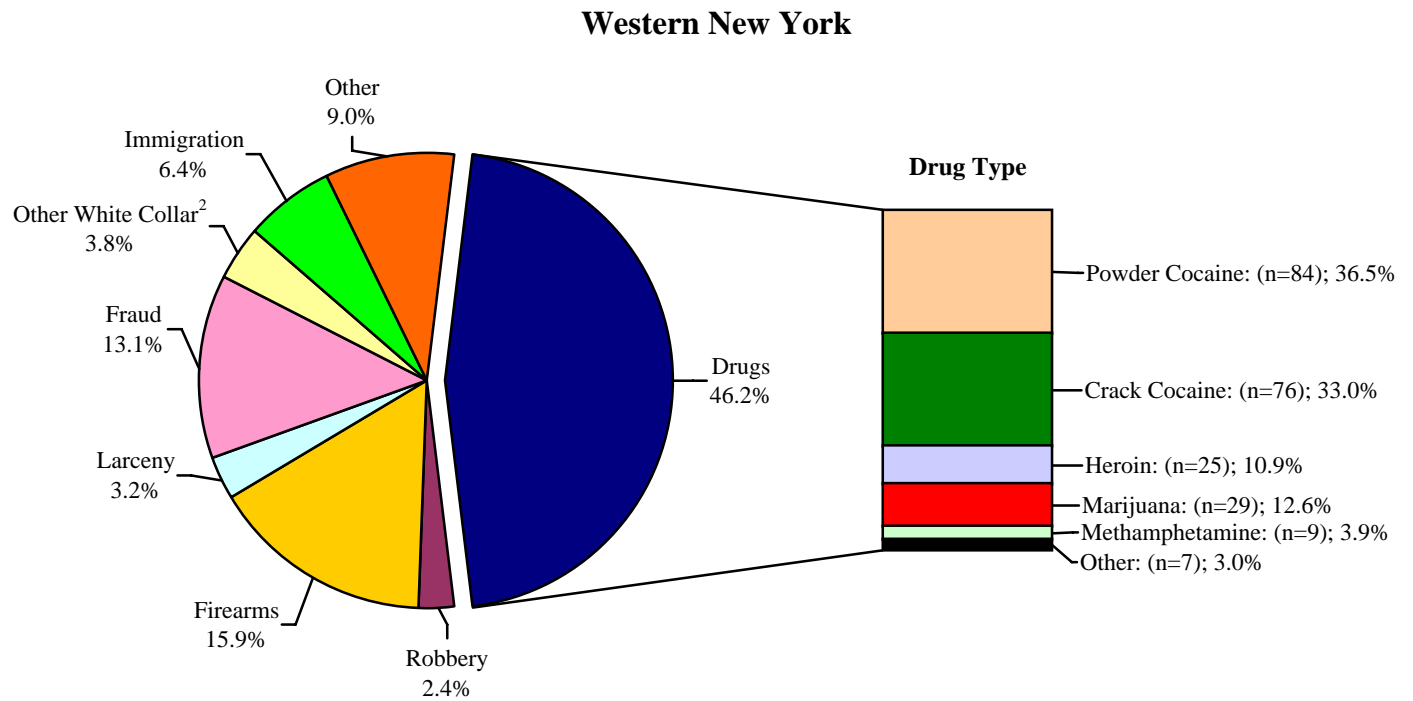
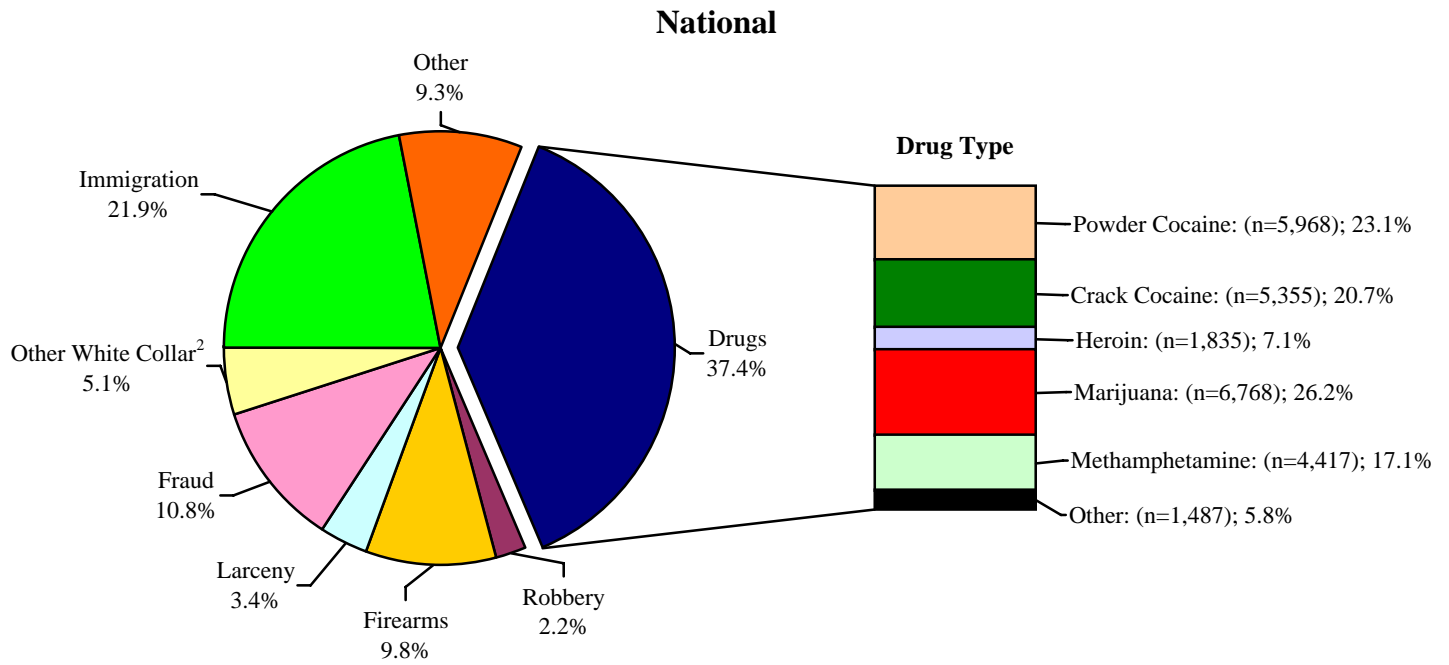


**Figure A**

**DISTRIBUTION OF SENTENCED GUIDELINE OFFENDERS BY SELECT PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Fiscal Year 2003**



<sup>1</sup>Of the 70,258 guideline cases, 1,245 cases were excluded due to one of the following reasons: missing primary offense category (578) or missing drug type (667). Of the 499 guideline cases from the District of Western New York, one case was excluded due to missing primary offense category.

<sup>2</sup>The Other White Collar category includes the following offense types: Embezzlement, Forgery/Counterfeiting, Bribery, Money Laundering and Tax.

**Table 1**

**DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2003**

PRIMARY OFFENSE	National		Western New York	
	Number	Percent	Number	Percent
<b>TOTAL</b>	<b>69,680</b>	<b>100.0</b>	<b>498</b>	<b>100.0</b>
Murder	80	0.1	0	0.0
Manslaughter	48	0.1	0	0.0
Kidnapping/Hostage Taking	59	0.1	0	0.0
Sexual Abuse	272	0.4	0	0.0
Assault	546	0.8	2	0.4
Robbery	1,537	2.2	12	2.4
Arson	82	0.1	0	0.0
Drugs - Trafficking	24,882	35.7	204	41.0
Drugs - Communication Facility	393	0.6	10	2.0
Drugs - Simple Possession	1,222	1.8	16	3.2
Firearms	6,795	9.8	79	15.9
Burglary/B&E	51	0.1	0	0.0
Auto Theft	142	0.2	3	0.6
Larceny	2,362	3.4	16	3.2
Fraud	7,468	10.7	65	13.1
Embezzlement	761	1.1	4	0.8
Forgery/Counterfeiting	1,267	1.8	1	0.2
Bribery	169	0.2	0	0.0
Tax	490	0.7	8	1.6
Money Laundering	831	1.2	6	1.2
Racketeering/Extortion	823	1.2	3	0.6
Gambling/Lottery	90	0.1	4	0.8
Civil Rights	66	0.1	0	0.0
Immigration	15,081	21.6	32	6.4
Pornography/Prostitution	801	1.1	14	2.8
Prison Offenses	370	0.5	0	0.0
Administration of Justice Offenses	1,044	1.5	8	1.6
Environmental/Wildlife	143	0.2	0	0.0
National Defense	21	0.0	1	0.2
Antitrust	12	0.0	0	0.0
Food & Drug	78	0.1	4	0.8
Other Miscellaneous Offenses	1,694	2.4	6	1.2

Of the 70,258 guideline cases, 578 cases were excluded due to missing information on primary offense category.

Of the 499 guideline cases from the District of Western New York, one case was excluded due to missing information on primary offense category.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2003 Datafile, OPAFY03.

Table 2

**MODE OF CONVICTION BY CIRCUIT AND DISTRICT  
Fiscal Year 2003**

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
<b>TOTAL</b>	<b>69,624</b>	<b>66,628</b>	<b>95.7</b>	<b>2,996</b>	<b>4.3</b>
<b>D.C. CIRCUIT</b>	<b>504</b>	<b>463</b>	<b>91.9</b>	<b>41</b>	<b>8.1</b>
District of Columbia	504	463	91.9	41	8.1
<b>FIRST CIRCUIT</b>	<b>1,886</b>	<b>1,788</b>	<b>94.8</b>	<b>98</b>	<b>5.2</b>
Maine	170	159	93.5	11	6.5
Massachusetts	565	519	91.9	46	8.1
New Hampshire	187	183	97.9	4	2.1
Puerto Rico	840	809	96.3	31	3.7
Rhode Island	124	118	95.2	6	4.8
<b>SECOND CIRCUIT</b>	<b>5,144</b>	<b>4,889</b>	<b>95.0</b>	<b>255</b>	<b>5.0</b>
Connecticut	402	379	94.3	23	5.7
New York					
Eastern	1,854	1,785	96.3	69	3.7
Northern	394	381	96.7	13	3.3
Southern	1,823	1,695	93.0	128	7.0
Western	497	479	96.4	18	3.6
Vermont	174	170	97.7	4	2.3
<b>THIRD CIRCUIT</b>	<b>2,819</b>	<b>2,662</b>	<b>94.4</b>	<b>157</b>	<b>5.6</b>
Delaware	153	146	95.4	7	4.6
New Jersey	871	836	96.0	35	4.0
Pennsylvania					
Eastern	975	903	92.6	72	7.4
Middle	341	322	94.4	19	5.6
Western	386	371	96.1	15	3.9
Virgin Islands	93	84	90.3	9	9.7
<b>FOURTH CIRCUIT</b>	<b>6,363</b>	<b>6,002</b>	<b>94.3</b>	<b>361</b>	<b>5.7</b>
Maryland	594	540	90.9	54	9.1
North Carolina					
Eastern	654	624	95.4	30	4.6
Middle	352	329	93.5	23	6.5
Western	592	554	93.6	38	6.4
South Carolina	1,045	1,006	96.3	39	3.7
Virginia					
Eastern	1,975	1,868	94.6	107	5.4
Western	573	537	93.7	36	6.3
West Virginia					
Northern	264	255	96.6	9	3.4
Southern	314	289	92.0	25	8.0

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
<b>FIFTH CIRCUIT</b>	<b>13,439</b>	<b>13,070</b>	<b>97.3</b>	<b>369</b>	<b>2.7</b>
Louisiana					
Eastern	497	485	97.6	12	2.4
Middle	121	113	93.4	8	6.6
Western	361	343	95.0	18	5.0
Mississippi					
Northern	168	154	91.7	14	8.3
Southern	435	421	96.8	14	3.2
Texas					
Eastern	639	608	95.1	31	4.9
Northern	1,131	1,101	97.3	30	2.7
Southern	5,040	4,899	97.2	141	2.8
Western	5,047	4,946	98.0	101	2.0
<b>SIXTH CIRCUIT</b>	<b>4,921</b>	<b>4,677</b>	<b>95.0</b>	<b>244</b>	<b>5.0</b>
Kentucky					
Eastern	482	463	96.1	19	3.9
Western	440	423	96.1	17	3.9
Michigan					
Eastern	702	653	93.0	49	7.0
Western	447	418	93.5	29	6.5
Ohio					
Northern	924	894	96.8	30	3.2
Southern	525	504	96.0	21	4.0
Tennessee					
Eastern	623	593	95.2	30	4.8
Middle	274	262	95.6	12	4.4
Western	504	467	92.7	37	7.3
<b>SEVENTH CIRCUIT</b>	<b>3,119</b>	<b>2,905</b>	<b>93.1</b>	<b>214</b>	<b>6.9</b>
Illinois					
Central	372	349	93.8	23	6.2
Northern	1,265	1,182	93.4	83	6.6
Southern	352	338	96.0	14	4.0
Indiana					
Northern	393	365	92.9	28	7.1
Southern	278	247	88.8	31	11.2
Wisconsin					
Eastern	286	264	92.3	22	7.7
Western	173	160	92.5	13	7.5
<b>EIGHTH CIRCUIT</b>	<b>4,401</b>	<b>4,165</b>	<b>94.6</b>	<b>236</b>	<b>5.4</b>
Arkansas					
Eastern	239	230	96.2	9	3.8
Western	193	187	96.9	6	3.1
Iowa					
Northern	420	391	93.1	29	6.9
Southern	402	376	93.5	26	6.5
Minnesota	472	437	92.6	35	7.4
Missouri					
Eastern	751	725	96.5	26	3.5
Western	698	669	95.8	29	4.2
Nebraska	706	671	95.0	35	5.0
North Dakota	212	194	91.5	18	8.5
South Dakota	308	285	92.5	23	7.5

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
<b>NINTH CIRCUIT</b>	<b>15,342</b>	<b>14,906</b>	<b>97.2</b>	<b>436</b>	<b>2.8</b>
Alaska	156	145	92.9	11	7.1
Arizona	4,560	4,516	99.0	44	1.0
California					
Central	1,733	1,644	94.9	89	5.1
Eastern	934	902	96.6	32	3.4
Northern	679	651	95.9	28	4.1
Southern	3,774	3,702	98.1	72	1.9
Guam	94	90	95.7	4	4.3
Hawaii	333	321	96.4	12	3.6
Idaho	271	254	93.7	17	6.3
Montana	346	305	88.2	41	11.8
Nevada	710	686	96.6	24	3.4
Northern Mariana Islands	23	16	69.6	7	30.4
Oregon	653	624	95.6	29	4.4
Washington					
Eastern	375	360	96.0	15	4.0
Western	701	690	98.4	11	1.6
<b>TENTH CIRCUIT</b>	<b>4,714</b>	<b>4,567</b>	<b>96.9</b>	<b>147</b>	<b>3.1</b>
Colorado	600	583	97.2	17	2.8
Kansas	564	541	95.9	23	4.1
New Mexico	2,035	1,999	98.2	36	1.8
Oklahoma					
Eastern	81	79	97.5	2	2.5
Northern	174	163	93.7	11	6.3
Western	172	160	93.0	12	7.0
Utah	867	841	97.0	26	3.0
Wyoming	221	201	91.0	20	9.0
<b>ELEVENTH CIRCUIT</b>	<b>6,972</b>	<b>6,534</b>	<b>93.7</b>	<b>438</b>	<b>6.3</b>
Alabama					
Middle	174	154	88.5	20	11.5
Northern	505	477	94.5	28	5.5
Southern	321	300	93.5	21	6.5
Florida					
Middle	1,568	1,468	93.6	100	6.4
Northern	377	346	91.8	31	8.2
Southern	2,284	2,118	92.7	166	7.3
Georgia					
Middle	564	544	96.5	20	3.5
Northern	769	726	94.4	43	5.6
Southern	410	401	97.8	9	2.2

Of the 70,258 guideline cases, 634 cases were excluded due to missing information on mode of conviction.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2003 Datafile, OPAFY03.

**Table 3**

**MODE OF CONVICTION BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2003**

PRIMARY OFFENSE	TOTAL	National				Western New York			
		PLEA		TRIAL		PLEA		TRIAL	
		n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>69,584</b>	<b>66,591</b>	<b>95.7</b>	<b>2,993</b>	<b>4.3</b>	<b>479</b>	<b>96.4</b>	<b>18</b>	<b>3.6</b>
<b>Murder</b>	<b>80</b>	65	81.3	15	18.8	0	--	0	--
<b>Manslaughter</b>	<b>48</b>	48	100.0	0	0.0	0	--	0	--
<b>Kidnapping/Hostage Taking</b>	<b>59</b>	40	67.8	19	32.2	0	--	0	--
<b>Sexual Abuse</b>	<b>272</b>	242	89.0	30	11.0	0	--	0	--
<b>Assault</b>	<b>543</b>	494	91.0	49	9.0	2	100.0	0	0.0
<b>Robbery</b>	<b>1,535</b>	1,446	94.2	89	5.8	12	100.0	0	0.0
<b>Arson</b>	<b>82</b>	71	86.6	11	13.4	0	--	0	--
<b>Drugs - Trafficking</b>	<b>24,857</b>	23,720	95.4	1,137	4.6	191	93.6	13	6.4
<b>Drugs - Communication Facility</b>	<b>392</b>	392	100.0	0	0.0	10	100.0	0	0.0
<b>Drugs - Simple Possession</b>	<b>1,220</b>	1,184	97.0	36	3.0	16	100.0	0	0.0
<b>Firearms</b>	<b>6,783</b>	6,237	92.0	546	8.0	76	96.2	3	3.8
<b>Burglary/B&amp;E</b>	<b>51</b>	48	94.1	3	5.9	0	--	0	--
<b>Auto Theft</b>	<b>142</b>	133	93.7	9	6.3	3	100.0	0	0.0
<b>Larceny</b>	<b>2,360</b>	2,299	97.4	61	2.6	16	100.0	0	0.0
<b>Fraud</b>	<b>7,462</b>	7,103	95.2	359	4.8	64	98.5	1	1.5
<b>Embezzlement</b>	<b>761</b>	749	98.4	12	1.6	4	100.0	0	0.0
<b>Forgery/Counterfeiting</b>	<b>1,267</b>	1,246	98.3	21	1.7	1	100.0	0	0.0
<b>Bribery</b>	<b>168</b>	162	96.4	6	3.6	0	--	0	--
<b>Tax</b>	<b>489</b>	449	91.8	40	8.2	7	100.0	0	0.0
<b>Money Laundering</b>	<b>827</b>	731	88.4	96	11.6	6	100.0	0	0.0
<b>Racketeering/Extortion</b>	<b>821</b>	731	89.0	90	11.0	3	100.0	0	0.0
<b>Gambling/Lottery</b>	<b>90</b>	87	96.7	3	3.3	4	100.0	0	0.0
<b>Civil Rights</b>	<b>66</b>	56	84.8	10	15.2	0	--	0	--
<b>Immigration</b>	<b>15,066</b>	14,896	98.9	170	1.1	32	100.0	0	0.0
<b>Pornography/Prostitution</b>	<b>801</b>	762	95.1	39	4.9	14	100.0	0	0.0
<b>Prison Offenses</b>	<b>370</b>	360	97.3	10	2.7	0	--	0	--
<b>Administration of Justice Offenses</b>	<b>1,041</b>	984	94.5	57	5.5	7	87.5	1	12.5
<b>Environmental/Wildlife</b>	<b>143</b>	133	93.0	10	7.0	0	--	0	--
<b>National Defense</b>	<b>21</b>	17	81.0	4	19.0	1	100.0	0	0.0
<b>Antitrust</b>	<b>12</b>	12	100.0	0	0.0	0	--	0	--
<b>Food &amp; Drug</b>	<b>77</b>	73	94.8	4	5.2	4	100.0	0	0.0
<b>Other Miscellaneous Offenses</b>	<b>1,678</b>	1,621	96.6	57	3.4	6	100.0	0	0.0

Of the 70,258 guideline cases, 674 cases were excluded due to one or both of the following reasons: missing primary offense category (578) or missing mode of conviction (634).

Of the 499 guideline cases from the District of Western New York, two cases were excluded due to one or both of the following reasons: missing primary offense category (1) or missing mode of conviction (2).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2003 Datafile, OPAFY03.

**Table 4**  
**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2003**

**National**

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>TOTAL</b>	<b>69,023</b>	<b>57,509</b>	<b>83.3</b>	<b>2,045</b>	<b>3.0</b>	<b>3,272</b>	<b>4.7</b>	<b>6,197</b>	<b>9.0</b>
Murder	80	80	100.0	0	0.0	0	0.0	0	0.0
Manslaughter	48	39	81.3	5	10.4	4	8.3	0	0.0
Kidnapping/Hostage Taking	59	58	98.3	0	0.0	1	1.7	0	0.0
Sexual Abuse	271	247	91.1	5	1.8	10	3.7	9	3.3
Assault	536	415	77.4	17	3.2	30	5.6	74	13.8
Robbery	1,530	1,484	97.0	20	1.3	16	1.0	10	0.7
Arson	82	74	90.2	0	0.0	5	6.1	3	3.7
Drugs - Trafficking	24,779	23,348	94.2	428	1.7	469	1.9	534	2.2
Drugs - Communication Facility	389	328	84.3	6	1.5	24	6.2	31	8.0
Drugs - Simple Possession	1,162	662	57.0	3	0.3	42	3.6	455	39.2
Firearms	6,761	6,035	89.3	195	2.9	241	3.6	290	4.3
Burglary/B&E	51	44	86.3	4	7.8	3	5.9	0	0.0
Auto Theft	141	112	79.4	5	3.5	10	7.1	14	9.9
Larceny	2,306	861	37.3	148	6.4	394	17.1	903	39.2
Fraud	7,397	4,407	59.6	578	7.8	924	12.5	1,488	20.1
Embezzlement	748	272	36.4	127	17.0	105	14.0	244	32.6
Forgery/Counterfeiting	1,261	765	60.7	69	5.5	170	13.5	257	20.4
Bribery	167	74	44.3	11	6.6	36	21.6	46	27.5
Tax	480	216	45.0	56	11.7	106	22.1	102	21.3
Money Laundering	826	636	77.0	42	5.1	68	8.2	80	9.7
Racketeering/Extortion	815	712	87.4	34	4.2	32	3.9	37	4.5
Gambling/Lottery	90	20	22.2	7	7.8	41	45.6	22	24.4
Civil Rights	66	37	56.1	8	12.1	8	12.1	13	19.7
Immigration	14,994	14,313	95.5	141	0.9	172	1.1	368	2.5
Pornography/Prostitution	796	718	90.2	13	1.6	27	3.4	38	4.8
Prison Offenses	368	336	91.3	11	3.0	6	1.6	15	4.1
Administration of Justice Offenses	1,032	576	55.8	60	5.8	135	13.1	261	25.3
Environmental/Wildlife	131	26	19.8	13	9.9	27	20.6	65	49.6
National Defense	21	19	90.5	0	0.0	0	0.0	2	9.5
Antitrust	10	5	50.0	0	0.0	5	50.0	0	0.0
Food & Drug	73	20	27.4	1	1.4	16	21.9	36	49.3
Other Miscellaneous Offenses	1,553	570	36.7	38	2.4	145	9.3	800	51.5

Of the 70,258 guideline cases, 1,235 cases were excluded due to one or more of the following reasons: missing sentencing information (427), missing primary offense category (578), or cases in which the defendant received no imprisonment or probation (775).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2003 Datafile, OPAFY03.

**Table 5**

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2003**

**Western New York**

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>TOTAL</b>	<b>489</b>	<b>340</b>	<b>69.5</b>	<b>10</b>	<b>2.0</b>	<b>46</b>	<b>9.4</b>	<b>93</b>	<b>19.0</b>
Murder	0	0	--	0	--	0	--	0	--
Manslaughter	0	0	--	0	--	0	--	0	--
Kidnapping/Hostage Taking	0	0	--	0	--	0	--	0	--
Sexual Abuse	0	0	--	0	--	0	--	0	--
Assault	2	1	50.0	0	0.0	0	0.0	1	50.0
Robbery	11	11	100.0	0	0.0	0	0.0	0	0.0
Arson	0	0	--	0	--	0	--	0	--
Drugs - Trafficking	201	165	82.1	6	3.0	12	6.0	18	9.0
Drugs - Communication Facility	10	4	40.0	0	0.0	3	30.0	3	30.0
Drugs - Simple Possession	15	1	6.7	0	0.0	3	20.0	11	73.3
Firearms	79	70	88.6	1	1.3	3	3.8	5	6.3
Burglary/B&E	0	0	--	0	--	0	--	0	--
Auto Theft	3	0	0.0	0	0.0	3	100.0	0	0.0
Larceny	16	2	12.5	0	0.0	5	31.3	9	56.3
Fraud	64	28	43.8	2	3.1	9	14.1	25	39.1
Embezzlement	4	1	25.0	1	25.0	0	0.0	2	50.0
Forgery/Counterfeiting	1	0	0.0	0	0.0	1	100.0	0	0.0
Bribery	0	0	--	0	--	0	--	0	--
Tax	6	0	0.0	0	0.0	1	16.7	5	83.3
Money Laundering	6	5	83.3	0	0.0	0	0.0	1	16.7
Racketeering/Extortion	3	3	100.0	0	0.0	0	0.0	0	0.0
Gambling/Lottery	4	0	0.0	0	0.0	3	75.0	1	25.0
Civil Rights	0	0	--	0	--	0	--	0	--
Immigration	32	27	84.4	0	0.0	0	0.0	5	15.6
Pornography/Prostitution	14	13	92.9	0	0.0	1	7.1	0	0.0
Prison Offenses	0	0	--	0	--	0	--	0	--
Administration of Justice Offenses	8	6	75.0	0	0.0	1	12.5	1	12.5
Environmental/Wildlife	0	0	--	0	--	0	--	0	--
National Defense	1	1	100.0	0	0.0	0	0.0	0	0.0
Antitrust	0	0	--	0	--	0	--	0	--
Food & Drug	3	0	0.0	0	0.0	0	0.0	3	100.0
Other Miscellaneous Offenses	6	2	33.3	0	0.0	1	16.7	3	50.0

Of the 499 guideline cases from the District of Western New York, 10 cases were excluded due to one or more of the following reasons: missing sentencing information (6), missing primary offense category (1), or cases in which the defendant received no imprisonment or probation (4).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2003 Datafile, OPAFY03



**Table 6**

**INCARCERATION RATE OF DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2003**

PRIMARY OFFENSE	TOTAL	National				Western New York			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>TOTAL</b>	<b>13,232</b>	<b>6,808</b>	<b>51.5</b>	<b>6,424</b>	<b>48.5</b>	<b>26</b>	<b>24.3</b>	<b>81</b>	<b>75.7</b>
<b>Fraud</b>	<b>2,880</b>	1,197	41.6	1,683	58.4	7	21.9	25	78.1
<b>Larceny</b>	<b>1,456</b>	298	20.5	1,158	79.5	2	18.2	9	81.8
<b>Immigration</b>	<b>3,808</b>	3,376	88.7	432	11.3	10	76.9	3	23.1
<b>Embezzlement</b>	<b>481</b>	172	35.8	309	64.2	1	50.0	1	50.0
<b>Drugs - Trafficking</b>	<b>707</b>	338	47.8	369	52.2	2	22.2	7	77.8
<b>Drugs - Simple Possession</b>	<b>1,049</b>	588	56.1	461	43.9	0	0.0	14	100.0
<b>Firearms</b>	<b>345</b>	131	38.0	214	62.0	1	100.0	0	0.0
<b>Forgery/Counterfeiting</b>	<b>509</b>	161	31.6	348	68.4	0	0.0	1	100.0
<b>Other Miscellaneous Offenses</b>	<b>1,997</b>	547	27.4	1,450	72.6	3	12.5	21	87.5

Of the 70,258 guideline cases, 57,026 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (56,641), missing sentencing information (427) or missing primary offense category (578).

Of the 499 guideline cases from the District of Western New York, 392 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (391), missing sentencing information (6) or missing primary offense category (1).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2003 Datafile, OPAFY03.

**Table 7**

**AVERAGE LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2003**

PRIMARY OFFENSE	National			Western New York		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
<b>TOTAL</b>	<b>56.0</b>	<b>33.0</b>	<b>58,816</b>	<b>55.2</b>	<b>37.0</b>	<b>347</b>
<b>Murder</b>	247.5	180.0	80	--	--	0
<b>Manslaughter</b>	34.8	21.0	44	--	--	0
<b>Kidnapping/Hostage Taking</b>	162.7	120.5	58	--	--	0
<b>Sexual Abuse</b>	78.2	48.0	252	--	--	0
<b>Assault</b>	38.5	30.0	422	--	--	1
<b>Robbery</b>	103.5	72.0	1,504	48.3	36.0	11
<b>Arson</b>	96.2	60.0	74	--	--	0
<b>Drugs - Trafficking</b>	80.1	60.0	23,724	70.8	48.0	170
<b>Drugs - Communication Facility</b>	47.4	48.0	333	32.0	34.0	4
<b>Drugs - Simple Possession</b>	8.5	6.0	648	--	--	1
<b>Firearms</b>	75.8	46.0	6,218	56.3	51.0	71
<b>Burglary/B&amp;E</b>	25.4	24.0	48	--	--	0
<b>Auto Theft</b>	73.0	27.0	117	--	--	0
<b>Larceny</b>	16.6	12.0	1,004	--	--	2
<b>Fraud</b>	20.1	14.0	4,898	17.4	11.2	30
<b>Embezzlement</b>	9.6	5.0	395	--	--	2
<b>Forgery/Counterfeiting</b>	17.9	15.0	830	--	--	0
<b>Bribery</b>	16.2	12.0	85	--	--	0
<b>Tax</b>	18.6	12.0	271	--	--	0
<b>Money Laundering</b>	54.7	33.0	672	16.2	12.0	5
<b>Racketeering/Extortion</b>	77.8	46.0	746	161.0	72.0	3
<b>Gambling/Lottery</b>	12.9	13.3	27	--	--	0
<b>Civil Rights</b>	55.9	24.0	45	--	--	0
<b>Immigration</b>	24.1	21.0	13,967	18.2	13.5	26
<b>Pornography/Prostitution</b>	69.0	37.0	731	37.2	30.0	13
<b>Prison Offenses</b>	18.0	14.0	346	--	--	0
<b>Administration of Justice Offenses</b>	24.5	15.0	627	37.0	37.5	6
<b>Environmental/Wildlife</b>	13.3	6.5	38	--	--	0
<b>National Defense</b>	83.5	30.0	19	--	--	1
<b>Antitrust</b>	12.8	10.0	5	--	--	0
<b>Food &amp; Drug</b>	43.6	13.0	21	--	--	0
<b>Other Miscellaneous Offenses</b>	19.7	10.0	567	--	--	1

Of the 70,258 guideline cases, 11,442 cases were excluded for one or more of the following reasons: zero months prison ordered (10,134), missing primary offense category (578) or missing or indeterminable sentencing information (1,281).

Of the 499 guideline cases from the District of Western New York, 152 cases were excluded due to one or more of the following reasons: zero prison months ordered (143), missing primary offense category (1) or missing or indeterminable sentencing information (9).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2003 Datafile, OPAFY03.

**Table 8**

**GUIDELINE DEPARTURE RATE BY CIRCUIT AND DISTRICT  
Fiscal Year 2003**

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		SUBSTANTIAL ASSISTANCE DEPARTURE		GOVERNMENT INITIATED DEPARTURE		OTHER DOWNWARD DEPARTURE		UPWARD DEPARTURE	
		n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>65,171</b>	<b>45,253</b>	<b>69.4</b>	<b>10,360</b>	<b>15.9</b>	<b>4,121</b>	<b>6.3</b>	<b>4,896</b>	<b>7.5</b>	<b>541</b>	<b>0.8</b>
<b>D.C. CIRCUIT</b>	<b>477</b>	<b>308</b>	<b>64.6</b>	<b>126</b>	<b>26.4</b>	<b>21</b>	<b>4.4</b>	<b>21</b>	<b>4.4</b>	<b>1</b>	<b>0.2</b>
District of Columbia	477	308	64.6	126	26.4	21	4.4	21	4.4	1	0.2
<b>FIRST CIRCUIT</b>	<b>1,832</b>	<b>1,417</b>	<b>77.3</b>	<b>247</b>	<b>13.5</b>	<b>12</b>	<b>0.7</b>	<b>143</b>	<b>7.8</b>	<b>13</b>	<b>0.7</b>
Maine	167	130	77.8	32	19.2	0	0.0	4	2.4	1	0.6
Massachusetts	557	382	68.6	72	12.9	4	0.7	96	17.2	3	0.5
New Hampshire	187	105	56.1	61	32.6	2	1.1	12	6.4	7	3.7
Puerto Rico	803	705	87.8	70	8.7	6	0.7	21	2.6	1	0.1
Rhode Island	118	95	80.5	12	10.2	0	0.0	10	8.5	1	0.8
<b>SECOND CIRCUIT</b>											
Connecticut	399	202	50.6	39	9.8	28	7.0	125	31.3	5	1.3
<b>New York</b>											
Eastern	1,688	933	55.3	276	16.4	90	5.3	385	22.8	4	0.2
Northern	371	221	59.6	93	25.1	2	0.5	49	13.2	6	1.6
Southern	1,647	1,292	78.4	214	13.0	3	0.2	136	8.3	2	0.1
Western	484	268	55.4	161	33.3	10	2.1	42	8.7	3	0.6
Vermont	174	96	55.2	49	28.2	0	0.0	27	15.5	2	1.1
<b>THIRD CIRCUIT</b>	<b>2,783</b>	<b>1,734</b>	<b>62.3</b>	<b>801</b>	<b>28.8</b>	<b>17</b>	<b>0.6</b>	<b>206</b>	<b>7.4</b>	<b>25</b>	<b>0.9</b>
Delaware	153	103	67.3	26	17.0	3	2.0	20	13.1	1	0.7
New Jersey	866	560	64.7	229	26.4	2	0.2	73	8.4	2	0.2
<b>Pennsylvania</b>											
Eastern	969	503	51.9	376	38.8	5	0.5	74	7.6	11	1.1
Middle	327	209	63.9	96	29.4	1	0.3	15	4.6	6	1.8
Western	379	289	76.3	65	17.2	1	0.3	21	5.5	3	0.8
Virgin Islands	89	70	78.7	9	10.1	5	5.6	3	3.4	2	2.2
<b>FOURTH CIRCUIT</b>	<b>5,698</b>	<b>4,388</b>	<b>77.0</b>	<b>1,045</b>	<b>18.3</b>	<b>17</b>	<b>0.3</b>	<b>216</b>	<b>3.8</b>	<b>32</b>	<b>0.6</b>
Maryland	556	350	62.9	147	26.4	3	0.5	52	9.4	4	0.7
<b>North Carolina</b>											
Eastern	620	379	61.1	191	30.8	2	0.3	42	6.8	6	1.0
Middle	351	298	84.9	41	11.7	0	0.0	9	2.6	3	0.9
Western	575	366	63.7	184	32.0	3	0.5	18	3.1	4	0.7
South Carolina	1,013	765	75.5	222	21.9	1	0.1	21	2.1	4	0.4
<b>Virginia</b>											
Eastern	1,454	1,292	88.9	109	7.5	0	0.0	48	3.3	5	0.3
Western	555	398	71.7	129	23.2	8	1.4	15	2.7	5	0.9
<b>West Virginia</b>											
Northern	266	246	92.5	14	5.3	0	0.0	6	2.3	0	0.0
Southern	308	294	95.5	8	2.6	0	0.0	5	1.6	1	0.3

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		SUBSTANTIAL ASSISTANCE DEPARTURE		GOVERNMENT INITIATED DEPARTURE		OTHER DOWNWARD DEPARTURE		UPWARD DEPARTURE	
		n	%	n	%	n	%	n	%	n	%
<b>FIFTH CIRCUIT</b>	<b>13,298</b>	<b>9,796</b>	<b>73.7</b>	<b>1,667</b>	<b>12.5</b>	<b>714</b>	<b>5.4</b>	<b>999</b>	<b>7.5</b>	<b>122</b>	<b>0.9</b>
<b>Louisiana</b>											
Eastern	495	405	81.8	57	11.5	11	2.2	15	3.0	7	1.4
Middle	121	85	70.2	28	23.1	0	0.0	3	2.5	5	4.1
Western	351	280	79.8	56	16.0	1	0.3	8	2.3	6	1.7
<b>Mississippi</b>											
Northern	165	107	64.8	45	27.3	5	3.0	5	3.0	3	1.8
Southern	430	350	81.4	62	14.4	0	0.0	16	3.7	2	0.5
<b>Texas</b>											
Eastern	621	528	85.0	56	9.0	2	0.3	30	4.8	5	0.8
Northern	1,114	890	79.9	149	13.4	5	0.4	50	4.5	20	1.8
Southern	5,004	3,424	68.4	466	9.3	562	11.2	519	10.4	33	0.7
Western	4,997	3,727	74.6	748	15.0	128	2.6	353	7.1	41	0.8
<b>SIXTH CIRCUIT</b>	<b>4,789</b>	<b>3,311</b>	<b>69.1</b>	<b>1,179</b>	<b>24.6</b>	<b>22</b>	<b>0.5</b>	<b>256</b>	<b>5.3</b>	<b>21</b>	<b>0.4</b>
<b>Kentucky</b>											
Eastern	474	304	64.1	156	32.9	2	0.4	9	1.9	3	0.6
Western	397	328	82.6	43	10.8	4	1.0	20	5.0	2	0.5
<b>Michigan</b>											
Eastern	693	488	70.4	151	21.8	4	0.6	48	6.9	2	0.3
Western	441	295	66.9	109	24.7	3	0.7	27	6.1	7	1.6
<b>Ohio</b>											
Northern	907	595	65.6	231	25.5	6	0.7	74	8.2	1	0.1
Southern	513	323	63.0	152	29.6	0	0.0	35	6.8	3	0.6
<b>Tennessee</b>											
Eastern	616	438	71.1	161	26.1	0	0.0	16	2.6	1	0.2
Middle	256	174	68.0	70	27.3	0	0.0	11	4.3	1	0.4
Western	492	366	74.4	106	21.5	3	0.6	16	3.3	1	0.2
<b>SEVENTH CIRCUIT</b>	<b>3,041</b>	<b>2,205</b>	<b>72.5</b>	<b>646</b>	<b>21.2</b>	<b>24</b>	<b>0.8</b>	<b>136</b>	<b>4.5</b>	<b>30</b>	<b>1.0</b>
<b>Illinois</b>											
Central	370	261	70.5	88	23.8	3	0.8	14	3.8	4	1.1
Northern	1,223	837	68.4	304	24.9	5	0.4	67	5.5	10	0.8
Southern	349	256	73.4	77	22.1	0	0.0	15	4.3	1	0.3
<b>Indiana</b>											
Northern	375	277	73.9	82	21.9	4	1.1	7	1.9	5	1.3
Southern	270	184	68.1	64	23.7	9	3.3	11	4.1	2	0.7
<b>Wisconsin</b>											
Eastern	282	237	84.0	19	6.7	3	1.1	21	7.4	2	0.7
Western	172	153	89.0	12	7.0	0	0.0	1	0.6	6	3.5
<b>EIGHTH CIRCUIT</b>	<b>4,329</b>	<b>3,125</b>	<b>72.2</b>	<b>761</b>	<b>17.6</b>	<b>87</b>	<b>2.0</b>	<b>308</b>	<b>7.1</b>	<b>48</b>	<b>1.1</b>
<b>Arkansas</b>											
Eastern	237	206	86.9	21	8.9	1	0.4	8	3.4	1	0.4
Western	191	151	79.1	33	17.3	0	0.0	5	2.6	2	1.0
<b>Iowa</b>											
Northern	420	290	69.0	114	27.1	2	0.5	9	2.1	5	1.2
Southern	392	277	70.7	80	20.4	2	0.5	31	7.9	2	0.5
Minnesota	465	293	63.0	106	22.8	5	1.1	55	11.8	6	1.3
<b>Missouri</b>											
Eastern	739	540	73.1	153	20.7	9	1.2	32	4.3	5	0.7
Western	681	478	70.2	157	23.1	9	1.3	27	4.0	10	1.5
Nebraska	693	488	70.4	55	7.9	54	7.8	94	13.6	2	0.3
North Dakota	206	159	77.2	23	11.2	3	1.5	20	9.7	1	0.5
South Dakota	305	243	79.7	19	6.2	2	0.7	27	8.9	14	4.6

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		SUBSTANTIAL ASSISTANCE DEPARTURE		GOVERNMENT INITIATED DEPARTURE		OTHER DOWNWARD DEPARTURE		UPWARD DEPARTURE	
		n	%	n	%	n	%	n	%	n	%
<b>NINTH CIRCUIT</b>	<b>13,286</b>	<b>7,917</b>	<b>59.6</b>	<b>1,360</b>	<b>10.2</b>	<b>2,546</b>	<b>19.2</b>	<b>1,311</b>	<b>9.9</b>	<b>152</b>	<b>1.1</b>
Alaska	153	114	74.5	28	18.3	0	0.0	10	6.5	1	0.7
Arizona	4,430	1,815	41.0	259	5.8	1,853	41.8	399	9.0	104	2.3
California											
Central	1,296	1,051	81.1	153	11.8	9	0.7	80	6.2	3	0.2
Eastern	885	680	76.8	152	17.2	7	0.8	46	5.2	0	0.0
Northern	644	433	67.2	90	14.0	24	3.7	92	14.3	5	0.8
Southern	2,578	1,574	61.1	125	4.8	528	20.5	342	13.3	9	0.3
Guam	94	64	68.1	29	30.9	0	0.0	1	1.1	0	0.0
Hawaii	331	212	64.0	98	29.6	0	0.0	19	5.7	2	0.6
Idaho	258	126	48.8	83	32.2	32	12.4	15	5.8	2	0.8
Montana	343	287	83.7	34	9.9	1	0.3	15	4.4	6	1.7
Nevada	688	560	81.4	43	6.3	34	4.9	46	6.7	5	0.7
Northern Mariana Islands	22	17	77.3	5	22.7	0	0.0	0	0.0	0	0.0
Oregon	606	392	64.7	120	19.8	8	1.3	83	13.7	3	0.5
Washington											
Eastern	367	251	68.4	18	4.9	30	8.2	65	17.7	3	0.8
Western	591	341	57.7	123	20.8	20	3.4	98	16.6	9	1.5
<b>TENTH CIRCUIT</b>	<b>4,476</b>	<b>3,271</b>	<b>73.1</b>	<b>422</b>	<b>9.4</b>	<b>512</b>	<b>11.4</b>	<b>246</b>	<b>5.5</b>	<b>25</b>	<b>0.6</b>
Colorado	547	340	62.2	159	29.1	4	0.7	41	7.5	3	0.5
Kansas	543	447	82.3	65	12.0	0	0.0	29	5.3	2	0.4
New Mexico	1,956	1,305	66.7	78	4.0	483	24.7	85	4.3	5	0.3
Oklahoma											
Eastern	80	59	73.8	6	7.5	10	12.5	5	6.3	0	0.0
Northern	164	139	84.8	19	11.6	0	0.0	2	1.2	4	2.4
Western	171	152	88.9	13	7.6	0	0.0	4	2.3	2	1.2
Utah	815	669	82.1	65	8.0	11	1.3	66	8.1	4	0.5
Wyoming	200	160	80.0	17	8.5	4	2.0	14	7.0	5	2.5
<b>ELEVENTH CIRCUIT</b>	<b>6,399</b>	<b>4,769</b>	<b>74.5</b>	<b>1,274</b>	<b>19.9</b>	<b>16</b>	<b>0.3</b>	<b>290</b>	<b>4.5</b>	<b>50</b>	<b>0.8</b>
Alabama											
Middle	167	111	66.5	47	28.1	1	0.6	7	4.2	1	0.6
Northern	482	362	75.1	102	21.2	1	0.2	12	2.5	5	1.0
Southern	318	234	73.6	64	20.1	6	1.9	13	4.1	1	0.3
Florida											
Middle	1,517	1,000	65.9	413	27.2	2	0.1	95	6.3	7	0.5
Northern	364	226	62.1	127	34.9	0	0.0	9	2.5	2	0.5
Southern	2,144	1,792	83.6	248	11.6	1	0.0	83	3.9	20	0.9
Georgia											
Middle	391	284	72.6	90	23.0	3	0.8	8	2.0	6	1.5
Northern	722	545	75.5	120	16.6	2	0.3	51	7.1	4	0.6
Southern	294	215	73.1	63	21.4	0	0.0	12	4.1	4	1.4

Of the 70,258 guideline cases, 481 cases with no analogous guidelines were excluded from the table. Of the remaining 69,777 cases, 4,606 were excluded due to missing departure information. Districts for which departure information is missing in five percent or more of the cases received included: Southern California (32.3%), Central California (29.6%), Southern Georgia (27.8%), Eastern Virginia (24.4%), Maryland (19.8%), Middle Georgia (16.6%), Western Washington (15.0%), Southern New York (9.9%), Eastern New York (9.5%), Southern Florida (8.8%), Colorado (8.2%), Oregon (7.3%), Northern California (7.2%), Western Kentucky (7.2%), Wyoming (7.0%), Northern New York (6.3%), Utah (5.8%), Northern Georgia (5.7%), Virgin Islands (5.3%), Eastern California (5.2%), and Eastern North Carolina (5.1%).

This data was collected prior to the issuance of AO Form 245B, Revision 12/03, which now provides specific entries for the sentencing court to indicate whether a departure was initiated by one of the parties. As a result, the Commission could not definitively determine the attribution for every case. However, based on a review of the available sentencing documentation by USSC legal staff the Commission believes that the overwhelming majority of the government initiated departures listed in this table are properly categorized. For a list of the reasons used in the category see Table 25 in the 2003 Sourcebook of Federal Sentencing Statistics.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2003 Datafile, OPAFY03.

**Table 9**

**GUIDELINE DEPARTURE RATE BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2003**

**National**

PRIMARY OFFENSE	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		SUBSTANTIAL ASSISTANCE DEPARTURE		GOVERNMENT INITIATED DEPARTURE		OTHER DOWNWARD DEPARTURE		UPWARD DEPARTURE	
		n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>64,990</b>	<b>45,124</b>	<b>69.4</b>	<b>10,323</b>	<b>15.9</b>	<b>4,116</b>	<b>6.3</b>	<b>4,887</b>	<b>7.5</b>	<b>540</b>	<b>0.8</b>
Robbery	1,470	1,082	73.6	215	14.6	17	1.2	135	9.2	21	1.4
Drugs - Trafficking	24,060	14,678	61.0	6,579	27.3	1,153	4.8	1,599	6.6	51	0.2
Drugs - Simple Possession	1,038	922	88.8	9	0.9	2	0.2	8	0.8	97	9.3
Firearms	6,445	4,968	77.1	783	12.1	88	1.4	521	8.1	85	1.3
Larceny	2,207	1,910	86.5	143	6.5	13	0.6	123	5.6	18	0.8
Fraud	6,864	5,136	74.8	1,090	15.9	57	0.8	502	7.3	79	1.2
Embezzlement	726	609	83.9	41	5.6	2	0.3	74	10.2	0	0.0
Forgery/Counterfeiting	1,214	984	81.1	149	12.3	11	0.9	62	5.1	8	0.7
Immigration	13,931	9,762	70.1	364	2.6	2,551	18.3	1,210	8.7	44	0.3
Other Miscellaneous Offenses	7,035	5,073	72.1	950	13.5	222	3.2	653	9.3	137	1.9

**Western New York**

PRIMARY OFFENSE	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		SUBSTANTIAL ASSISTANCE DEPARTURE		GOVERNMENT INITIATED DEPARTURE		OTHER DOWNWARD DEPARTURE		UPWARD DEPARTURE	
		n	%	n	%	n	%	n	%	n	%
<b>TOTAL</b>	<b>484</b>	<b>268</b>	<b>55.4</b>	<b>161</b>	<b>33.3</b>	<b>10</b>	<b>2.1</b>	<b>42</b>	<b>8.7</b>	<b>3</b>	<b>0.6</b>
Robbery	12	4	33.3	5	41.7	0	0.0	3	25.0	0	0.0
Drugs - Trafficking	202	82	40.6	109	54.0	2	1.0	8	4.0	1	0.5
Drugs - Simple Possession	15	15	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	71	44	62.0	13	18.3	6	8.5	7	9.9	1	1.4
Larceny	14	11	78.6	2	14.3	0	0.0	1	7.1	0	0.0
Fraud	65	42	64.6	13	20.0	1	1.5	8	12.3	1	1.5
Embezzlement	4	2	50.0	0	0.0	0	0.0	2	50.0	0	0.0
Forgery/Counterfeiting	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	32	24	75.0	5	15.6	0	0.0	3	9.4	0	0.0
Other Miscellaneous Offenses	68	43	63.2	14	20.6	1	1.5	10	14.7	0	0.0

Of the 70,258 guideline cases, 5,268 cases were excluded due to one or more of the following reasons: no analogous guidelines (481), missing or indeterminable departure information (4,606) or missing primary offense category (578).

Of the 499 guideline cases from the District of Western New York, 15 cases were excluded due to one or more of the following reasons: no analogous guidelines (7), missing or indeterminable departure information (8) or missing primary offense category (1).

This data was collected prior to the issuance of AO Form 245B, Revision 12/03, which now provides specific entries for the sentencing court to indicate whether a departure was initiated by one of the parties. As a result, the Commission could not definitively determine the attribution for every case. However, based on a review of the available sentencing documentation by USSC legal staff the Commission believes that the overwhelming majority of the government initiated departures listed in this table are properly categorized. For a list of the reasons used in the category see Table 25 in the 2003 Sourcebook of Federal Sentencing Statistics.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2003 Datafile, OPAFY03.