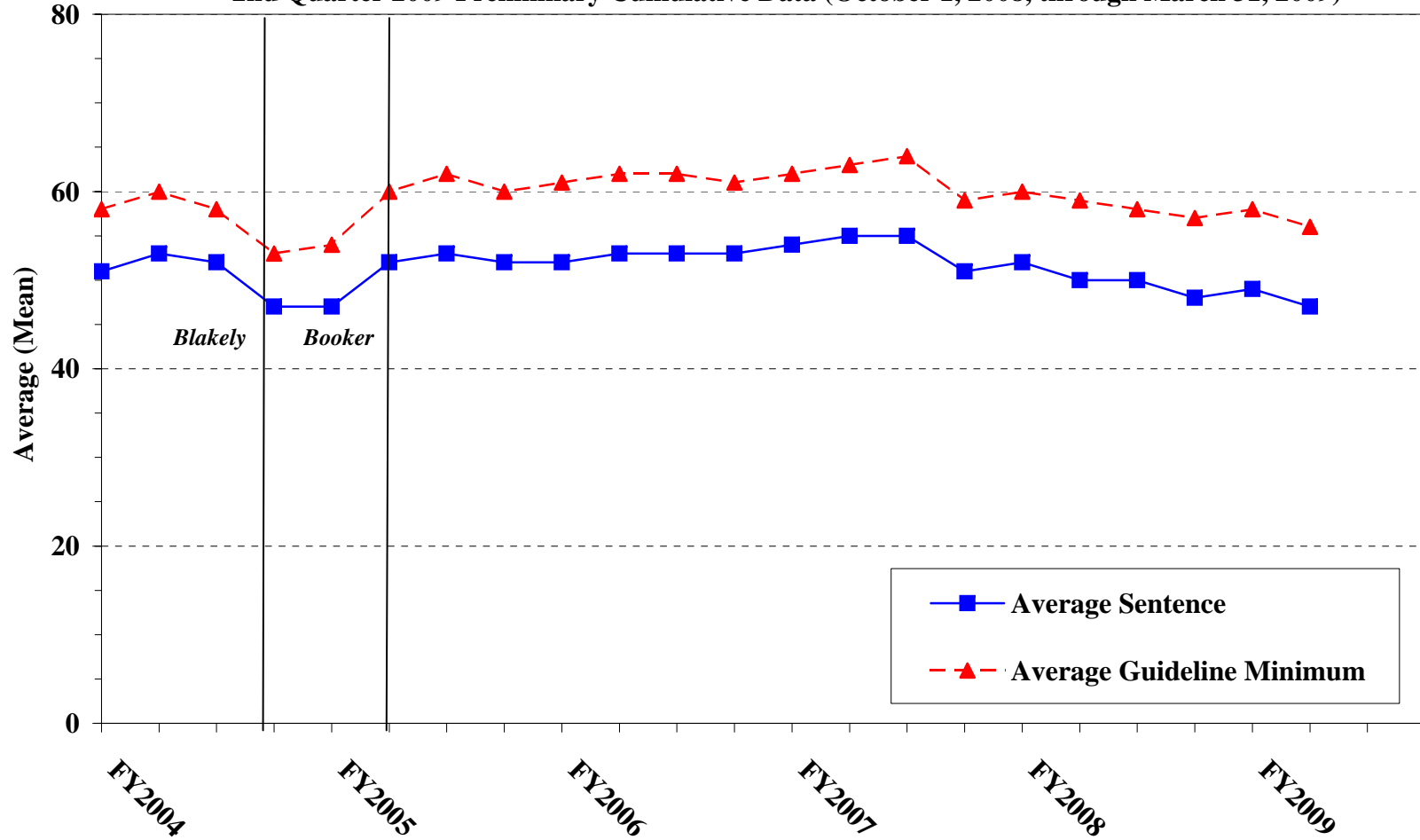
¹Of the 38,105 cases, two were excluded due to missing or indeterminable sentencing information. Sentences of probation only are included in this table as zero months of imprisonment. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Descriptions 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 - 2008,

2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)



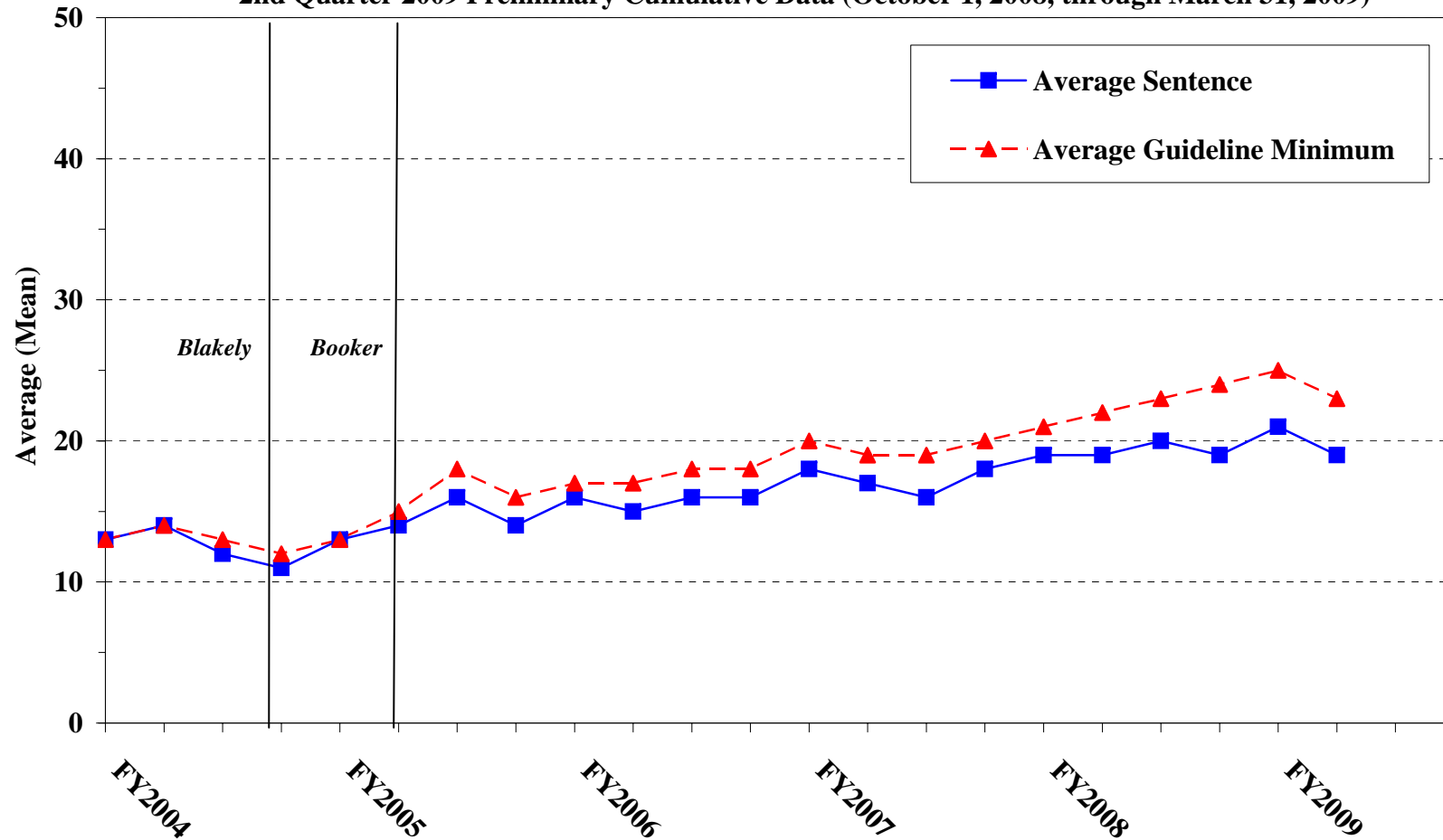
¹Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months 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 - 2008,

2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 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.

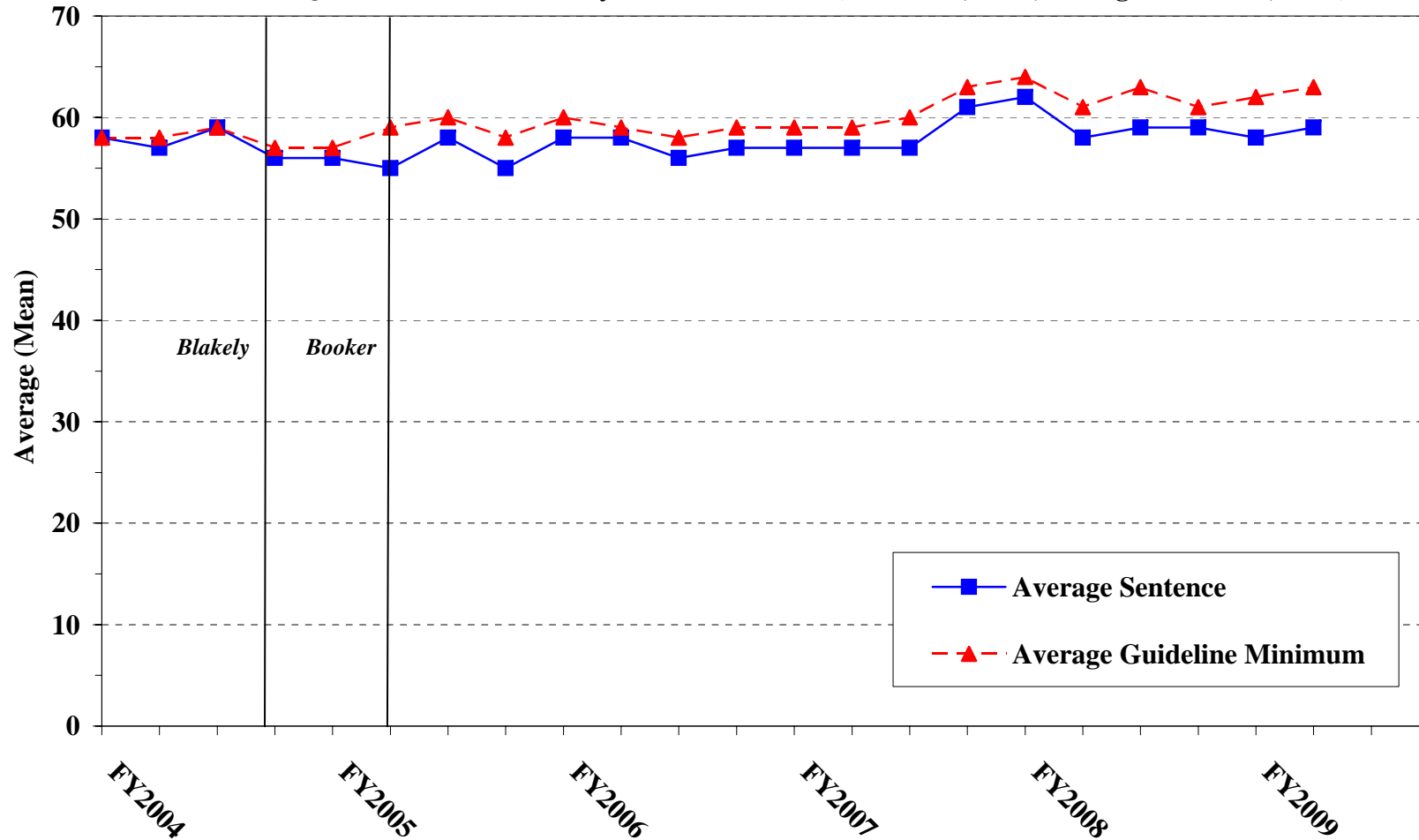
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through March 31, 2009).

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 - 2008,

2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)



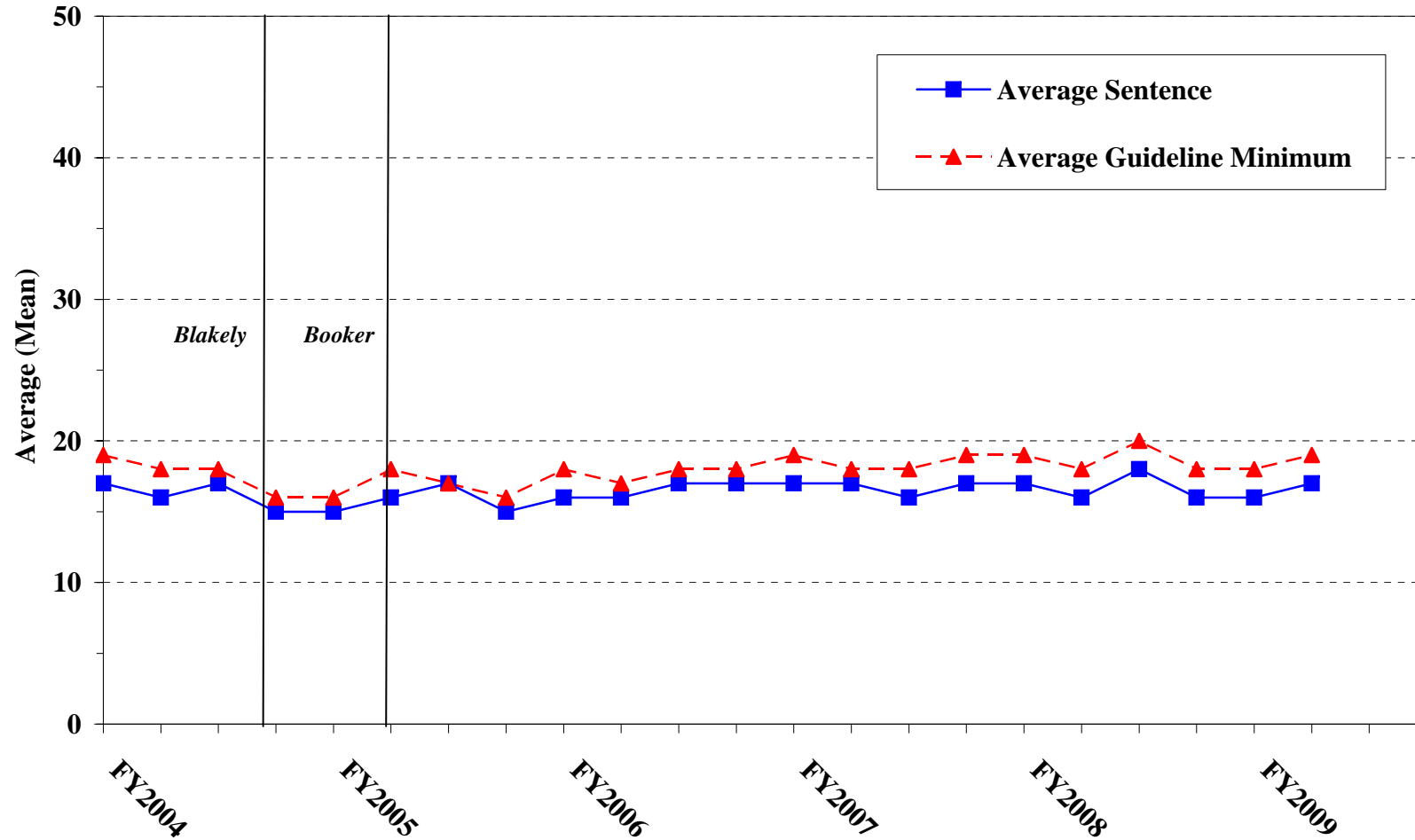
¹Figure includes only cases with a primary sentencing guideline of USSG §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition). Cases with guideline minimums of life or probation were included in the guideline minimum 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.

SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through March 31, 2009).

Figure F

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

**Fiscal Years 2004 - 2008,
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 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.

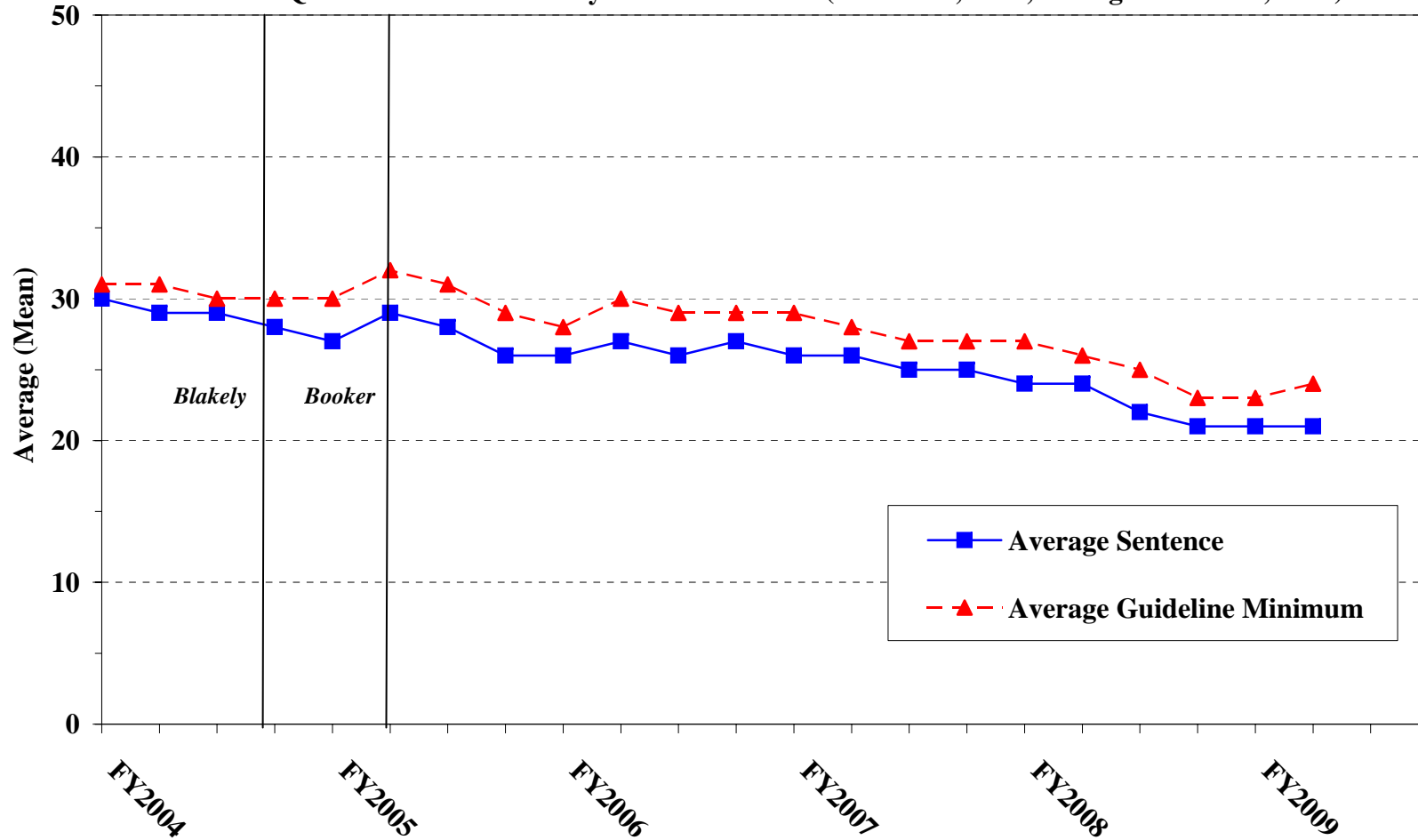
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through March 31, 2009).

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 - 2008,

2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)



¹Figure includes only cases with a primary sentencing guideline of USSG §2L1.1. 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.

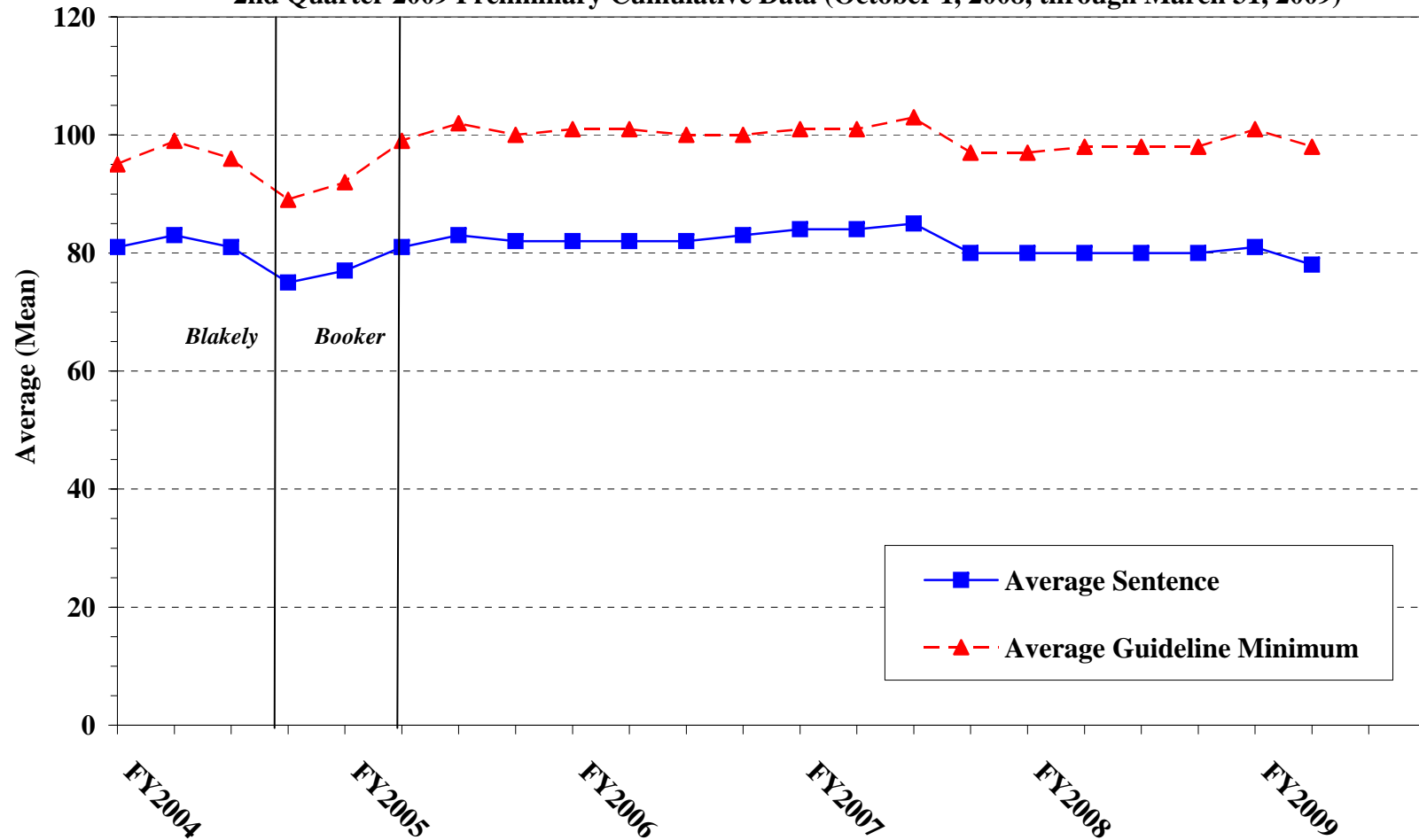
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through March 31, 2009).

Figure H

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

Fiscal Years 2004 - 2008,

2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

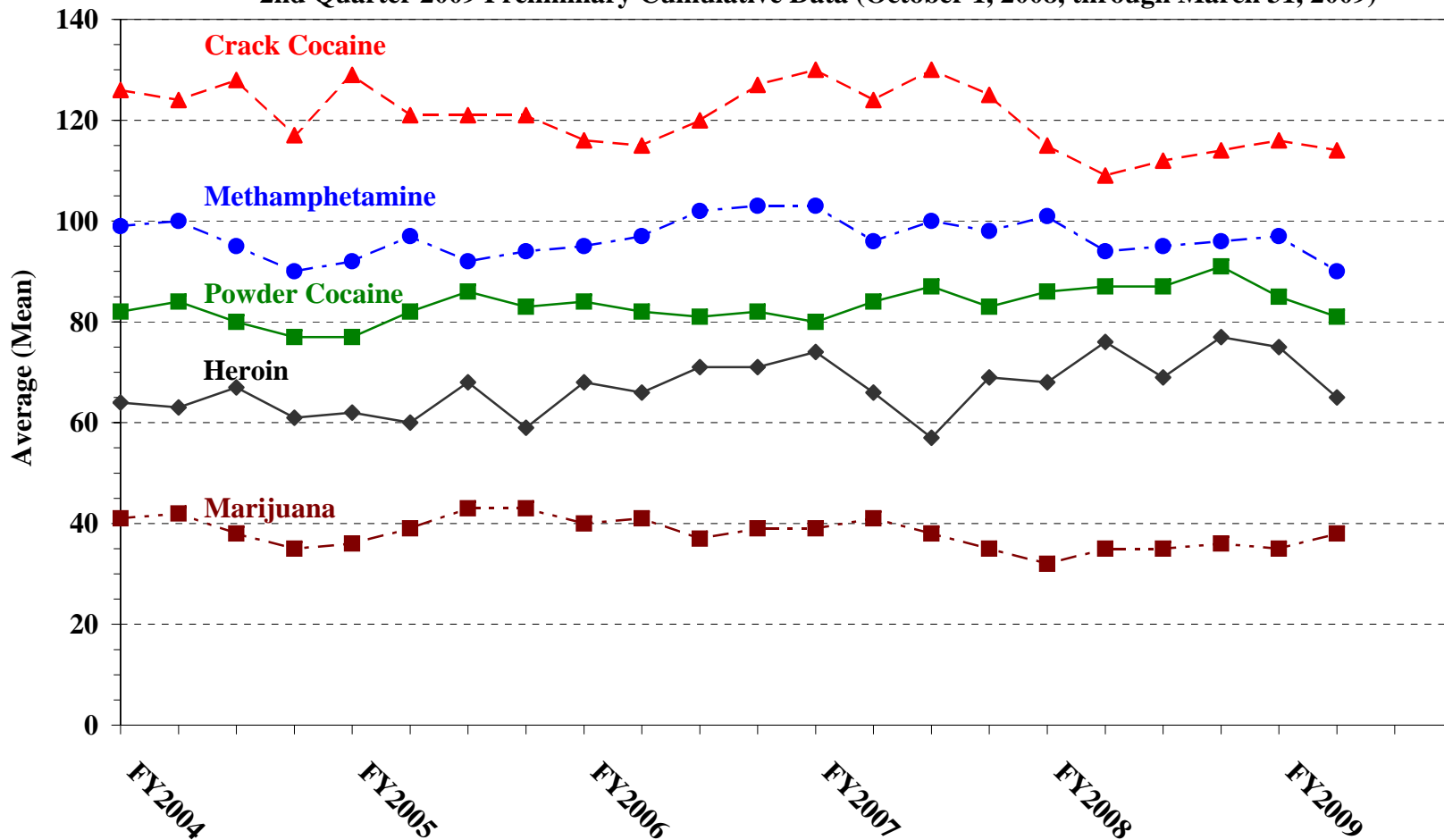


¹Figure includes only cases with a primary sentencing guideline of USSG §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy). Cases with guideline minimums of life or probation were included in the guideline 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 - 2008,
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)



¹Only cases sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of 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**
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

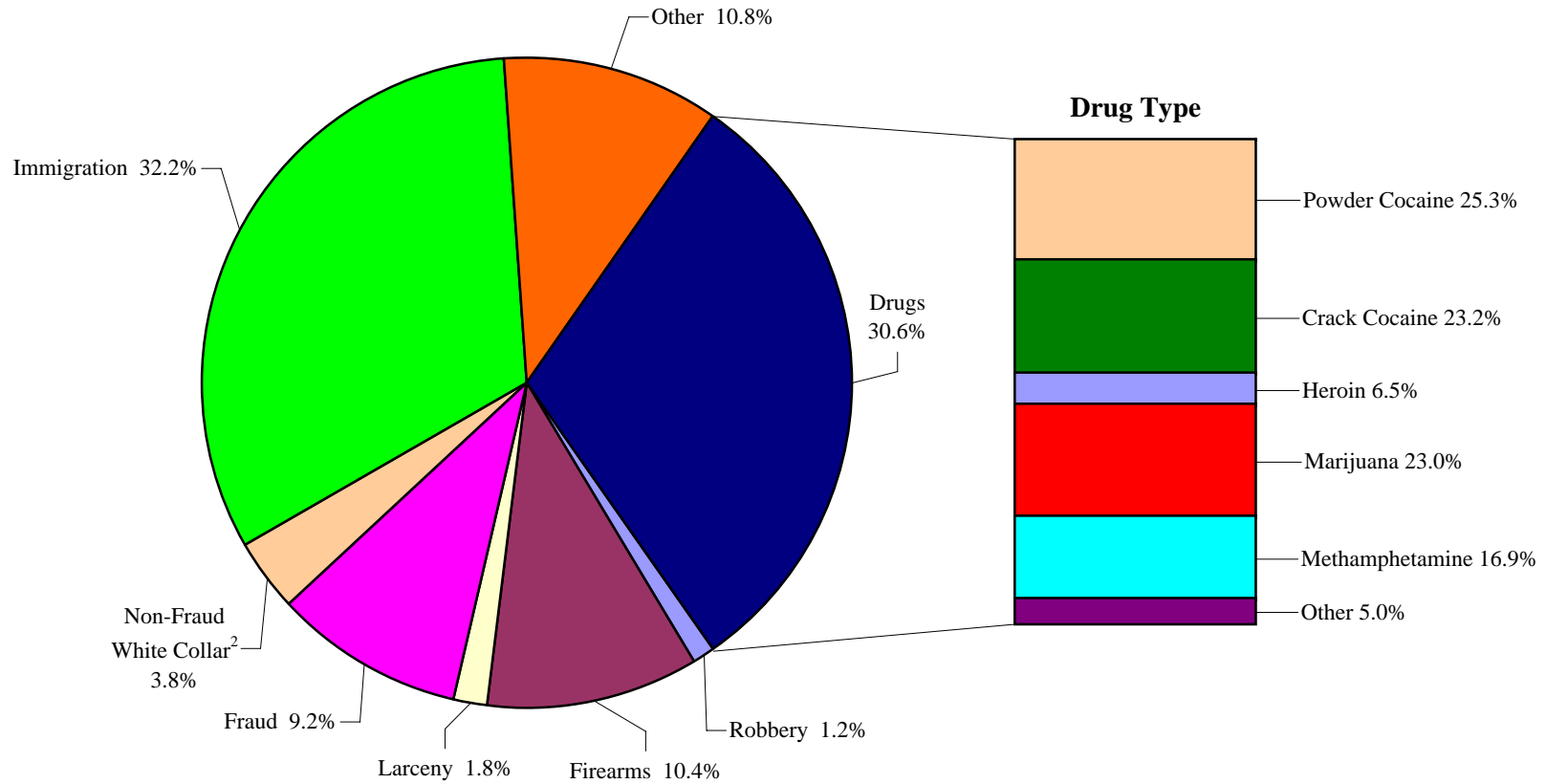
PRIMARY OFFENSE	TOTAL	Guideline Minimum		Lower Half of Range		Midpoint of Range		Upper Half of Range		Guideline Maximum	
		N	%	N	%	N	%	N	%	N	%
TOTAL	16,725	8,843	52.9	2,882	17.2	1,590	9.5	1,517	9.1	1,893	11.3
Murder	8	1	12.5	0	0.0	0	0.0	1	12.5	6	75.0
Manslaughter	16	6	37.5	3	18.8	0	0.0	1	6.3	6	37.5
Kidnapping/Hostage Taking	3	2	66.7	1	33.3	0	0.0	0	0.0	0	0.0
Sexual Abuse	123	55	44.7	19	15.4	9	7.3	19	15.4	21	17.1
Assault	156	63	40.4	23	14.7	18	11.5	16	10.3	36	23.1
Robbery	266	136	51.1	37	13.9	19	7.1	32	12.0	42	15.8
Arson	6	2	33.3	2	33.3	1	16.7	0	0.0	1	16.7
Drugs - Trafficking	4,603	3,226	70.1	551	12.0	317	6.9	228	5.0	281	6.1
Drugs - Communication Facility	57	36	63.2	5	8.8	6	10.5	3	5.3	7	12.3
Drugs - Simple Possession	109	69	63.3	12	11.0	10	9.2	6	5.5	12	11.0
Firearms	2,130	1,174	55.1	269	12.6	218	10.2	154	7.2	315	14.8
Burglary/B&E	12	8	66.7	1	8.3	1	8.3	0	0.0	2	16.7
Auto Theft	17	9	52.9	3	17.6	2	11.8	1	5.9	2	11.8
Larceny	380	268	70.5	39	10.3	27	7.1	15	3.9	31	8.2
Fraud	1,450	802	55.3	226	15.6	133	9.2	105	7.2	184	12.7
Embezzlement	120	91	75.8	17	14.2	3	2.5	4	3.3	5	4.2
Forgery/Counterfeiting	257	138	53.7	30	11.7	33	12.8	16	6.2	40	15.6
Bribery	27	12	44.4	6	22.2	3	11.1	2	7.4	4	14.8
Tax	112	56	50.0	25	22.3	16	14.3	5	4.5	10	8.9
Money Laundering	158	105	66.5	22	13.9	12	7.6	9	5.7	10	6.3
Racketeering/Extortion	102	55	53.9	20	19.6	5	4.9	8	7.8	14	13.7
Gambling/Lottery	10	7	70.0	0	0.0	0	0.0	2	20.0	1	10.0
Civil Rights	10	5	50.0	1	10.0	1	10.0	1	10.0	2	20.0
Immigration	5,436	1,786	32.9	1,425	26.2	685	12.6	820	15.1	720	13.2
Pornography/Prostitution	385	259	67.3	42	10.9	16	4.2	28	7.3	40	10.4
Prison Offenses	146	57	39.0	26	17.8	16	11.0	12	8.2	35	24.0
Administration of Justice Offenses	225	136	60.4	28	12.4	16	7.1	11	4.9	34	15.1
Environmental/Wildlife	32	26	81.3	2	6.3	2	6.3	1	3.1	1	3.1
National Defense	12	10	83.3	1	8.3	1	8.3	0	0.0	0	0.0
Antitrust	0	0	--	0	--	0	--	0	--	0	--
Food & Drug	18	16	88.9	1	5.6	0	0.0	0	0.0	1	5.6
Other Miscellaneous Offenses	339	227	67.0	45	13.3	20	5.9	17	5.0	30	8.8

¹Of the 38,105 cases, 21,744 were sentenced within the applicable guideline range. Of those, 18,771 had complete guideline application information. An additional 1,350 cases were excluded due to several logical criteria. Of the remaining 17,421 cases, 696 were excluded due to missing point in range information. Descriptions of variables used in this table are provided in Appendix A.

Figure J

DISTRIBUTION OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹

2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)



¹Of the 38,105 guideline cases, none were excluded due to missing primary offense category. Of the 11,834 drug cases, 238 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, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through March 31, 2009).

Table 21

GUIDELINE OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

PRIMARY OFFENSE	N	%
TOTAL	38,105	100.0
Murder	37	0.1
Manslaughter	25	0.1
Kidnapping/Hostage Taking	17	0.0
Sexual Abuse	219	0.6
Assault	305	0.8
Robbery	473	1.2
Arson	24	0.1
Drugs - Trafficking	11,327	29.7
Drugs - Communication Facility	247	0.6
Drugs - Simple Possession	260	0.7
Firearms	3,930	10.3
Burglary/B&E	14	0.0
Auto Theft	39	0.1
Larceny	696	1.8
Fraud	3,476	9.1
Embezzlement	215	0.6
Forgery/Counterfeiting	409	1.1
Bribery	81	0.2
Tax	315	0.8
Money Laundering	405	1.1
Racketeering/Extortion	320	0.8
Gambling/Lottery	27	0.1
Civil Rights	28	0.1
Immigration	12,177	32.0
Pornography/Prostitution	966	2.5
Prison Offenses	228	0.6
Administration of Justice Offenses	468	1.2
Environmental/Wildlife	89	0.2
National Defense	34	0.1
Antitrust	11	0.0
Food & Drug	38	0.1
Other Miscellaneous Offenses	1,205	3.2

¹Of the 38,105 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

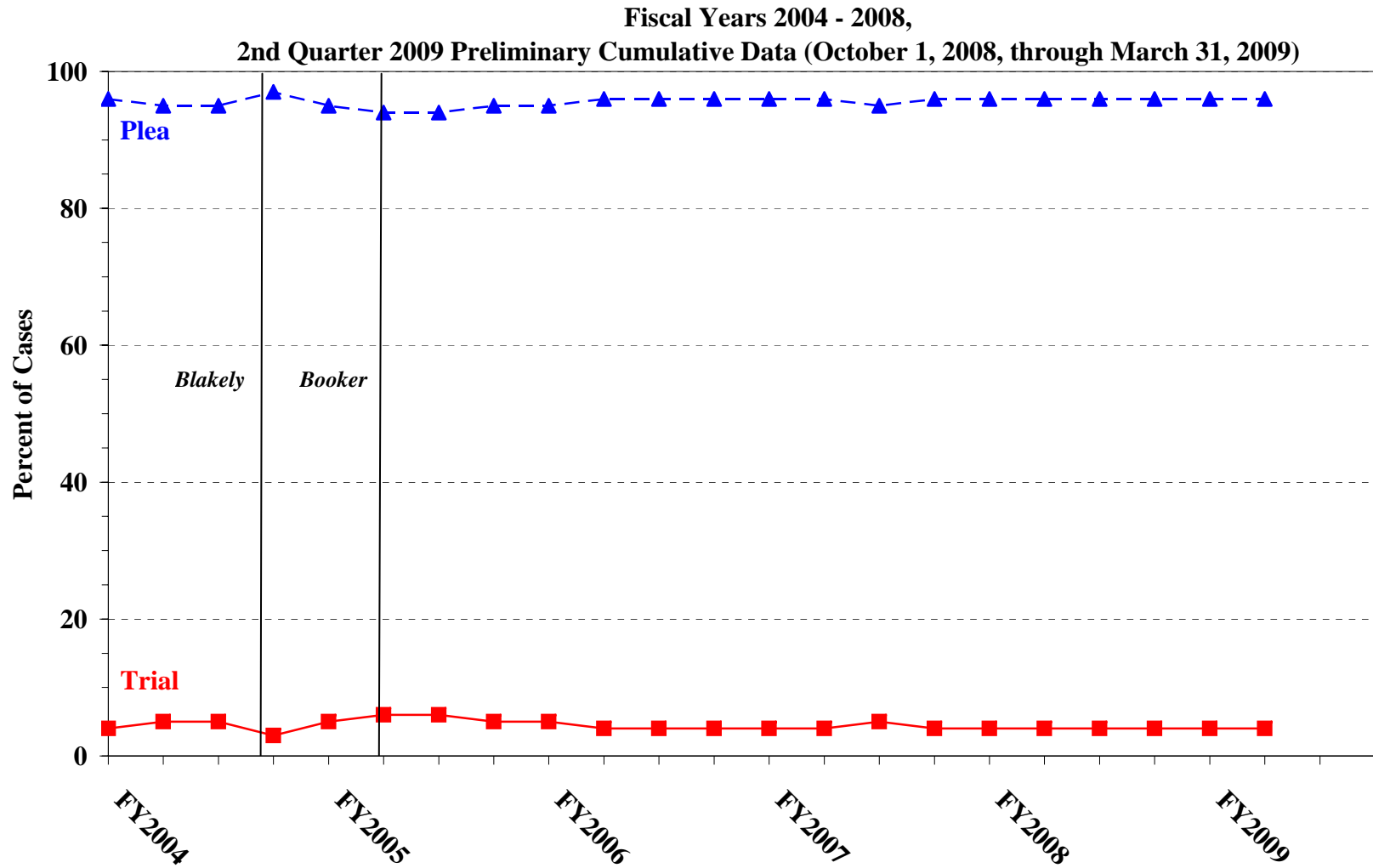
GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

PRIMARY OFFENSE	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	38,105	36,676	96.2	1,429	3.8
Murder	37	26	70.3	11	29.7
Manslaughter	25	23	92.0	2	8.0
Kidnapping/Hostage Taking	17	15	88.2	2	11.8
Sexual Abuse	219	187	85.4	32	14.6
Assault	305	280	91.8	25	8.2
Robbery	473	456	96.4	17	3.6
Arson	24	20	83.3	4	16.7
Drugs - Trafficking	11,327	10,847	95.8	480	4.2
Drugs - Communication Facility	247	247	100.0	0	0.0
Drugs - Simple Possession	260	247	95.0	13	5.0
Firearms	3,930	3,637	92.5	293	7.5
Burglary/B&E	14	14	100.0	0	0.0
Auto Theft	39	38	97.4	1	2.6
Larceny	696	682	98.0	14	2.0
Fraud	3,476	3,301	95.0	175	5.0
Embezzlement	215	211	98.1	4	1.9
Forgery/Counterfeiting	409	402	98.3	7	1.7
Bribery	81	76	93.8	5	6.2
Tax	315	280	88.9	35	11.1
Money Laundering	405	379	93.6	26	6.4
Racketeering/Extortion	320	273	85.3	47	14.7
Gambling/Lottery	27	26	96.3	1	3.7
Civil Rights	28	23	82.1	5	17.9
Immigration	12,177	12,088	99.3	89	0.7
Pornography/Prostitution	966	916	94.8	50	5.2
Prison Offenses	228	225	98.7	3	1.3
Administration of Justice Offenses	468	448	95.7	20	4.3
Environmental/Wildlife	89	80	89.9	9	10.1
National Defense	34	31	91.2	3	8.8
Antitrust	11	11	100.0	0	0.0
Food & Drug	38	38	100.0	0	0.0
Other Miscellaneous Offenses	1,205	1,149	95.4	56	4.6

¹Of the 38,105 cases, none were excluded due to missing primary offense category or 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



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

Table 23

RACE OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

PRIMARY OFFENSE	TOTAL	WHITE		BLACK		HISPANIC		OTHER	
		N	%	N	%	N	%	N	%
TOTAL	34,728	9,924	28.6	7,812	22.5	15,626	45.0	1,366	3.9
Murder	37	13	35.1	5	13.5	7	18.9	12	32.4
Manslaughter	25	3	12.0	0	0.0	1	4.0	21	84.0
Kidnapping/Hostage Taking	16	4	25.0	2	12.5	9	56.3	1	6.3
Sexual Abuse	217	119	54.8	17	7.8	19	8.8	62	28.6
Assault	275	67	24.4	33	12.0	45	16.4	130	47.3
Robbery	471	230	48.8	182	38.6	47	10.0	12	2.5
Arson	24	20	83.3	2	8.3	1	4.2	1	4.2
Drugs - Trafficking	11,245	2,963	26.3	3,452	30.7	4,431	39.4	399	3.5
Drugs - Communication Facility	246	76	30.9	86	35.0	67	27.2	17	6.9
Drugs - Simple Possession	158	73	46.2	57	36.1	23	14.6	5	3.2
Firearms	3,912	1,161	29.7	2,000	51.1	655	16.7	96	2.5
Burglary/B&E	14	3	21.4	1	7.1	1	7.1	9	64.3
Auto Theft	38	19	50.0	12	31.6	6	15.8	1	2.6
Larceny	575	306	53.2	162	28.2	70	12.2	37	6.4
Fraud	2,963	1,380	46.6	882	29.8	517	17.4	184	6.2
Embezzlement	203	121	59.6	47	23.2	11	5.4	24	11.8
Forgery/Counterfeiting	408	186	45.6	147	36.0	61	15.0	14	3.4
Bribery	78	42	53.8	17	21.8	11	14.1	8	10.3
Tax	303	204	67.3	48	15.8	23	7.6	28	9.2
Money Laundering	402	158	39.3	48	11.9	159	39.6	37	9.2
Racketeering/Extortion	309	126	40.8	86	27.8	79	25.6	18	5.8
Gambling/Lottery	27	17	63.0	0	0.0	3	11.1	7	25.9
Civil Rights	26	18	69.2	3	11.5	5	19.2	0	0.0
Immigration	10,395	1,102	10.6	178	1.7	9,026	86.8	89	0.9
Pornography/Prostitution	966	824	85.3	49	5.1	61	6.3	32	3.3
Prison Offenses	193	53	27.5	76	39.4	55	28.5	9	4.7
Administration of Justice Offenses	433	184	42.5	100	23.1	125	28.9	24	5.5
Environmental/Wildlife	73	48	65.8	1	1.4	4	5.5	20	27.4
National Defense	32	12	37.5	0	0.0	18	56.3	2	6.3
Antitrust	5	5	100.0	0	0.0	0	0.0	0	0.0
Food & Drug	36	24	66.7	3	8.3	4	11.1	5	13.9
Other Miscellaneous Offenses	623	363	58.3	116	18.6	82	13.2	62	10.0

¹Of the 38,105 cases, 3,377 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
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

PRIMARY OFFENSE	TOTAL	MALE		FEMALE	
		N	%	N	%
TOTAL	37,084	32,350	87.2	4,734	12.8
Murder	37	29	78.4	8	21.6
Manslaughter	25	18	72.0	7	28.0
Kidnapping/Hostage Taking	17	17	100.0	0	0.0
Sexual Abuse	219	211	96.3	8	3.7
Assault	300	258	86.0	42	14.0
Robbery	471	435	92.4	36	7.6
Arson	24	23	95.8	1	4.2
Drugs - Trafficking	11,315	9,931	87.8	1,384	12.2
Drugs - Communication Facility	247	200	81.0	47	19.0
Drugs - Simple Possession	219	177	80.8	42	19.2
Firearms	3,927	3,784	96.4	143	3.6
Burglary/B&E	14	12	85.7	2	14.3
Auto Theft	39	36	92.3	3	7.7
Larceny	655	407	62.1	248	37.9
Fraud	3,414	2,398	70.2	1,016	29.8
Embezzlement	215	95	44.2	120	55.8
Forgery/Counterfeiting	409	292	71.4	117	28.6
Bribery	81	74	91.4	7	8.6
Tax	313	240	76.7	73	23.3
Money Laundering	405	312	77.0	93	23.0
Racketeering/Extortion	314	291	92.7	23	7.3
Gambling/Lottery	27	27	100.0	0	0.0
Civil Rights	28	24	85.7	4	14.3
Immigration	11,544	10,656	92.3	888	7.7
Pornography/Prostitution	966	950	98.3	16	1.7
Prison Offenses	224	205	91.5	19	8.5
Administration of Justice Offenses	454	301	66.3	153	33.7
Environmental/Wildlife	87	81	93.1	6	6.9
National Defense	33	32	97.0	1	3.0
Antitrust	11	11	100.0	0	0.0
Food & Drug	38	32	84.2	6	15.8
Other Miscellaneous Offenses	1,012	791	78.2	221	21.8

¹Of the 38,105 cases, 1,021 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
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

Gender and Age	White		Black		Hispanic		Other	
	N	%	N	%	N	%	N	%
Males	8,221	100.0	6,880	100.0	14,281	100.0	1,112	100.0
Under 21	215	2.6	236	3.4	612	4.3	36	3.2
21 - 25	920	11.2	1,174	17.1	2,403	16.8	182	16.4
26 - 30	1,248	15.2	1,772	25.8	3,133	21.9	215	19.3
31 - 35	1,141	13.9	1,300	18.9	2,985	20.9	150	13.5
36 - 40	1,135	13.8	954	13.9	2,123	14.9	163	14.7
41 - 50	1,913	23.3	1,010	14.7	2,261	15.8	210	18.9
Over 50	1,649	20.1	434	6.3	764	5.3	156	14.0
Females	1,701	100.0	932	100.0	1,334	100.0	253	100.0
Under 21	60	3.5	24	2.6	64	4.8	9	3.6
21 - 25	259	15.2	144	15.5	214	16.0	33	13.0
26 - 30	286	16.8	200	21.5	268	20.1	27	10.7
31 - 35	221	13.0	159	17.1	239	17.9	35	13.8
36 - 40	235	13.8	110	11.8	190	14.2	39	15.4
41 - 50	380	22.3	190	20.4	260	19.5	70	27.7
Over 50	260	15.3	105	11.3	99	7.4	40	15.8

¹Of the 38,105 cases, 3,391 were excluded due to one or more of the following reasons: missing race (3,377), missing gender (1,021), or missing age (193). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through March 31, 2009).

Table 26

CITIZENSHIP OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

PRIMARY OFFENSE	TOTAL	U.S. CITIZEN		NON-U.S. CITIZEN	
		N	%	N	%
TOTAL	36,916	20,754	56.2	16,162	43.8
Murder	37	32	86.5	5	13.5
Manslaughter	25	24	96.0	1	4.0
Kidnapping/Hostage Taking	16	8	50.0	8	50.0
Sexual Abuse	219	208	95.0	11	5.0
Assault	278	245	88.1	33	11.9
Robbery	471	458	97.2	13	2.8
Arson	24	23	95.8	1	4.2
Drugs - Trafficking	11,272	8,160	72.4	3,112	27.6
Drugs - Communication Facility	247	217	87.9	30	12.1
Drugs - Simple Possession	174	150	86.2	24	13.8
Firearms	3,918	3,613	92.2	305	7.8
Burglary/B&E	14	14	100.0	0	0.0
Auto Theft	38	36	94.7	2	5.3
Larceny	585	553	94.5	32	5.5
Fraud	3,336	2,415	72.4	921	27.6
Embezzlement	208	204	98.1	4	1.9
Forgery/Counterfeiting	408	371	90.9	37	9.1
Bribery	79	64	81.0	15	19.0
Tax	307	286	93.2	21	6.8
Money Laundering	403	278	69.0	125	31.0
Racketeering/Extortion	310	257	82.9	53	17.1
Gambling/Lottery	27	24	88.9	3	11.1
Civil Rights	26	21	80.8	5	19.2
Immigration	12,073	939	7.8	11,134	92.2
Pornography/Prostitution	966	928	96.1	38	3.9
Prison Offenses	197	184	93.4	13	6.6
Administration of Justice Offenses	437	337	77.1	100	22.9
Environmental/Wildlife	76	69	90.8	7	9.2
National Defense	32	14	43.8	18	56.3
Antitrust	7	4	57.1	3	42.9
Food & Drug	36	30	83.3	6	16.7
Other Miscellaneous Offenses	670	588	87.8	82	12.2

¹Of the 38,105 cases, 1,189 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
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)

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
TOTAL	38,105	176,017	38,104	37,442	27,504	10,339	37,919	35,048	3,056
D.C. CIRCUIT	201	975	201	200	177	23	201	196	5
District of Columbia	201	975	201	200	177	23	201	196	5
FIRST CIRCUIT	805	3,679	805	802	507	288	802	763	42
Maine	100	449	100	100	49	48	100	100	0
Massachusetts	242	1,060	242	241	96	143	241	240	2
New Hampshire	88	429	88	87	78	9	88	88	0
Puerto Rico	320	1,484	320	319	247	72	318	280	40
Rhode Island	55	257	55	55	37	16	55	55	0
SECOND CIRCUIT	2,155	9,996	2,155	2,121	1,568	573	2,145	2,007	148
Connecticut	190	936	190	190	177	11	190	189	1
New York									
Eastern	538	2,630	538	535	485	52	537	535	3
Northern	273	1,144	273	245	132	135	273	221	52
Southern	725	3,209	725	722	366	355	719	677	48
Western	334	1,611	334	334	321	12	331	291	43
Vermont	95	466	95	95	87	8	95	94	1
THIRD CIRCUIT	1,409	6,707	1,409	1,403	1,116	280	1,392	1,387	22
Delaware	60	296	60	60	56	3	60	60	0
New Jersey	430	2,090	430	430	386	43	414	430	0
Pennsylvania									
Eastern	386	1,805	386	384	270	116	386	379	7
Middle	287	1,414	287	287	266	21	287	287	0
Western	216	973	216	215	123	82	215	204	12
Virgin Islands	30	129	30	27	15	15	30	27	3
FOURTH CIRCUIT	3,237	14,646	3,237	3,039	2,297	920	3,182	2,891	346
Maryland	347	1,628	347	323	287	55	344	327	20
North Carolina									
Eastern	311	1,466	311	306	238	72	310	301	10
Middle	195	961	195	195	182	13	194	195	0
Western	299	1,411	299	297	218	79	299	298	1
South Carolina	506	2,311	506	505	290	216	505	505	1
Virginia									
Eastern	998	4,048	998	832	561	425	950	707	291
Western	239	1,162	239	239	206	33	239	239	0
West Virginia									
Northern	199	957	199	199	184	15	199	176	23
Southern	143	702	143	143	131	12	142	143	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	9,403	41,580	9,403	9,381	5,106	4,237	9,352	8,338	1,065
Louisiana									
Eastern	215	993	215	214	135	72	214	215	0
Middle	83	396	83	83	64	19	83	83	0
Western	190	874	190	188	129	61	189	178	12
Mississippi									
Northern	58	283	58	58	55	2	58	54	4
Southern	143	669	143	135	117	24	142	132	11
Texas									
Eastern	509	2,491	509	508	458	49	509	507	2
Northern	442	2,079	442	442	312	129	441	442	0
Southern	3,649	16,934	3,649	3,648	2,393	1,249	3,649	3,595	54
Western	4,114	16,861	4,114	4,105	1,443	2,632	4,067	3,132	982
SIXTH CIRCUIT	2,566	12,183	2,566	2,545	2,033	489	2,556	2,483	83
Kentucky									
Eastern	339	1,651	339	339	300	38	338	335	4
Western	197	898	197	197	154	42	197	153	44
Michigan									
Eastern	374	1,796	374	371	308	61	372	371	3
Western	241	1,143	241	241	185	55	241	235	6
Ohio									
Northern	340	1,586	340	338	229	107	340	339	1
Southern	307	1,508	307	306	285	19	306	304	3
Tennessee									
Eastern	281	1,318	281	281	198	71	279	279	2
Middle	171	771	171	159	114	41	168	159	12
Western	316	1,512	316	313	260	55	315	308	8
SEVENTH CIRCUIT	1,336	6,427	1,336	1,329	1,100	233	1,335	1,327	9
Illinois									
Central	173	801	173	173	109	63	173	173	0
Northern	354	1,696	354	352	284	69	353	353	1
Southern	154	724	154	154	109	45	154	153	1
Indiana									
Northern	219	1,067	219	214	196	23	219	219	0
Southern	113	546	113	113	96	17	113	111	2
Wisconsin									
Eastern	227	1,120	227	227	217	10	227	222	5
Western	96	473	96	96	89	6	96	96	0
EIGHTH CIRCUIT	2,631	12,598	2,631	2,624	2,106	518	2,626	2,611	20
Arkansas									
Eastern	201	963	201	199	165	36	200	198	3
Western	149	739	149	148	145	4	149	148	1
Iowa									
Northern	154	709	154	154	94	59	153	154	0
Southern	215	1,015	215	215	155	57	215	215	0
Minnesota	314	1,540	314	314	287	27	314	311	3
Missouri									
Eastern	502	2,477	502	501	472	29	500	502	0
Western	387	1,774	387	384	232	155	386	385	2
Nebraska	336	1,646	336	336	302	34	336	336	0
North Dakota	127	563	127	127	66	59	127	116	11
South Dakota	246	1,172	246	246	188	58	246	246	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	7,777	36,828	7,776	7,494	6,956	779	7,757	6,845	931
Alaska	84	383	84	84	52	32	84	79	5
Arizona	1,927	9,155	1,927	1,768	1,764	159	1,926	1,770	157
California									
Central	965	4,629	964	935	839	110	958	933	31
Eastern	509	2,486	509	505	461	41	507	504	5
Northern	323	1,502	323	309	269	51	322	279	44
Southern	2,240	10,396	2,240	2,170	2,090	147	2,237	1,659	581
Guam	18	84	18	18	12	6	18	18	0
Hawaii	165	761	165	165	104	60	165	162	3
Idaho	173	832	173	171	147	26	171	170	3
Montana	216	1,031	216	215	170	45	216	214	2
Nevada	188	897	188	188	146	40	188	187	1
Northern Mariana Islands	13	64	13	13	12	1	13	13	0
Oregon	311	1,519	311	309	288	23	311	300	11
Washington									
Eastern	188	908	188	188	160	25	187	185	3
Western	457	2,181	457	456	442	13	454	372	85
TENTH CIRCUIT	3,001	13,960	3,001	2,992	2,128	856	2,996	2,843	158
Colorado	268	1,326	268	265	263	5	268	262	6
Kansas	354	1,716	354	349	313	39	353	347	7
New Mexico	1,480	6,809	1,480	1,479	901	577	1,479	1,470	10
Oklahoma									
Eastern	38	175	38	38	23	14	38	38	0
Northern	122	548	122	122	63	58	120	121	1
Western	215	888	215	215	122	84	215	121	94
Utah	344	1,656	344	344	314	28	343	311	33
Wyoming	180	842	180	180	129	51	180	173	7
ELEVENTH CIRCUIT	3,584	16,438	3,584	3,512	2,410	1,143	3,575	3,357	227
Alabama									
Middle	112	545	112	111	99	13	111	112	0
Northern	247	1,145	247	238	179	62	247	234	13
Southern	223	1,068	223	223	182	41	222	218	5
Florida									
Middle	867	4,017	867	866	551	311	866	867	0
Northern	200	926	200	200	131	68	200	195	5
Southern	1,099	4,968	1,099	1,042	679	408	1,094	1,054	45
Georgia									
Middle	202	862	202	201	111	88	202	146	56
Northern	345	1,661	345	342	289	56	344	341	4
Southern	289	1,246	289	289	189	96	289	190	99

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 75 cases for which the Commission was unable to determine definitively whether the defendant's guilty plea was entered pursuant to a written plea agreement.

Table 28

**RATE OF SUBMISSION OF STATEMENT OF REASONS FORM
IN EACH CIRCUIT AND DISTRICT
2nd Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through March 31, 2009)**

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
TOTAL	38,105	33,362	87.6	4,106	10.8	637	1.7
D.C. CIRCUIT	201	199	99.0	2	1.0	0	0.0
District of Columbia	201	199	99.0	2	1.0	0	0.0
FIRST CIRCUIT	805	795	98.8	8	1.0	2	0.2
Maine	100	99	99.0	1	1.0	0	0.0
Massachusetts	242	241	99.6	0	0.0	1	0.4
New Hampshire	88	86	97.7	2	2.3	0	0.0
Puerto Rico	320	314	98.1	5	1.6	1	0.3
Rhode Island	55	55	100.0	0	0.0	0	0.0
SECOND CIRCUIT	2,155	2,078	96.4	44	2.0	33	1.5
Connecticut	190	189	99.5	1	0.5	0	0.0
New York							
Eastern	538	505	93.9	30	5.6	3	0.6
Northern	273	243	89.0	2	0.7	28	10.3
Southern	725	716	98.8	7	1.0	2	0.3
Western	334	333	99.7	1	0.3	0	0.0
Vermont	95	92	96.8	3	3.2	0	0.0
THIRD CIRCUIT	1,409	1,020	72.4	383	27.2	6	0.4
Delaware	60	59	98.3	1	1.7	0	0.0
New Jersey	430	52	12.1	378	87.9	0	0.0
Pennsylvania							
Eastern	386	383	99.2	1	0.3	2	0.5
Middle	287	285	99.3	2	0.7	0	0.0
Western	216	214	99.1	1	0.5	1	0.5
Virgin Islands	30	27	90.0	0	0.0	3	10.0
FOURTH CIRCUIT	3,237	3,001	92.7	46	1.4	190	5.9
Maryland	347	326	93.9	4	1.2	17	4.9
North Carolina							
Eastern	311	303	97.4	3	1.0	5	1.6
Middle	195	195	100.0	0	0.0	0	0.0
Western	299	295	98.7	2	0.7	2	0.7
South Carolina	506	505	99.8	0	0.0	1	0.2
Virginia							
Eastern	998	798	80.0	35	3.5	165	16.5
Western	239	239	100.0	0	0.0	0	0.0
West Virginia							
Northern	199	197	99.0	2	1.0	0	0.0
Southern	143	143	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	%
FIFTH CIRCUIT	9,403	6,228	66.2	3,157	33.6	18	0.2
Louisiana							
Eastern	215	213	99.1	2	0.9	0	0.0
Middle	83	82	98.8	1	1.2	0	0.0
Western	190	176	92.6	13	6.8	1	0.5
Mississippi							
Northern	58	57	98.3	1	1.7	0	0.0
Southern	143	136	95.1	1	0.7	6	4.2
Texas							
Eastern	509	506	99.4	2	0.4	1	0.2
Northern	442	441	99.8	1	0.2	0	0.0
Southern	3,649	3,632	99.5	16	0.4	1	0.0
Western	4,114	985	23.9	3,120	75.8	9	0.2
SIXTH CIRCUIT	2,566	2,459	95.8	87	3.4	20	0.8
Kentucky							
Eastern	339	336	99.1	3	0.9	0	0.0
Western	197	195	99.0	2	1.0	0	0.0
Michigan							
Eastern	374	369	98.7	2	0.5	3	0.8
Western	241	240	99.6	1	0.4	0	0.0
Ohio							
Northern	340	337	99.1	2	0.6	1	0.3
Southern	307	277	90.2	29	9.4	1	0.3
Tennessee							
Eastern	281	280	99.6	1	0.4	0	0.0
Middle	171	126	73.7	33	19.3	12	7.0
Western	316	299	94.6	14	4.4	3	0.9
SEVENTH CIRCUIT	1,336	1,298	97.2	31	2.3	7	0.5
Illinois							
Central	173	173	100.0	0	0.0	0	0.0
Northern	354	351	99.2	1	0.3	2	0.6
Southern	154	152	98.7	2	1.3	0	0.0
Indiana							
Northern	219	214	97.7	0	0.0	5	2.3
Southern	113	113	100.0	0	0.0	0	0.0
Wisconsin							
Eastern	227	200	88.1	27	11.9	0	0.0
Western	96	95	99.0	1	1.0	0	0.0
EIGHTH CIRCUIT	2,631	2,588	98.4	36	1.4	7	0.3
Arkansas							
Eastern	201	198	98.5	1	0.5	2	1.0
Western	149	148	99.3	0	0.0	1	0.7
Iowa							
Northern	154	153	99.4	1	0.6	0	0.0
Southern	215	212	98.6	3	1.4	0	0.0
Minnesota	314	295	93.9	19	6.1	0	0.0
Missouri							
Eastern	502	496	98.8	5	1.0	1	0.2
Western	387	381	98.4	3	0.8	3	0.8
Nebraska	336	334	99.4	2	0.6	0	0.0
North Dakota	127	127	100.0	0	0.0	0	0.0
South Dakota	246	244	99.2	2	0.8	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
NINTH CIRCUIT	7,777	7,285	93.7	215	2.8	277	3.6
Alaska	84	83	98.8	1	1.2	0	0.0
Arizona	1,927	1,760	91.3	9	0.5	158	8.2
California							
Central	965	928	96.2	11	1.1	26	2.7
Eastern	509	502	98.6	3	0.6	4	0.8
Northern	323	305	94.4	5	1.5	13	4.0
Southern	2,240	2,159	96.4	11	0.5	70	3.1
Guam	18	18	100.0	0	0.0	0	0.0
Hawaii	165	163	98.8	2	1.2	0	0.0
Idaho	173	171	98.8	0	0.0	2	1.2
Montana	216	214	99.1	1	0.5	1	0.5
Nevada	188	187	99.5	1	0.5	0	0.0
Northern Mariana Islands	13	13	100.0	0	0.0	0	0.0
Oregon	311	143	46.0	166	53.4	2	0.6
Washington							
Eastern	188	187	99.5	1	0.5	0	0.0
Western	457	452	98.9	4	0.9	1	0.2
TENTH CIRCUIT	3,001	2,942	98.0	50	1.7	9	0.3
Colorado	268	258	96.3	7	2.6	3	1.1
Kansas	354	347	98.0	2	0.6	5	1.4
New Mexico	1,480	1,468	99.2	11	0.7	1	0.1
Oklahoma							
Eastern	38	38	100.0	0	0.0	0	0.0
Northern	122	122	100.0	0	0.0	0	0.0
Western	215	212	98.6	3	1.4	0	0.0
Utah	344	317	92.2	27	7.8	0	0.0
Wyoming	180	180	100.0	0	0.0	0	0.0
ELEVENTH CIRCUIT	3,584	3,469	96.8	47	1.3	68	1.9
Alabama							
Middle	112	111	99.1	0	0.0	1	0.9
Northern	247	238	96.4	3	1.2	6	2.4
Southern	223	221	99.1	2	0.9	0	0.0
Florida							
Middle	867	862	99.4	4	0.5	1	0.1
Northern	200	199	99.5	1	0.5	0	0.0
Southern	1,099	1,038	94.4	5	0.5	56	5.1
Georgia							
Middle	202	190	94.1	11	5.4	1	0.5
Northern	345	324	93.9	18	5.2	3	0.9
Southern	289	286	99.0	3	1.0	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 (including any months of alternative confinement as defined in §5C1.1) ordered for cases committed to the Bureau of Prisons. 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 FY06 *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