

**U.S. Sentencing Commission
Preliminary Quarterly Data Report**



**4th Quarter Release
Preliminary Fiscal Year 2008 Data
Through September 30, 2008**

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 1995-2007 *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 fiscal year 2008 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.

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**NATIONAL COMPARISON OF SENTENCE IMPOSED AND
POSITION RELATIVE TO THE GUIDELINE RANGE¹**
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

	N	%
TOTAL CASES	70,773	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	42,275	59.7
CASES SENTENCED ABOVE GUIDELINE RANGE	1,132	1.5
DEPARTURE ABOVE GUIDELINE RANGE	444	0.6
Upward Departure From Guideline Range ²	305	0.4
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	139	0.2
OTHERWISE ABOVE GUIDELINE RANGE	688	0.9
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	594	0.8
All Remaining Cases Above Guideline Range ⁵	94	0.1
GOVERNMENT SPONSORED BELOW RANGE⁶	17,977	25.4
§5K1.1 Substantial Assistance Departure	9,507	13.4
§5K3.1 Early Disposition Program Departure	5,506	7.8
Other Government Sponsored Below Range	2,964	4.2
NON-GOVERNMENT SPONSORED BELOW RANGE	9,389	13.2
DEPARTURE BELOW GUIDELINE RANGE	2,343	3.3
Downward Departure From Guideline Range ²	1,485	2.1
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	858	1.2
OTHERWISE BELOW GUIDELINE RANGE	7,046	9.9
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	6,308	8.9
All Remaining Cases Below Guideline Range ⁵	738	1.0

¹This table reflects the 72,171 cases sentenced on or after October 1, 2007, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by November 3, 2008. Of these, 1,398 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 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

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	70,773	42,275	59.7	305	0.4	139	0.2	594	0.8	94	0.1
D.C. CIRCUIT	383	146	38.1	0	0.0	0	0.0	3	0.8	1	0.3
District of Columbia	383	146	38.1	0	0.0	0	0.0	3	0.8	1	0.3
FIRST CIRCUIT	1,620	1,016	62.7	8	0.5	7	0.4	6	0.4	3	0.2
Maine	207	128	61.8	2	1.0	0	0.0	1	0.5	0	0.0
Massachusetts	446	229	51.3	3	0.7	1	0.2	3	0.7	1	0.2
New Hampshire	220	106	48.2	2	0.9	2	0.9	1	0.5	0	0.0
Puerto Rico	664	503	75.8	1	0.2	3	0.5	1	0.2	2	0.3
Rhode Island	83	50	60.2	0	0.0	1	1.2	0	0.0	0	0.0
SECOND CIRCUIT	4,179	1,891	45.3	6	0.1	6	0.1	14	0.3	5	0.1
Connecticut	378	156	41.3	1	0.3	0	0.0	4	1.1	0	0.0
New York											
Eastern	1,190	473	39.7	1	0.1	1	0.1	6	0.5	2	0.2
Northern	440	228	51.8	1	0.2	1	0.2	0	0.0	0	0.0
Southern	1,372	598	43.6	0	0.0	1	0.1	2	0.1	2	0.1
Western	638	371	58.2	1	0.2	3	0.5	2	0.3	1	0.2
Vermont	161	65	40.4	2	1.2	0	0.0	0	0.0	0	0.0
THIRD CIRCUIT	3,027	1,625	53.7	19	0.6	4	0.1	18	0.6	3	0.1
Delaware	114	62	54.4	0	0.0	0	0.0	2	1.8	0	0.0
New Jersey	958	487	50.8	3	0.3	1	0.1	6	0.6	2	0.2
Pennsylvania											
Eastern	732	320	43.7	3	0.4	1	0.1	7	1.0	0	0.0
Middle	634	356	56.2	11	1.7	0	0.0	0	0.0	1	0.2
Western	523	355	67.9	2	0.4	2	0.4	1	0.2	0	0.0
Virgin Islands	66	45	68.2	0	0.0	0	0.0	2	3.0	0	0.0
FOURTH CIRCUIT	6,184	4,111	66.5	49	0.8	34	0.5	50	0.8	9	0.1
Maryland	707	346	48.9	6	0.8	2	0.3	6	0.8	2	0.3
North Carolina											
Eastern	669	375	56.1	25	3.7	18	2.7	9	1.3	1	0.1
Middle	345	265	76.8	1	0.3	0	0.0	2	0.6	0	0.0
Western	775	502	64.8	4	0.5	3	0.4	4	0.5	1	0.1
South Carolina	1,175	786	66.9	2	0.2	0	0.0	4	0.3	0	0.0
Virginia											
Eastern	1,403	1,065	75.9	9	0.6	8	0.6	15	1.1	4	0.3
Western	389	259	66.6	2	0.5	1	0.3	3	0.8	1	0.3
West Virginia											
Northern	458	332	72.5	0	0.0	1	0.2	4	0.9	0	0.0
Southern	263	181	68.8	0	0.0	1	0.4	3	1.1	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	%
TOTAL	9,507	13.4	5,506	7.8	2,964	4.2	1,485	2.1	858	1.2	6,308	8.9	738	1.0
D.C. CIRCUIT	132	34.5	0	0.0	28	7.3	12	3.1	22	5.7	30	7.8	9	2.3
District of Columbia	132	34.5	0	0.0	28	7.3	12	3.1	22	5.7	30	7.8	9	2.3
FIRST CIRCUIT	177	10.9	16	1.0	71	4.4	46	2.8	32	2.0	219	13.5	19	1.2
Maine	48	23.2	0	0.0	0	0.0	4	1.9	1	0.5	22	10.6	1	0.5
Massachusetts	37	8.3	1	0.2	33	7.4	23	5.2	14	3.1	97	21.7	4	0.9
New Hampshire	47	21.4	0	0.0	7	3.2	7	3.2	6	2.7	39	17.7	3	1.4
Puerto Rico	39	5.9	15	2.3	29	4.4	10	1.5	9	1.4	42	6.3	10	1.5
Rhode Island	6	7.2	0	0.0	2	2.4	2	2.4	2	2.4	19	22.9	1	1.2
SECOND CIRCUIT	924	22.1	1	0.0	162	3.9	170	4.1	144	3.4	805	19.3	51	1.2
Connecticut	68	18.0	0	0.0	16	4.2	33	8.7	36	9.5	61	16.1	3	0.8
New York														
Eastern	278	23.4	1	0.1	84	7.1	44	3.7	53	4.5	229	19.2	18	1.5
Northern	121	27.5	0	0.0	4	0.9	33	7.5	7	1.6	44	10.0	1	0.2
Southern	247	18.0	0	0.0	33	2.4	35	2.6	36	2.6	393	28.6	25	1.8
Western	170	26.6	0	0.0	20	3.1	4	0.6	4	0.6	58	9.1	4	0.6
Vermont	40	24.8	0	0.0	5	3.1	21	13.0	8	5.0	20	12.4	0	0.0
THIRD CIRCUIT	742	24.5	1	0.0	47	1.6	54	1.8	49	1.6	417	13.8	48	1.6
Delaware	6	5.3	0	0.0	1	0.9	3	2.6	0	0.0	25	21.9	15	13.2
New Jersey	275	28.7	1	0.1	9	0.9	11	1.1	6	0.6	151	15.8	6	0.6
Pennsylvania														
Eastern	223	30.5	0	0.0	14	1.9	7	1.0	23	3.1	122	16.7	12	1.6
Middle	175	27.6	0	0.0	16	2.5	11	1.7	3	0.5	56	8.8	5	0.8
Western	56	10.7	0	0.0	5	1.0	22	4.2	16	3.1	58	11.1	6	1.1
Virgin Islands	7	10.6	0	0.0	2	3.0	0	0.0	1	1.5	5	7.6	4	6.1
FOURTH CIRCUIT	1,085	17.5	0	0.0	90	1.5	108	1.7	50	0.8	531	8.6	67	1.1
Maryland	168	23.8	0	0.0	29	4.1	10	1.4	19	2.7	106	15.0	13	1.8
North Carolina														
Eastern	191	28.6	0	0.0	3	0.4	5	0.7	5	0.7	34	5.1	3	0.4
Middle	54	15.7	0	0.0	0	0.0	2	0.6	0	0.0	21	6.1	0	0.0
Western	200	25.8	0	0.0	8	1.0	10	1.3	6	0.8	26	3.4	11	1.4
South Carolina	246	20.9	0	0.0	19	1.6	23	2.0	0	0.0	80	6.8	15	1.3
Virginia														
Eastern	81	5.8	0	0.0	14	1.0	49	3.5	16	1.1	119	8.5	23	1.6
Western	80	20.6	0	0.0	4	1.0	3	0.8	0	0.0	34	8.7	2	0.5
West Virginia														
Northern	38	8.3	0	0.0	13	2.8	4	0.9	2	0.4	64	14.0	0	0.0
Southern	27	10.3	0	0.0	0	0.0	2	0.8	2	0.8	47	17.9	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	16,838	11,868	70.5	84	0.5	32	0.2	169	1.0	27	0.2
Louisiana											
Eastern	449	345	76.8	4	0.9	3	0.7	9	2.0	1	0.2
Middle	203	142	70.0	2	1.0	0	0.0	1	0.5	0	0.0
Western	317	238	75.1	1	0.3	0	0.0	6	1.9	0	0.0
Mississippi											
Northern	174	107	61.5	0	0.0	0	0.0	4	2.3	0	0.0
Southern	384	310	80.7	1	0.3	2	0.5	4	1.0	3	0.8
Texas											
Eastern	953	690	72.4	8	0.8	0	0.0	4	0.4	3	0.3
Northern	1,049	719	68.5	20	1.9	12	1.1	33	3.1	2	0.2
Southern	6,331	3,635	57.4	28	0.4	3	0.0	24	0.4	10	0.2
Western	6,978	5,682	81.4	20	0.3	12	0.2	84	1.2	8	0.1
SIXTH CIRCUIT	5,092	2,778	54.6	22	0.4	10	0.2	33	0.6	8	0.2
Kentucky											
Eastern	664	306	46.1	0	0.0	1	0.2	5	0.8	0	0.0
Western	453	328	72.4	3	0.7	0	0.0	1	0.2	0	0.0
Michigan											
Eastern	704	387	55.0	3	0.4	0	0.0	4	0.6	1	0.1
Western	441	266	60.3	5	1.1	3	0.7	9	2.0	3	0.7
Ohio											
Northern	846	468	55.3	1	0.1	1	0.1	5	0.6	1	0.1
Southern	583	235	40.3	1	0.2	2	0.3	1	0.2	1	0.2
Tennessee											
Eastern	562	340	60.5	2	0.4	1	0.2	3	0.5	2	0.4
Middle	254	145	57.1	2	0.8	1	0.4	0	0.0	0	0.0
Western	585	303	51.8	5	0.9	1	0.2	5	0.9	0	0.0
SEVENTH CIRCUIT	2,812	1,577	56.1	3	0.1	8	0.3	34	1.2	5	0.2
Illinois											
Central	379	211	55.7	0	0.0	0	0.0	0	0.0	1	0.3
Northern	743	354	47.6	1	0.1	3	0.4	3	0.4	2	0.3
Southern	296	228	77.0	1	0.3	3	1.0	5	1.7	1	0.3
Indiana											
Northern	430	280	65.1	0	0.0	2	0.5	3	0.7	1	0.2
Southern	291	167	57.4	1	0.3	0	0.0	8	2.7	0	0.0
Wisconsin											
Eastern	485	191	39.4	0	0.0	0	0.0	13	2.7	0	0.0
Western	188	146	77.7	0	0.0	0	0.0	2	1.1	0	0.0
EIGHTH CIRCUIT	5,181	3,349	64.6	31	0.6	10	0.2	45	0.9	7	0.1
Arkansas											
Eastern	420	295	70.2	2	0.5	2	0.5	1	0.2	2	0.5
Western	204	143	70.1	1	0.5	0	0.0	2	1.0	0	0.0
Iowa											
Northern	584	426	72.9	10	1.7	3	0.5	5	0.9	2	0.3
Southern	357	192	53.8	1	0.3	0	0.0	4	1.1	0	0.0
Minnesota	561	264	47.1	1	0.2	0	0.0	1	0.2	0	0.0
Missouri											
Eastern	974	677	69.5	0	0.0	0	0.0	5	0.5	0	0.0
Western	765	488	63.8	2	0.3	3	0.4	10	1.3	1	0.1
Nebraska	635	427	67.2	10	1.6	0	0.0	11	1.7	2	0.3
North Dakota	238	115	48.3	0	0.0	1	0.4	1	0.4	0	0.0
South Dakota	443	322	72.7	4	0.9	1	0.2	5	1.1	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	%
FIFTH CIRCUIT	1,239	7.4	1,229	7.3	983	5.8	411	2.4	36	0.2	634	3.8	126	0.7
Louisiana														
Eastern	49	10.9	0	0.0	5	1.1	6	1.3	4	0.9	23	5.1	0	0.0
Middle	44	21.7	0	0.0	1	0.5	4	2.0	1	0.5	7	3.4	1	0.5
Western	30	9.5	0	0.0	0	0.0	0	0.0	5	1.6	24	7.6	13	4.1
Mississippi														
Northern	39	22.4	0	0.0	14	8.0	2	1.1	0	0.0	5	2.9	3	1.7
Southern	34	8.9	0	0.0	1	0.3	2	0.5	2	0.5	15	3.9	10	2.6
Texas														
Eastern	99	10.4	0	0.0	85	8.9	27	2.8	6	0.6	25	2.6	6	0.6
Northern	166	15.8	0	0.0	22	2.1	7	0.7	3	0.3	60	5.7	5	0.5
Southern	357	5.6	1,078	17.0	778	12.3	223	3.5	1	0.0	182	2.9	12	0.2
Western	421	6.0	151	2.2	77	1.1	140	2.0	14	0.2	293	4.2	76	1.1
SIXTH CIRCUIT	1,303	25.6	1	0.0	120	2.4	92	1.8	99	1.9	555	10.9	71	1.4
Kentucky														
Eastern	286	43.1	0	0.0	6	0.9	7	1.1	1	0.2	46	6.9	6	0.9
Western	57	12.6	0	0.0	21	4.6	8	1.8	0	0.0	32	7.1	3	0.7
Michigan														
Eastern	146	20.7	0	0.0	10	1.4	10	1.4	14	2.0	123	17.5	6	0.9
Western	83	18.8	0	0.0	0	0.0	9	2.0	7	1.6	53	12.0	3	0.7
Ohio														
Northern	189	22.3	0	0.0	23	2.7	14	1.7	21	2.5	102	12.1	21	2.5
Southern	185	31.7	0	0.0	27	4.6	20	3.4	35	6.0	63	10.8	13	2.2
Tennessee														
Eastern	144	25.6	0	0.0	4	0.7	8	1.4	3	0.5	46	8.2	9	1.6
Middle	54	21.3	0	0.0	9	3.5	6	2.4	10	3.9	25	9.8	2	0.8
Western	159	27.2	1	0.2	20	3.4	10	1.7	8	1.4	65	11.1	8	1.4
SEVENTH CIRCUIT	511	18.2	1	0.0	75	2.7	37	1.3	85	3.0	420	14.9	56	2.0
Illinois														
Central	91	24.0	1	0.3	5	1.3	7	1.8	3	0.8	56	14.8	4	1.1
Northern	137	18.4	0	0.0	19	2.6	16	2.2	68	9.2	124	16.7	16	2.2
Southern	31	10.5	0	0.0	1	0.3	1	0.3	5	1.7	17	5.7	3	1.0
Indiana														
Northern	90	20.9	0	0.0	5	1.2	0	0.0	4	0.9	26	6.0	19	4.4
Southern	50	17.2	0	0.0	15	5.2	5	1.7	2	0.7	43	14.8	0	0.0
Wisconsin														
Eastern	100	20.6	0	0.0	30	6.2	4	0.8	0	0.0	133	27.4	14	2.9
Western	12	6.4	0	0.0	0	0.0	4	2.1	3	1.6	21	11.2	0	0.0
EIGHTH CIRCUIT	779	15.0	52	1.0	132	2.5	69	1.3	71	1.4	579	11.2	57	1.1
Arkansas														
Eastern	61	14.5	0	0.0	6	1.4	10	2.4	10	2.4	22	5.2	9	2.1
Western	34	16.7	0	0.0	0	0.0	2	1.0	0	0.0	21	10.3	1	0.5
Iowa														
Northern	57	9.8	31	5.3	0	0.0	0	0.0	3	0.5	44	7.5	3	0.5
Southern	83	23.2	0	0.0	17	4.8	5	1.4	2	0.6	43	12.0	10	2.8
Minnesota	161	28.7	0	0.0	8	1.4	11	2.0	23	4.1	89	15.9	3	0.5
Missouri														
Eastern	125	12.8	0	0.0	21	2.2	16	1.6	10	1.0	110	11.3	10	1.0
Western	134	17.5	0	0.0	21	2.7	8	1.0	10	1.3	86	11.2	2	0.3
Nebraska	24	3.8	18	2.8	43	6.8	7	1.1	6	0.9	78	12.3	9	1.4
North Dakota	89	37.4	3	1.3	3	1.3	2	0.8	1	0.4	22	9.2	1	0.4
South Dakota	11	2.5	0	0.0	13	2.9	8	1.8	6	1.4	64	14.4	9	2.0

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	%
NINTH CIRCUIT	13,101	5,926	45.2	58	0.4	14	0.1	63	0.5	18	0.1
Alaska	131	68	51.9	0	0.0	0	0.0	2	1.5	1	0.8
Arizona	3,469	1,100	31.7	37	1.1	3	0.1	7	0.2	3	0.1
California											
Central	1,444	638	44.2	2	0.1	2	0.1	10	0.7	4	0.3
Eastern	848	406	47.9	0	0.0	3	0.4	6	0.7	2	0.2
Northern	617	330	53.5	0	0.0	2	0.3	5	0.8	0	0.0
Southern	3,490	1,748	50.1	5	0.1	2	0.1	6	0.2	3	0.1
Guam	59	48	81.4	1	1.7	0	0.0	0	0.0	0	0.0
Hawaii	268	114	42.5	0	0.0	0	0.0	1	0.4	1	0.4
Idaho	259	121	46.7	0	0.0	0	0.0	3	1.2	0	0.0
Montana	410	295	72.0	5	1.2	0	0.0	8	2.0	3	0.7
Nevada	424	289	68.2	1	0.2	1	0.2	2	0.5	0	0.0
Northern Mariana Islands	17	12	70.6	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	590	271	45.9	2	0.3	0	0.0	3	0.5	1	0.2
Washington											
Eastern	326	130	39.9	1	0.3	1	0.3	7	2.1	0	0.0
Western	749	356	47.5	4	0.5	0	0.0	3	0.4	0	0.0
TENTH CIRCUIT	5,682	3,457	60.8	15	0.3	4	0.1	69	1.2	5	0.1
Colorado	459	279	60.8	2	0.4	0	0.0	2	0.4	2	0.4
Kansas	650	393	60.5	2	0.3	3	0.5	44	6.8	1	0.2
New Mexico	2,804	1,679	59.9	4	0.1	0	0.0	5	0.2	2	0.1
Oklahoma											
Eastern	85	79	92.9	0	0.0	0	0.0	0	0.0	0	0.0
Northern	209	164	78.5	2	1.0	0	0.0	0	0.0	0	0.0
Western	317	223	70.3	1	0.3	0	0.0	10	3.2	0	0.0
Utah	834	430	51.6	4	0.5	0	0.0	6	0.7	0	0.0
Wyoming	324	210	64.8	0	0.0	1	0.3	2	0.6	0	0.0
ELEVENTH CIRCUIT	6,674	4,531	67.9	10	0.1	10	0.1	90	1.3	3	0.0
Alabama											
Middle	253	163	64.4	0	0.0	0	0.0	5	2.0	0	0.0
Northern	448	285	63.6	0	0.0	3	0.7	11	2.5	0	0.0
Southern	477	310	65.0	2	0.4	0	0.0	6	1.3	0	0.0
Florida											
Middle	1,621	999	61.6	1	0.1	1	0.1	9	0.6	1	0.1
Northern	326	230	70.6	0	0.0	0	0.0	5	1.5	0	0.0
Southern	2,032	1,479	72.8	1	0.0	2	0.1	23	1.1	1	0.0
Georgia											
Middle	345	278	80.6	0	0.0	2	0.6	5	1.4	0	0.0
Northern	675	396	58.7	2	0.3	2	0.3	7	1.0	0	0.0
Southern	497	391	78.7	4	0.8	0	0.0	19	3.8	1	0.2

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
NINTH CIRCUIT	1,203	9.2	3,618	27.6	699	5.3	254	1.9	133	1.0	948	7.2	167	1.3
Alaska	26	19.8	0	0.0	16	12.2	2	1.5	5	3.8	11	8.4	0	0.0
Arizona	162	4.7	1,838	53.0	105	3.0	46	1.3	26	0.7	129	3.7	13	0.4
California														
Central	181	12.5	280	19.4	102	7.1	31	2.1	29	2.0	118	8.2	47	3.3
Eastern	127	15.0	179	21.1	32	3.8	16	1.9	11	1.3	58	6.8	8	0.9
Northern	74	12.0	32	5.2	71	11.5	11	1.8	11	1.8	65	10.5	16	2.6
Southern	140	4.0	1,153	33.0	114	3.3	99	2.8	13	0.4	148	4.2	59	1.7
Guam	5	8.5	0	0.0	0	0.0	1	1.7	0	0.0	2	3.4	2	3.4
Hawaii	85	31.7	0	0.0	3	1.1	3	1.1	2	0.7	56	20.9	3	1.1
Idaho	68	26.3	33	12.7	4	1.5	1	0.4	3	1.2	23	8.9	3	1.2
Montana	52	12.7	0	0.0	0	0.0	4	1.0	3	0.7	35	8.5	5	1.2
Nevada	36	8.5	0	0.0	41	9.7	4	0.9	3	0.7	43	10.1	4	0.9
Northern Mariana Islands	4	23.5	0	0.0	0	0.0	0	0.0	1	5.9	0	0.0	0	0.0
Oregon	113	19.2	21	3.6	63	10.7	14	2.4	9	1.5	91	15.4	2	0.3
Washington														
Eastern	26	8.0	67	20.6	38	11.7	1	0.3	2	0.6	51	15.6	2	0.6
Western	104	13.9	15	2.0	110	14.7	21	2.8	15	2.0	118	15.8	3	0.4
TENTH CIRCUIT	392	6.9	557	9.8	484	8.5	144	2.5	71	1.2	459	8.1	25	0.4
Colorado	73	15.9	0	0.0	20	4.4	19	4.1	4	0.9	55	12.0	3	0.7
Kansas	104	16.0	0	0.0	40	6.2	3	0.5	3	0.5	56	8.6	1	0.2
New Mexico	88	3.1	381	13.6	360	12.8	90	3.2	39	1.4	148	5.3	8	0.3
Oklahoma														
Eastern	1	1.2	0	0.0	0	0.0	0	0.0	0	0.0	5	5.9	0	0.0
Northern	26	12.4	0	0.0	1	0.5	1	0.5	0	0.0	15	7.2	0	0.0
Western	20	6.3	0	0.0	3	0.9	3	0.9	1	0.3	54	17.0	2	0.6
Utah	51	6.1	176	21.1	47	5.6	23	2.8	3	0.4	86	10.3	8	1.0
Wyoming	29	9.0	0	0.0	13	4.0	5	1.5	21	6.5	40	12.3	3	0.9
ELEVENTH CIRCUIT	1,020	15.3	30	0.4	73	1.1	88	1.3	66	1.0	711	10.7	42	0.6
Alabama														
Middle	60	23.7	0	0.0	2	0.8	3	1.2	0	0.0	19	7.5	1	0.4
Northern	88	19.6	0	0.0	2	0.4	5	1.1	2	0.4	50	11.2	2	0.4
Southern	109	22.9	0	0.0	4	0.8	1	0.2	2	0.4	42	8.8	1	0.2
Florida														
Middle	322	19.9	30	1.9	20	1.2	21	1.3	14	0.9	197	12.2	6	0.4
Northern	64	19.6	0	0.0	0	0.0	4	1.2	1	0.3	20	6.1	2	0.6
Southern	187	9.2	0	0.0	19	0.9	21	1.0	31	1.5	249	12.3	19	0.9
Georgia														
Middle	39	11.3	0	0.0	5	1.4	2	0.6	0	0.0	13	3.8	1	0.3
Northern	109	16.1	0	0.0	16	2.4	24	3.6	16	2.4	94	13.9	9	1.3
Southern	42	8.5	0	0.0	5	1.0	7	1.4	0	0.0	27	5.4	1	0.2

¹Of the 72,171 cases, 1,398 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: Western Oklahoma (28.0%), Middle Georgia (19.4%), Eastern Virginia (15.9%), Central California (15.6%), Middle Tennessee (7.6%), Northern New York (7.6%), and Western Washington (5.2%). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

Table 3

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

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	70,738	42,256	59.7	305	0.4	139	0.2	594	0.8	94	0.1
Murder	61	28	45.9	5	8.2	2	3.3	3	4.9	0	0.0
Manslaughter	52	38	73.1	3	5.8	1	1.9	0	0.0	0	0.0
Kidnapping/Hostage Taking	52	19	36.5	0	0.0	0	0.0	1	1.9	0	0.0
Sexual Abuse	454	320	70.5	9	2.0	2	0.4	15	3.3	0	0.0
Assault	602	403	66.9	14	2.3	3	0.5	20	3.3	5	0.8
Robbery	1,011	648	64.1	14	1.4	13	1.3	13	1.3	2	0.2
Arson	57	35	61.4	2	3.5	0	0.0	0	0.0	1	1.8
Drugs - Trafficking	23,178	12,034	51.9	41	0.2	14	0.1	62	0.3	19	0.1
Drugs - Communication Facility	343	207	60.3	1	0.3	1	0.3	2	0.6	0	0.0
Drugs - Simple Possession	380	336	88.4	1	0.3	2	0.5	5	1.3	3	0.8
Firearms	7,895	5,331	67.5	55	0.7	29	0.4	100	1.3	16	0.2
Burglary/B&E	45	33	73.3	1	2.2	0	0.0	1	2.2	0	0.0
Auto Theft	58	38	65.5	0	0.0	0	0.0	2	3.4	0	0.0
Larceny	1,412	1,057	74.9	3	0.2	4	0.3	25	1.8	4	0.3
Fraud	6,798	4,241	62.4	26	0.4	9	0.1	65	1.0	14	0.2
Embezzlement	463	317	68.5	0	0.0	1	0.2	2	0.4	0	0.0
Forgery/Counterfeiting	947	658	69.5	2	0.2	3	0.3	11	1.2	3	0.3
Bribery	201	87	43.3	0	0.0	0	0.0	0	0.0	0	0.0
Tax	536	235	43.8	2	0.4	2	0.4	6	1.1	0	0.0
Money Laundering	807	330	40.9	1	0.1	0	0.0	4	0.5	0	0.0
Racketeering/Extortion	690	318	46.1	11	1.6	0	0.0	12	1.7	2	0.3
Gambling/Lottery	119	61	51.3	1	0.8	0	0.0	1	0.8	0	0.0
Civil Rights	67	26	38.8	1	1.5	0	0.0	2	3.0	0	0.0
Immigration	20,080	12,613	62.8	88	0.4	33	0.2	193	1.0	20	0.1
Pornography/Prostitution	1,568	857	54.7	8	0.5	10	0.6	24	1.5	1	0.1
Prison Offenses	342	259	75.7	2	0.6	3	0.9	4	1.2	0	0.0
Administration of Justice Offenses	934	562	60.2	7	0.7	3	0.3	11	1.2	1	0.1
Environmental/Wildlife	153	104	68.0	0	0.0	0	0.0	1	0.7	0	0.0
National Defense	51	24	47.1	0	0.0	0	0.0	1	2.0	0	0.0
Antitrust	22	4	18.2	0	0.0	0	0.0	0	0.0	0	0.0
Food & Drug	66	51	77.3	0	0.0	0	0.0	0	0.0	0	0.0
Other Miscellaneous Offenses	1,294	982	75.9	7	0.5	4	0.3	8	0.6	3	0.2

Table 3 (cont.)

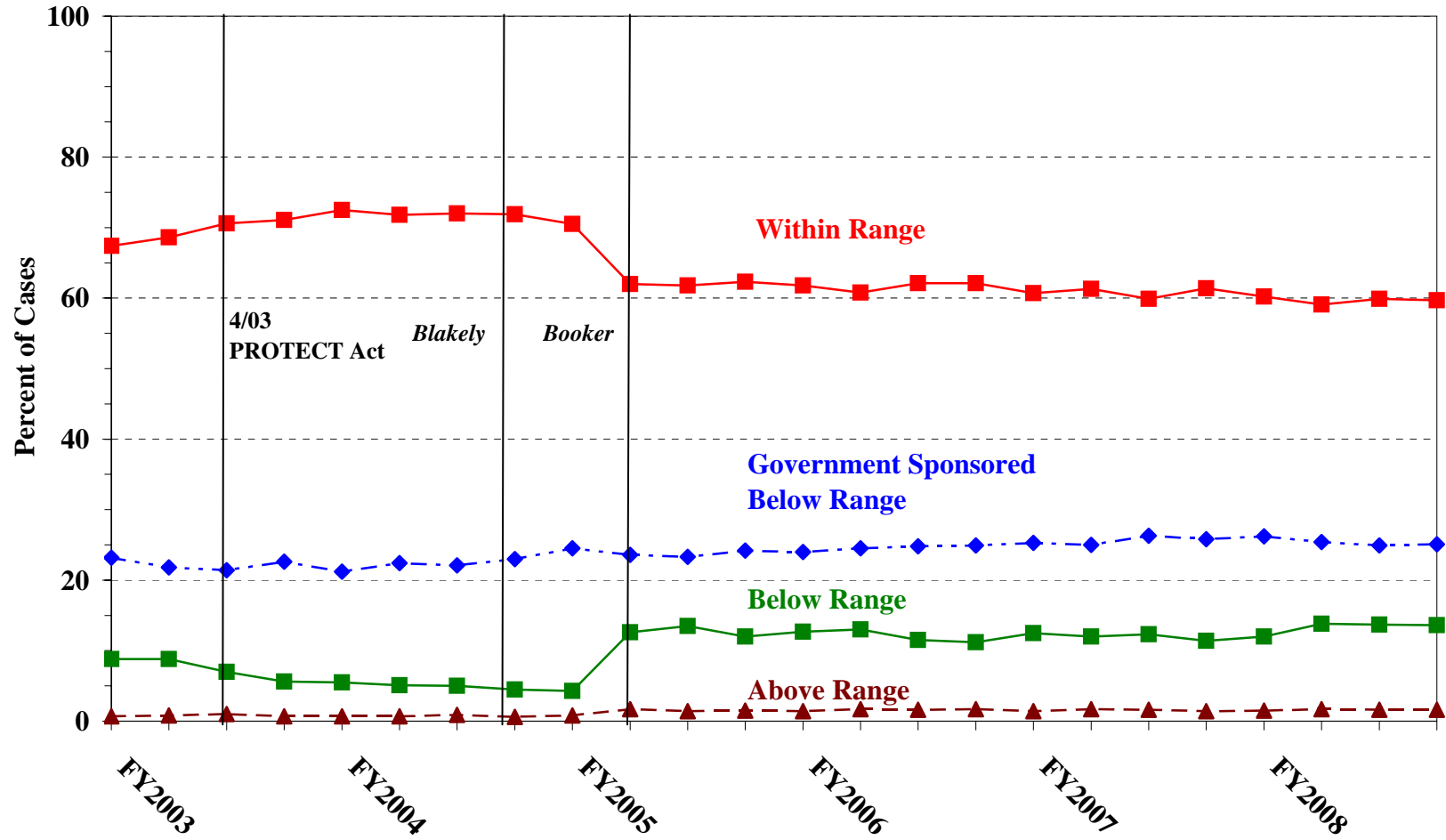
PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	9,498	13.4	5,503	7.8	2,960	4.2	1,485	2.1	858	1.2	6,308	8.9	738	1.0
Murder	6	9.8	2	3.3	5	8.2	0	0.0	2	3.3	7	11.5	1	1.6
Manslaughter	0	0.0	0	0.0	4	7.7	1	1.9	1	1.9	4	7.7	0	0.0
Kidnapping/Hostage Taking	14	26.9	1	1.9	4	7.7	2	3.8	1	1.9	10	19.2	0	0.0
Sexual Abuse	16	3.5	1	0.2	27	5.9	4	0.9	7	1.5	51	11.2	2	0.4
Assault	8	1.3	8	1.3	43	7.1	20	3.3	9	1.5	58	9.6	11	1.8
Robbery	111	11.0	0	0.0	29	2.9	28	2.8	32	3.2	113	11.2	8	0.8
Arson	10	17.5	0	0.0	1	1.8	2	3.5	1	1.8	5	8.8	0	0.0
Drugs - Trafficking	5,965	25.7	1,131	4.9	843	3.6	439	1.9	306	1.3	2,154	9.3	170	0.7
Drugs - Communication Facility	57	16.6	1	0.3	17	5.0	3	0.9	4	1.2	44	12.8	6	1.7
Drugs - Simple Possession	10	2.6	0	0.0	11	2.9	0	0.0	1	0.3	7	1.8	4	1.1
Firearms	892	11.3	29	0.4	240	3.0	161	2.0	112	1.4	842	10.7	88	1.1
Burglary/B&E	4	8.9	0	0.0	0	0.0	2	4.4	0	0.0	2	4.4	2	4.4
Auto Theft	10	17.2	0	0.0	1	1.7	1	1.7	1	1.7	4	6.9	1	1.7
Larceny	92	6.5	4	0.3	34	2.4	20	1.4	14	1.0	124	8.8	31	2.2
Fraud	979	14.4	41	0.6	229	3.4	135	2.0	117	1.7	819	12.0	123	1.8
Embezzlement	26	5.6	0	0.0	14	3.0	14	3.0	9	1.9	71	15.3	9	1.9
Forgery/Counterfeiting	100	10.6	0	0.0	18	1.9	28	3.0	7	0.7	101	10.7	16	1.7
Bribery	58	28.9	0	0.0	12	6.0	2	1.0	3	1.5	38	18.9	1	0.5
Tax	105	19.6	0	0.0	18	3.4	16	3.0	18	3.4	120	22.4	14	2.6
Money Laundering	206	25.5	6	0.7	67	8.3	22	2.7	22	2.7	136	16.9	13	1.6
Racketeering/Extortion	180	26.1	0	0.0	67	9.7	14	2.0	4	0.6	73	10.6	9	1.3
Gambling/Lottery	20	16.8	0	0.0	10	8.4	4	3.4	2	1.7	13	10.9	7	5.9
Civil Rights	18	26.9	0	0.0	2	3.0	1	1.5	2	3.0	15	22.4	0	0.0
Immigration	328	1.6	4,267	21.3	1,032	5.1	449	2.2	91	0.5	811	4.0	155	0.8
Pornography/Prostitution	48	3.1	3	0.2	102	6.5	54	3.4	44	2.8	393	25.1	24	1.5
Prison Offenses	10	2.9	4	1.2	11	3.2	7	2.0	4	1.2	35	10.2	3	0.9
Administration of Justice Offenses	84	9.0	3	0.3	63	6.7	26	2.8	20	2.1	139	14.9	15	1.6
Environmental/Wildlife	20	13.1	0	0.0	8	5.2	4	2.6	2	1.3	12	7.8	2	1.3
National Defense	7	13.7	0	0.0	4	7.8	5	9.8	2	3.9	8	15.7	0	0.0
Antitrust	17	77.3	0	0.0	0	0.0	0	0.0	0	0.0	1	4.5	0	0.0
Food & Drug	6	9.1	0	0.0	2	3.0	2	3.0	0	0.0	5	7.6	0	0.0
Other Miscellaneous Offenses	91	7.0	2	0.2	42	3.2	19	1.5	20	1.5	93	7.2	23	1.8

¹Of the 72,171 cases, 1,433 were excluded due to one or both of the following reasons: missing primary offense (38) or missing information from the submitted documents that prevented the comparison of the sentence and the guideline range (1,398). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

Figure A

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹
 Fiscal Years 2003 - 2007,
 4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



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

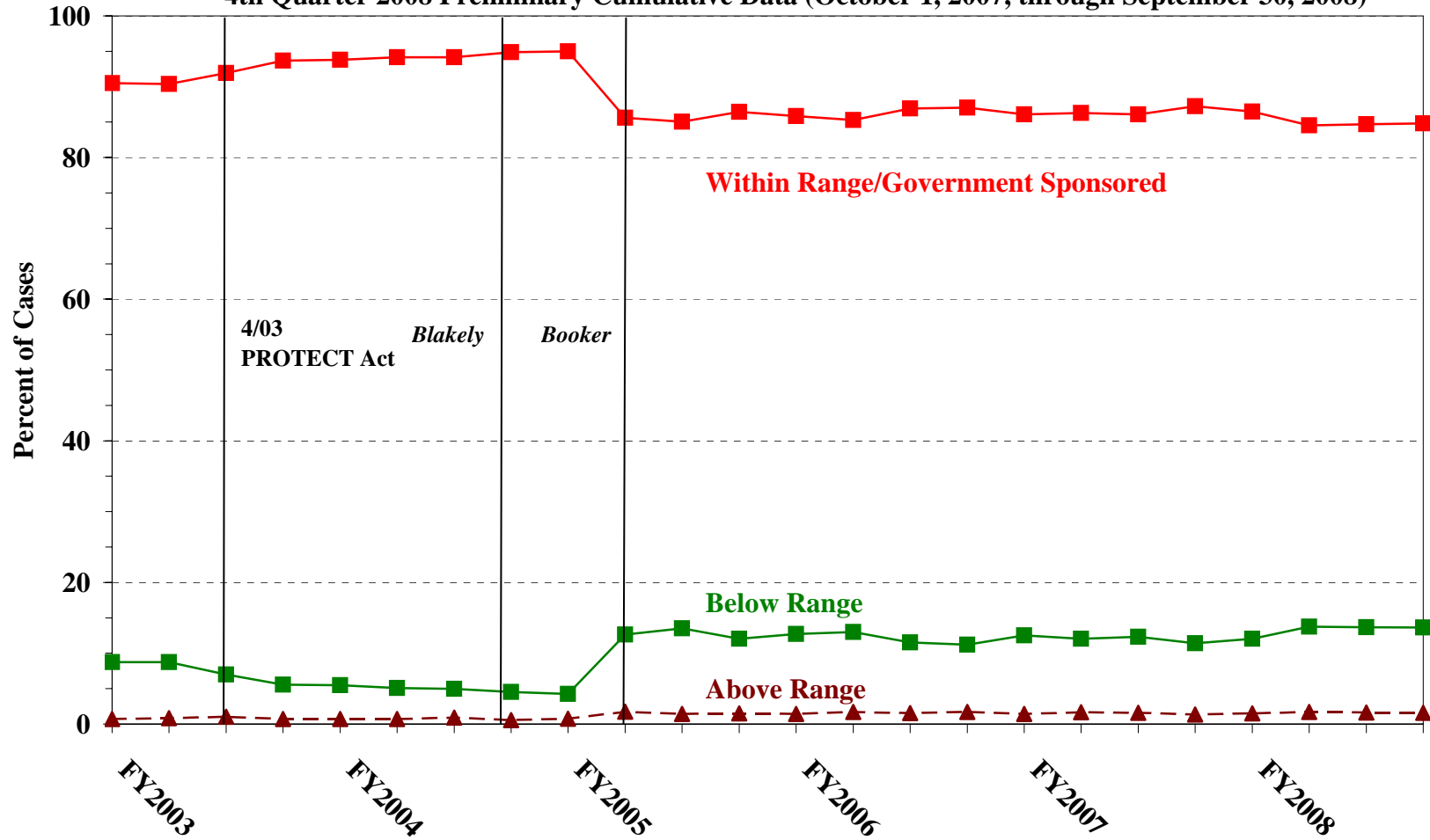
SOURCE: U.S. Sentencing Commission, 2003 - 2007 Datafiles, USSCFY03 - USSCFY07, and Preliminary Data from USSCFY08 (October 1, 2007, through September 30, 2008).

Figure B

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

Fiscal Years 2003 - 2007,

4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



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

SOURCE: U.S. Sentencing Commission, 2003 - 2007 Datafiles, USSCFY03 - USSCFY07, and Preliminary Data from USSCFY08 (October 1, 2007, through September 30, 2008).

Table 4

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹
Fiscal Years 2003 - 2007,
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

FISCAL YEAR	WITHIN GUIDELINE RANGE	GOVERNMENT SPONSORED BELOW RANGE	BELOW RANGE	ABOVE RANGE
Quarter	%	%	%	%
FY2003				
1st Quarter	67.4	23.2	8.8	0.7
2ndQuarter	68.6	21.8	8.8	0.8
3rd Quarter	70.6	21.4	7.0	1.0
4th Quarter	71.1	22.6	5.6	0.7
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	60.2	26.2	12.0	1.5
2ndQuarter	59.1	25.4	13.8	1.7
3rd Quarter	59.9	24.9	13.7	1.6
4th Quarter	59.7	25.1	13.6	1.6

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

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward				Government Sponsored			Downward			
			Departure		Above Range		Other Gov't	Departure		Below Range			
			Gdline Only	with Booker	with Booker	All Others		\$5K1.1	\$5K3.1	Gdline Only	with Booker	with Booker	All Others
§2N1.1	1	0	0	0	0	0	0	0	0	1	0	0	0
§2N1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2N1.3	4	2	0	0	0	0	0	0	0	2	0	0	0
§2N2.1	33	32	0	0	0	0	0	0	0	0	0	1	0
§2N3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2P1.1	232	164	1	3	3	0	6	4	8	7	4	29	3
§2P1.2	84	70	1	0	1	0	2	0	4	0	0	6	0
§2P1.3	0	0	0	0	0	0	0	0	0	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	44	15	0	0	1	0	6	0	6	4	3	8	1
§2Q1.3	28	8	0	0	0	0	8	0	5	3	1	2	1
§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	100	65	0	0	0	0	13	0	8	1	1	10	2
§2Q2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2R1.1	15	4	0	0	0	0	11	0	0	0	0	0	0
§2S1.1	945	362	1	2	10	0	303	2	52	26	25	149	13
§2S1.2	5	4	0	0	0	0	1	0	0	0	0	0	0
§2S1.3	198	109	0	0	0	0	24	3	19	4	3	32	4
§2S1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.1	454	193	2	1	3	0	85	0	16	17	17	107	13
§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	119	52	0	0	1	0	26	0	4	2	4	28	2
§2T1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.6	18	4	0	0	0	0	1	0	0	0	0	12	1
§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	25	11	0	0	0	0	9	1	0	0	0	4	0
§2T2.1	1	1	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	11	8	0	0	0	0	2	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	24	9	0	1	0	0	8	0	2	1	1	2	0
§2X2.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X3.1	113	55	1	1	4	0	19	1	7	2	6	17	0
§2X4.1	469	290	4	1	2	1	43	0	34	15	2	70	7
§2X5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X5.2	126	118	1	1	0	1	0	0	1	0	0	1	3
§2X6.1	1	1	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	66,452	38,524	293	131	584	90	9,405	5,371	2,812	1,472	844	6,230	696

¹Of the 72,171 cases, 5,719 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 (1,398) or missing guideline applied (5,490). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
IN EACH OUTSIDE OF THE RANGE ATTRIBUTION CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

	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	28,498	6,557	23.0	5,366	18.8	2,121	7.4	1,867	6.6	139	0.5
Above Range	1,132	5	0.4	3	0.3	189	16.7	120	10.6	1	0.1
Upward Departure From Guideline Range	305	1	0.3	2	0.7	71	23.3	43	14.1	0	0.0
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	139	0	0.0	0	0.0	25	18.0	32	23.0	1	0.7
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	594	0	0.0	0	0.0	89	15.0	33	5.6	0	0.0
All Remaining Cases Above Guideline Range	94	4	4.3	1	1.1	4	4.3	12	12.8	0	0.0
Government Sponsored Below Range	17,977	6,552	36.4	5,363	29.8	1,932	10.7	1,747	9.7	138	0.8
§5K1.1 Substantial Assistance Departure	9,507	6,552	68.9	102	1.1	201	2.1	198	2.1	28	0.3
§5K3.1 Early Disposition Program Departure	5,506	0	0.0	5,261	95.6	704	12.8	114	2.1	6	0.1
Other Government Sponsored Below Range	2,964	0	0.0	0	0.0	1,027	34.6	1,435	48.4	104	3.5
Below Range	9,389	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure From Guideline Range	1,485	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	858	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	6,308	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	738	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	2,789	9.8	157	0.6	697	2.4	2,532	8.9	2,838	10.0	4,478	15.7	3,182	11.2
Above Range	5	0.4	0	0.0	135	11.9	8	0.7	6	0.5	540	47.7	237	20.9
Upward Departure From Guideline Range	2	0.7	0	0.0	46	15.1	4	1.3	2	0.7	108	35.4	38	12.5
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	33	23.7	2	1.4	0	0.0	101	72.7	23	16.5
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	54	9.1	1	0.2	3	0.5	320	53.9	106	17.8
All Remaining Cases Above Guideline Range	3	3.2	0	0.0	2	2.1	1	1.1	1	1.1	11	11.7	70	74.5
Government Sponsored Below Range	2,784	15.5	157	0.9	562	3.1	714	4.0	411	2.3	700	3.9	464	2.6
§5K1.1 Substantial Assistance Departure	2,784	29.3	3	0.0	246	2.6	293	3.1	211	2.2	318	3.3	217	2.3
§5K3.1 Early Disposition Program Departure	0	0.0	154	2.8	38	0.7	204	3.7	110	2.0	116	2.1	99	1.8
Other Government Sponsored Below Range	0	0.0	0	0.0	278	9.4	217	7.3	90	3.0	266	9.0	148	5.0
Below Range	0	0.0	0	0.0	0	0.0	1,810	19.3	2,421	25.8	3,238	34.5	2,481	26.4
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	469	31.6	345	23.2	461	31.0	245	16.5
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	227	26.5	364	42.4	528	61.5	152	17.7
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	1,086	17.2	1,681	26.6	2,224	35.3	1,423	22.6
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	28	3.8	31	4.2	25	3.4	661	89.6

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, 3,880 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
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	9,036	36.0	30.0	47.4
Murder	5	60.0	170.8	71.2
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	12	167.0	83.5	31.5
Sexual Abuse	16	53.0	32.5	40.7
Assault	8	12.5	10.5	48.8
Robbery	109	46.0	20.0	33.3
Arson	9	30.0	24.0	33.2
Drugs - Trafficking	5,696	51.0	40.0	43.9
Drugs - Communication Facility	54	12.0	17.1	61.2
Drugs - Simple Possession	10	19.5	21.0	41.6
Firearms	824	56.5	29.0	40.0
Burglary/B&E	3	0.0	10.0	100.0
Auto Theft	10	24.0	12.5	30.7
Larceny	88	12.0	10.5	54.9
Fraud	935	7.0	15.0	67.3
Embezzlement	25	0.0	10.0	100.0
Forgery/Counterfeiting	98	6.0	7.5	66.7
Bribery	57	2.0	19.0	79.2
Tax	102	0.0	12.0	100.0
Money Laundering	195	12.4	24.0	53.6
Racketeering/Extortion	168	30.0	30.0	50.0
Gambling/Lottery	19	0.0	6.0	100.0
Civil Rights	14	6.0	12.0	85.0
Immigration	314	12.0	10.0	44.4
Pornography/Prostitution	47	60.0	47.0	44.4
Prison Offenses	7	9.0	8.0	39.4
Administration of Justice Offenses	81	0.0	12.0	100.0
Environmental/Wildlife	19	0.0	12.0	100.0
National Defense	7	12.0	33.0	73.9
Antitrust	13	4.0	10.0	85.4
Food & Drug	5	0.0	12.0	100.0
Other Miscellaneous Offenses	86	4.5	13.5	73.9

¹Of the 72,171 cases, 9,507 received a §5K1.1 substantial assistance departure. Of these, 9,152 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 112 cases were also excluded from this table. Of the remaining 9,040 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.

**§5K3.1 EARLY DISPOSITION PROGRAM DEPARTURE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	5,282	18.0	6.0	28.3
Murder	1	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	1	--	--	--
Assault	8	21.0	4.8	22.1
Robbery	0	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	1,094	13.0	10.0	40.0
Drugs - Communication Facility	1	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	27	18.0	6.0	20.0
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	4	11.5	6.0	26.8
Fraud	39	5.0	1.0	16.7
Embezzlement	0	--	--	--
Forgery/Counterfeiting	0	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	5	0.9	10.0	91.1
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	4,089	18.0	6.0	27.8
Pornography/Prostitution	3	30.0	18.0	34.8
Prison Offenses	4	12.0	3.0	22.5
Administration of Justice Offenses	3	4.0	12.0	60.0
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	2	--	--	--

¹Of the 72,171 cases, 5,506 received a §5K3.1 early disposition program departure. Of these, 5,283 had complete guideline application information. One additional case was excluded due to several logical criteria. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**OTHER GOVERNMENT SPONSORED BELOW RANGE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	2,746	21.0	9.0	27.0
Murder	4	144.0	50.0	23.2
Manslaughter	4	19.0	14.5	44.8
Kidnapping/Hostage Taking	4	201.5	68.0	23.7
Sexual Abuse	24	84.0	29.0	41.8
Assault	36	13.4	12.0	56.0
Robbery	28	44.0	14.9	20.3
Arson	1	--	--	--
Drugs - Trafficking	811	60.0	15.0	22.1
Drugs - Communication Facility	17	24.0	19.0	43.8
Drugs - Simple Possession	9	60.0	10.0	16.4
Firearms	223	37.0	15.0	25.0
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	32	0.0	10.0	100.0
Fraud	176	12.0	11.6	50.2
Embezzlement	14	0.0	9.0	99.9
Forgery/Counterfeiting	18	7.2	9.0	47.1
Bribery	12	34.0	22.5	46.7
Tax	18	0.0	12.0	100.0
Money Laundering	60	12.0	12.0	59.5
Racketeering/Extortion	60	28.5	11.5	26.9
Gambling/Lottery	10	0.0	6.0	99.8
Civil Rights	2	--	--	--
Immigration	967	12.0	3.0	20.0
Pornography/Prostitution	99	60.0	36.0	38.1
Prison Offenses	10	10.0	8.5	30.2
Administration of Justice Offenses	53	0.0	12.0	100.0
Environmental/Wildlife	8	0.0	10.0	100.0
National Defense	3	4.9	42.0	70.0
Antitrust	0	--	--	--
Food & Drug	2	--	--	--
Other Miscellaneous Offenses	40	0.0	12.0	100.0

¹Of the 72,171 cases, 2,964 received an other government sponsored downward departure. Of these, 2,756 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 eight cases were also excluded from this table. Of the remaining 2,748 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.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

**DOWNWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,423	24.0	10.0	28.3
Murder	0	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	2	--	--	--
Sexual Abuse	4	34.0	7.0	26.1
Assault	17	6.0	12.0	80.9
Robbery	28	27.0	18.0	34.5
Arson	2	--	--	--
Drugs - Trafficking	416	52.0	14.0	20.5
Drugs - Communication Facility	2	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	153	31.0	9.0	19.3
Burglary/B&E	2	--	--	--
Auto Theft	1	--	--	--
Larceny	20	0.0	10.0	100.0
Fraud	129	5.0	10.0	66.7
Embezzlement	13	0.1	10.0	98.3
Forgery/Counterfeiting	27	4.3	9.0	66.7
Bribery	2	--	--	--
Tax	15	0.0	10.0	100.0
Money Laundering	20	20.5	9.5	24.8
Racketeering/Extortion	12	82.0	17.0	16.9
Gambling/Lottery	4	0.0	7.0	100.0
Civil Rights	1	--	--	--
Immigration	438	24.0	7.0	25.0
Pornography/Prostitution	53	56.0	24.0	31.0
Prison Offenses	7	12.0	4.0	19.8
Administration of Justice Offenses	26	6.0	9.0	60.0
Environmental/Wildlife	4	12.0	8.5	38.9
National Defense	5	10.0	21.0	78.3
Antitrust	0	--	--	--
Food & Drug	2	--	--	--
Other Miscellaneous Offenses	17	6.0	8.0	66.7

¹Of the 72,171 cases, 1,485 received a downward departure from the guideline range. Of these, 1,427 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 1,425 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
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	808	24.0	15.0	40.0
Murder	2	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	6	25.5	17.5	34.9
Assault	9	3.0	15.0	75.0
Robbery	32	37.0	13.0	21.7
Arson	1	--	--	--
Drugs - Trafficking	289	60.0	23.0	33.3
Drugs - Communication Facility	4	12.0	14.1	51.5
Drugs - Simple Possession	1	--	--	--
Firearms	108	24.0	12.1	32.8
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	11	0.0	10.0	100.0
Fraud	108	3.0	12.0	78.5
Embezzlement	9	0.0	12.0	99.8
Forgery/Counterfeiting	7	0.0	10.0	100.0
Bribery	2	--	--	--
Tax	18	0.0	12.0	99.9
Money Laundering	21	24.0	18.0	50.0
Racketeering/Extortion	4	39.0	17.0	24.0
Gambling/Lottery	2	--	--	--
Civil Rights	2	--	--	--
Immigration	82	20.0	12.0	37.9
Pornography/Prostitution	43	54.0	30.0	38.5
Prison Offenses	4	16.5	4.5	22.4
Administration of Justice Offenses	18	3.5	8.5	61.0
Environmental/Wildlife	2	--	--	--
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	20	0.0	11.0	100.0

¹Of the 72,171 cases, 858 received a downward departure from the guideline range with *Booker* /18 U.S.C § 3553. Of these, 812 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 four cases were also excluded from this table. 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
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	6,002	27.0	12.0	33.3
Murder	7	180.0	52.0	17.8
Manslaughter	4	7.5	12.0	75.0
Kidnapping/Hostage Taking	9	144.0	70.0	30.0
Sexual Abuse	45	33.0	13.0	38.7
Assault	56	12.0	10.0	39.0
Robbery	111	41.0	15.0	21.7
Arson	5	72.0	15.0	14.3
Drugs - Trafficking	2,046	60.0	16.0	23.5
Drugs - Communication Facility	44	19.5	12.0	36.3
Drugs - Simple Possession	5	60.0	8.0	19.8
Firearms	815	29.0	12.0	29.4
Burglary/B&E	2	--	--	--
Auto Theft	4	3.0	11.0	70.0
Larceny	121	0.0	9.0	100.0
Fraud	783	9.0	10.0	57.7
Embezzlement	71	0.2	9.0	98.0
Forgery/Counterfeiting	99	0.0	8.0	99.8
Bribery	27	9.4	12.0	58.3
Tax	116	1.5	10.0	84.7
Money Laundering	126	18.0	10.0	35.1
Racketeering/Extortion	67	36.0	12.0	28.6
Gambling/Lottery	12	0.0	6.5	100.0
Civil Rights	15	0.0	10.0	99.5
Immigration	748	24.0	10.0	33.3
Pornography/Prostitution	385	60.0	27.0	33.3
Prison Offenses	35	9.0	9.0	50.0
Administration of Justice Offenses	132	6.0	10.0	62.2
Environmental/Wildlife	12	0.0	9.0	100.0
National Defense	8	15.0	9.9	43.9
Antitrust	1	--	--	--
Food & Drug	5	1.0	8.0	83.3
Other Miscellaneous Offenses	86	0.0	10.0	100.0

¹Of the 72,171 cases, 6,308 were sentenced below the guideline range with *Booker* /18 U.S.C § 3553. Of these, 6,033 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 23 cases were also excluded from this table. Furthermore, two cases were excluded due to several logical criteria. Of the remaining 6,008 cases, six 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
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	644	12.0	6.0	38.9
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	2	--	--	--
Assault	9	7.1	6.0	59.9
Robbery	8	47.0	14.0	22.0
Arson	0	--	--	--
Drugs - Trafficking	151	60.0	15.0	25.0
Drugs - Communication Facility	6	32.0	6.0	18.3
Drugs - Simple Possession	4	0.7	6.0	87.6
Firearms	83	60.0	10.0	18.6
Burglary/B&E	2	--	--	--
Auto Theft	1	--	--	--
Larceny	29	0.0	6.0	100.0
Fraud	109	4.0	6.0	60.0
Embezzlement	9	0.0	4.0	100.0
Forgery/Counterfeiting	15	0.0	6.0	99.5
Bribery	1	--	--	--
Tax	14	0.0	7.5	100.0
Money Laundering	11	0.0	6.0	99.9
Racketeering/Extortion	7	84.0	18.0	20.0
Gambling/Lottery	7	0.0	6.0	100.0
Civil Rights	0	--	--	--
Immigration	119	4.5	5.0	34.8
Pornography/Prostitution	23	72.0	48.0	33.3
Prison Offenses	3	6.0	2.0	25.0
Administration of Justice Offenses	10	1.5	5.5	96.3
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	21	0.0	6.0	100.0

¹Of the 72,171 cases, 738 were otherwise sentenced below the guideline range. Of these, 651 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. Furthermore, one case was excluded due to several logical criteria. 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 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

**UPWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	284	60.0	13.0	33.3
Murder	4	360.0	98.0	37.4
Manslaughter	3	60.0	14.0	30.4
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	9	84.0	31.0	53.8
Assault	14	96.0	30.0	48.7
Robbery	14	117.0	24.0	25.7
Arson	2	--	--	--
Drugs - Trafficking	40	116.0	27.0	24.7
Drugs - Communication Facility	1	--	--	--
Drugs - Simple Possession	1	--	--	--
Firearms	51	118.0	15.0	24.2
Burglary/B&E	1	--	--	--
Auto Theft	0	--	--	--
Larceny	3	37.0	16.0	76.2
Fraud	25	60.0	14.0	37.8
Embezzlement	0	--	--	--
Forgery/Counterfeiting	2	--	--	--
Bribery	0	--	--	--
Tax	2	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	10	72.0	15.0	33.1
Gambling/Lottery	1	--	--	--
Civil Rights	1	--	--	--
Immigration	78	21.0	6.0	33.3
Pornography/Prostitution	7	300.0	59.0	18.5
Prison Offenses	2	--	--	--
Administration of Justice Offenses	6	28.0	7.0	85.7
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	6	36.0	10.5	25.8

¹Of the 72,171 cases, 305 received an upward departure from the guideline range. Of these, 288 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, one additional case was also excluded from this table. Furthermore, three cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**UPWARD DEPARTURES WITH *BOOKER*/18 U.S.C. § 3553: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	122	81.0	23.5	54.0
Murder	1	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	2	--	--	--
Assault	3	60.0	30.0	52.6
Robbery	12	144.0	47.0	69.5
Arson	0	--	--	--
Drugs - Trafficking	13	130.0	37.0	43.0
Drugs - Communication Facility	1	--	--	--
Drugs - Simple Possession	2	--	--	--
Firearms	27	120.0	39.0	52.2
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	4	68.0	23.0	121.4
Fraud	6	53.5	11.0	30.5
Embezzlement	1	--	--	--
Forgery/Counterfeiting	3	36.0	8.0	39.0
Bribery	0	--	--	--
Tax	2	--	--	--
Money Laundering	0	--	--	--
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	25	27.0	10.0	100.0
Pornography/Prostitution	10	237.0	55.0	43.2
Prison Offenses	2	--	--	--
Administration of Justice Offenses	3	24.0	6.0	20.0
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	4	33.0	9.5	65.9

¹Of the 72,171 cases, 139 received an upward departure from the guideline range with *Booker*/18 U.S.C § 3553. Of these, 125 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, two cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ABOVE GUIDELINE RANGE WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	562	48.0	14.0	50.0
Murder	2	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	14	135.0	26.5	30.9
Assault	19	72.0	21.0	41.2
Robbery	12	110.0	16.5	20.9
Arson	0	--	--	--
Drugs - Trafficking	59	96.0	15.0	20.0
Drugs - Communication Facility	2	--	--	--
Drugs - Simple Possession	4	9.5	3.5	52.4
Firearms	97	96.0	21.0	29.7
Burglary/B&E	1	--	--	--
Auto Theft	1	--	--	--
Larceny	24	36.0	13.5	53.8
Fraud	60	55.0	16.5	60.0
Embezzlement	1	--	--	--
Forgery/Counterfeiting	11	36.0	16.0	100.0
Bribery	0	--	--	--
Tax	6	59.0	12.0	56.3
Money Laundering	4	48.0	16.5	72.2
Racketeering/Extortion	12	102.0	41.0	65.1
Gambling/Lottery	1	--	--	--
Civil Rights	2	--	--	--
Immigration	184	20.0	7.0	71.6
Pornography/Prostitution	23	160.0	33.0	28.6
Prison Offenses	4	30.0	9.0	31.9
Administration of Justice Offenses	11	60.0	15.0	42.5
Environmental/Wildlife	1	--	--	--
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	6	21.0	7.5	41.7

¹Of the 72,171 cases, 594 were sentenced above the guideline range with *Booker*/18 U.S.C § 3553. Of these, 567 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, an additional three cases were also excluded from this table. Furthermore, two 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
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	59	60.0	11.0	25.0
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	0	--	--	--
Assault	2	--	--	--
Robbery	2	--	--	--
Arson	1	--	--	--
Drugs - Trafficking	13	96.0	14.0	14.9
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	2	--	--	--
Firearms	12	180.0	49.0	37.4
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	2	--	--	--
Fraud	5	60.0	14.0	23.5
Embezzlement	0	--	--	--
Forgery/Counterfeiting	2	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	0	--	--	--
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	15	15.0	6.0	26.0
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	1	--	--	--

¹Of the 72,171 cases, 94 were otherwise sentenced above the guideline range. Of these, 88 had complete guideline application information. 29 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.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

OFFENDERS RECEIVING SENTENCING OPTIONS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

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	71,646	64,214	89.6	62,355	87.0	1,859	2.6	7,432	10.4	2,468	3.4	4,964	6.9
Murder	64	64	100.0	63	98.4	1	1.6	0	0.0	0	0.0	0	0.0
Manslaughter	53	50	94.3	48	90.6	2	3.8	3	5.7	0	0.0	3	5.7
Kidnapping/Hostage Taking	52	52	100.0	52	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	457	447	97.8	436	95.4	11	2.4	10	2.2	8	1.8	2	0.4
Assault	615	537	87.3	511	83.1	26	4.2	78	12.7	18	2.9	60	9.8
Robbery	1,011	989	97.8	968	95.7	21	2.1	22	2.2	5	0.5	17	1.7
Arson	57	55	96.5	54	94.7	1	1.8	2	3.5	0	0.0	2	3.5
Drugs - Trafficking	23,223	22,461	96.7	21,976	94.6	485	2.1	762	3.3	351	1.5	411	1.8
Drugs - Communication Facility	346	282	81.5	274	79.2	8	2.3	64	18.5	28	8.1	36	10.4
Drugs - Simple Possession	400	168	42.0	165	41.3	3	0.8	232	58.0	15	3.8	217	54.3
Firearms	7,916	7,468	94.3	7,292	92.1	176	2.2	448	5.7	212	2.7	236	3.0
Burglary/B&E	45	40	88.9	36	80.0	4	8.9	5	11.1	5	11.1	0	0.0
Auto Theft	59	50	84.7	48	81.4	2	3.4	9	15.3	4	6.8	5	8.5
Larceny	1,414	644	45.5	579	40.9	65	4.6	770	54.5	196	13.9	574	40.6
Fraud	6,903	5,217	75.6	4,764	69.0	453	6.6	1,686	24.4	631	9.1	1,055	15.3
Embezzlement	467	244	52.2	188	40.3	56	12.0	223	47.8	64	13.7	159	34.0
Forgery/Counterfeiting	956	682	71.3	621	65.0	61	6.4	274	28.7	130	13.6	144	15.1
Bribery	202	153	75.7	144	71.3	9	4.5	49	24.3	26	12.9	23	11.4
Tax	544	329	60.5	282	51.8	47	8.6	215	39.5	113	20.8	102	18.8
Money Laundering	813	643	79.1	613	75.4	30	3.7	170	20.9	61	7.5	109	13.4
Racketeering/Extortion	692	629	90.9	610	88.2	19	2.7	63	9.1	26	3.8	37	5.3
Gambling/Lottery	119	46	38.7	38	31.9	8	6.7	73	61.3	43	36.1	30	25.2
Civil Rights	68	45	66.2	41	60.3	4	5.9	23	33.8	10	14.7	13	19.1
Immigration	20,390	19,696	96.6	19,466	95.5	230	1.1	694	3.4	182	0.9	512	2.5
Pornography/Prostitution	1,577	1,546	98.0	1,527	96.8	19	1.2	31	2.0	15	1.0	16	1.0
Prison Offenses	345	323	93.6	314	91.0	9	2.6	22	6.4	8	2.3	14	4.1
Administration of Justice Offenses	957	615	64.3	575	60.1	40	4.2	342	35.7	99	10.3	243	25.4
Environmental/Wildlife	157	31	19.7	27	17.2	4	2.5	126	80.3	23	14.6	103	65.6
National Defense	52	44	84.6	40	76.9	4	7.7	8	15.4	4	7.7	4	7.7
Antitrust	19	11	57.9	8	42.1	3	15.8	8	42.1	6	31.6	2	10.5
Food & Drug	61	19	31.1	14	23.0	5	8.2	42	68.9	12	19.7	30	49.2
Other Miscellaneous Offenses	1,612	634	39.3	581	36.0	53	3.3	978	60.7	173	10.7	805	49.9

¹Of the 72,171 cases, 525 were excluded due to one or more of the following reasons: the offender received neither imprisonment nor probation (466), missing primary offense category (38), or missing sentencing information (59). 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
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

PRIMARY OFFENSE	Mean Months	Median Months	N
TOTAL	50.1	27.0	72,112
Murder	219.9	198.0	64
Manslaughter	46.0	37.0	53
Kidnapping/Hostage Taking	205.8	180.0	52
Sexual Abuse	91.0	63.0	458
Assault	38.4	27.0	621
Robbery	80.3	63.0	1,012
Arson	79.6	60.0	57
Drugs - Trafficking	80.1	60.0	23,230
Drugs - Communication Facility	35.1	36.0	346
Drugs - Simple Possession	7.4	0.0	444
Firearms	82.9	57.0	7,924
Burglary/B&E	19.2	18.0	45
Auto Theft	48.7	24.0	59
Larceny	9.0	3.0	1,503
Fraud	21.6	12.0	6,919
Embezzlement	9.0	6.0	471
Forgery/Counterfeiting	16.6	12.0	956
Bribery	18.9	12.0	202
Tax	16.3	12.0	545
Money Laundering	34.0	21.0	817
Racketeering/Extortion	84.0	54.0	694
Gambling/Lottery	7.2	6.0	119
Civil Rights	38.0	13.0	68
Immigration	18.9	12.0	20,399
Pornography/Prostitution	120.5	78.0	1,578
Prison Offenses	17.0	15.0	346
Administration of Justice Offenses	16.0	8.3	964
Environmental/Wildlife	3.3	0.0	171
National Defense	53.1	24.0	53
Antitrust	8.5	6.0	22
Food & Drug	4.4	0.0	70
Other Miscellaneous Offenses	6.7	0.0	1,850

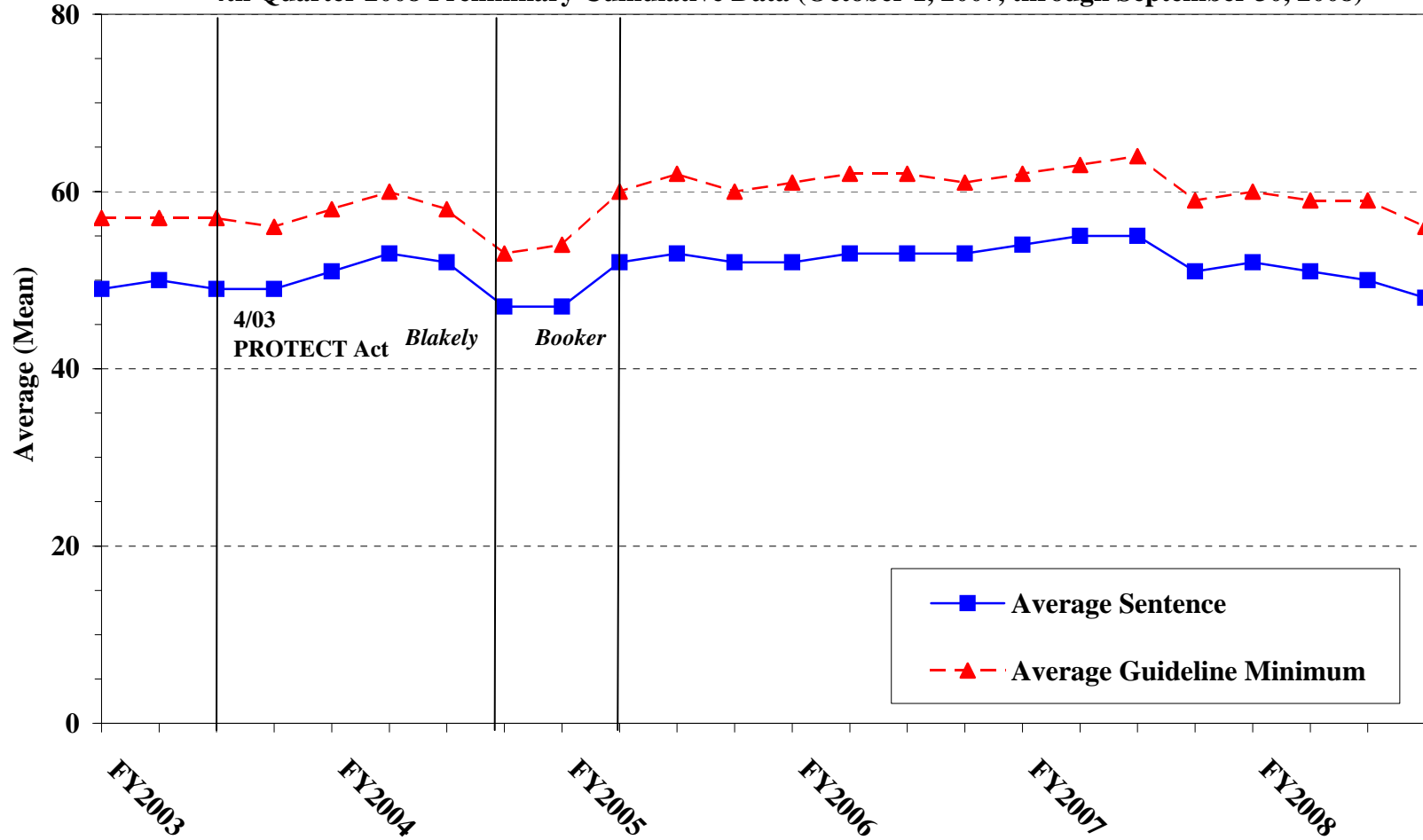
¹Of the 72,171 cases, 59 were excluded due to one or both of the following reasons: missing primary offense (38) or missing or indeterminable sentencing information (59). Sentences of probation only are included in this table as zero months of imprisonment. In addition, the information presented in this 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 2003 - 2007,

4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



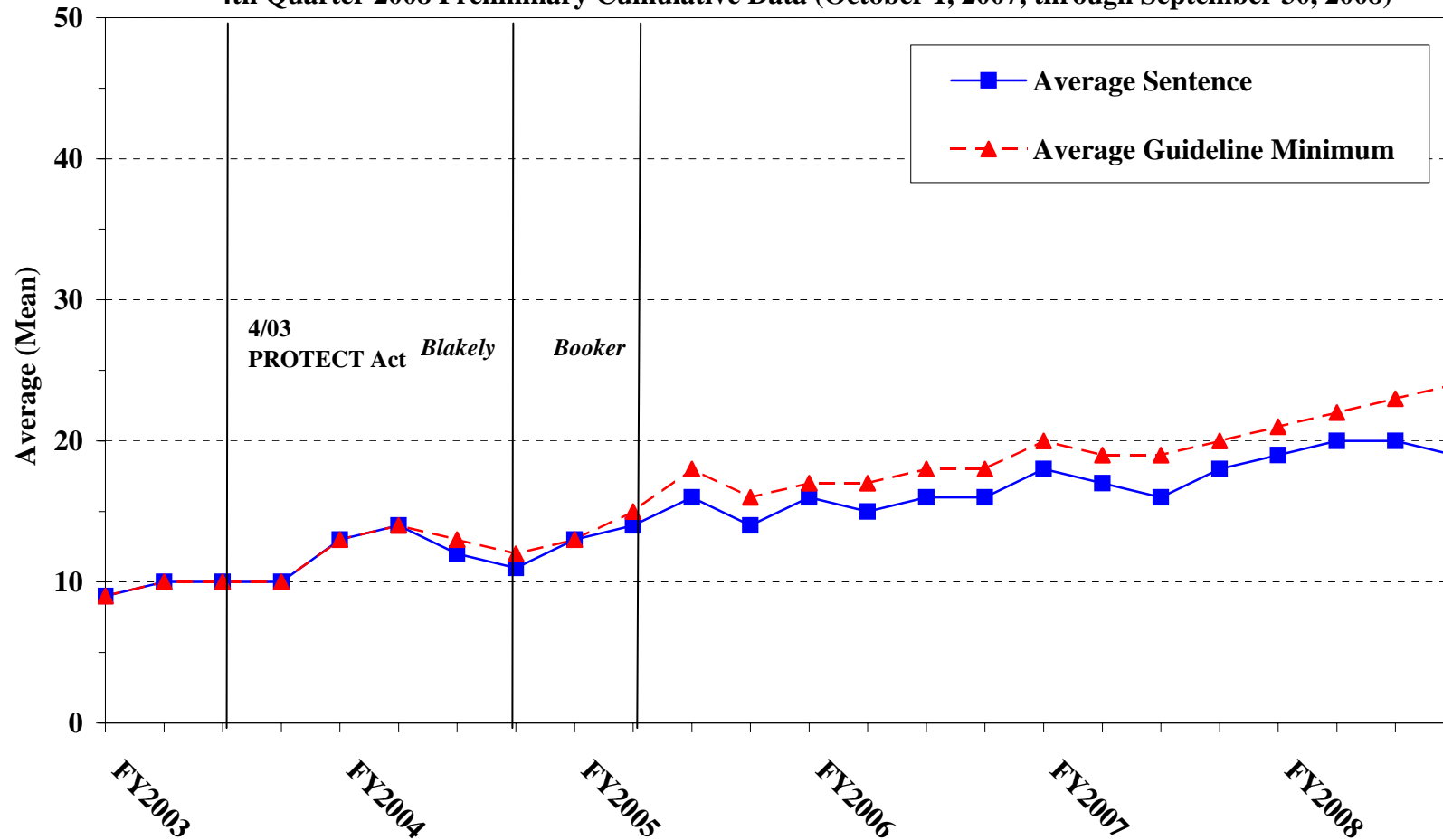
¹Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months 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 2003 - 2007,

4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



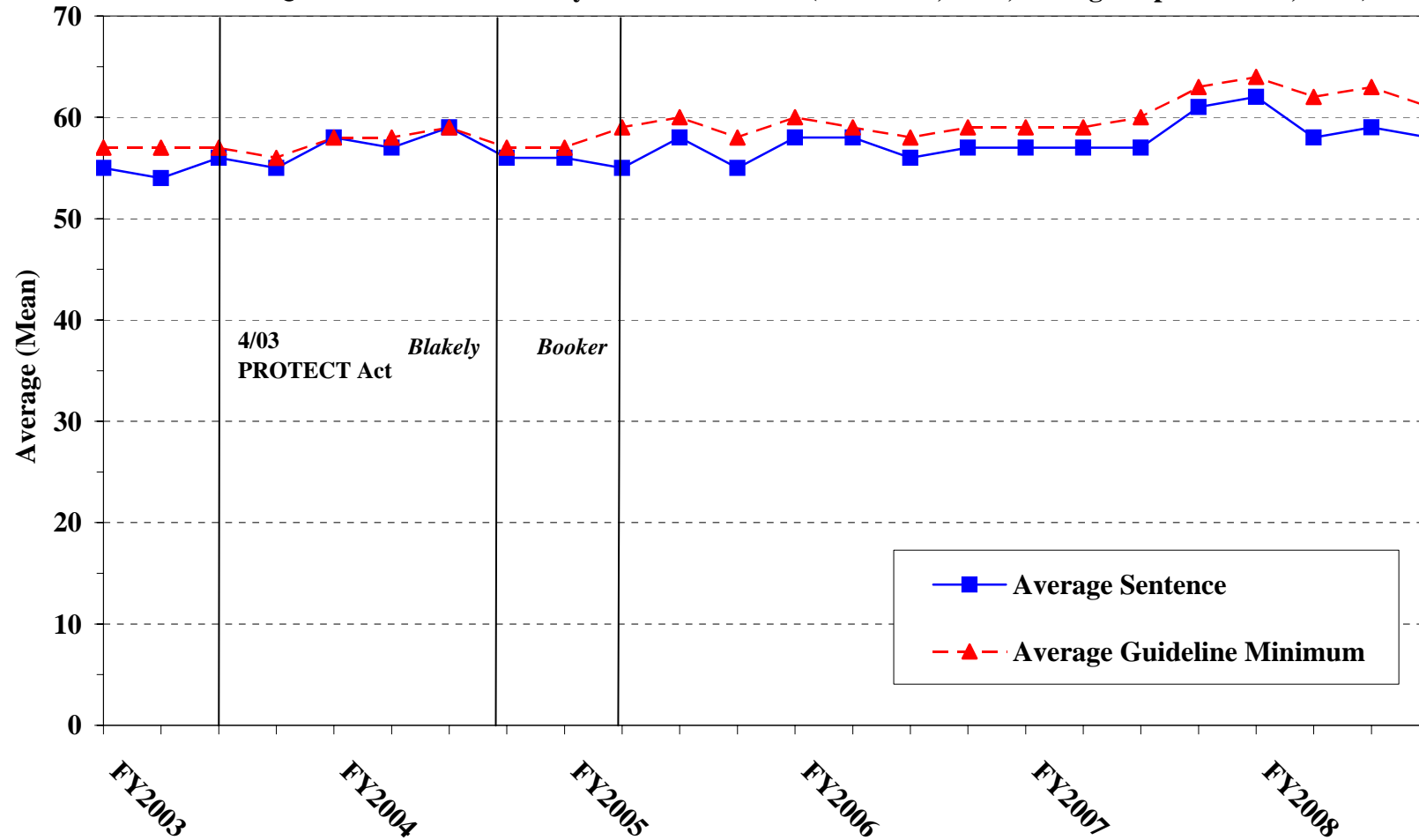
¹Figure includes only cases with a primary sentencing guideline of USSG §2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit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

Figure E

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

Fiscal Years 2003 - 2007,

4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



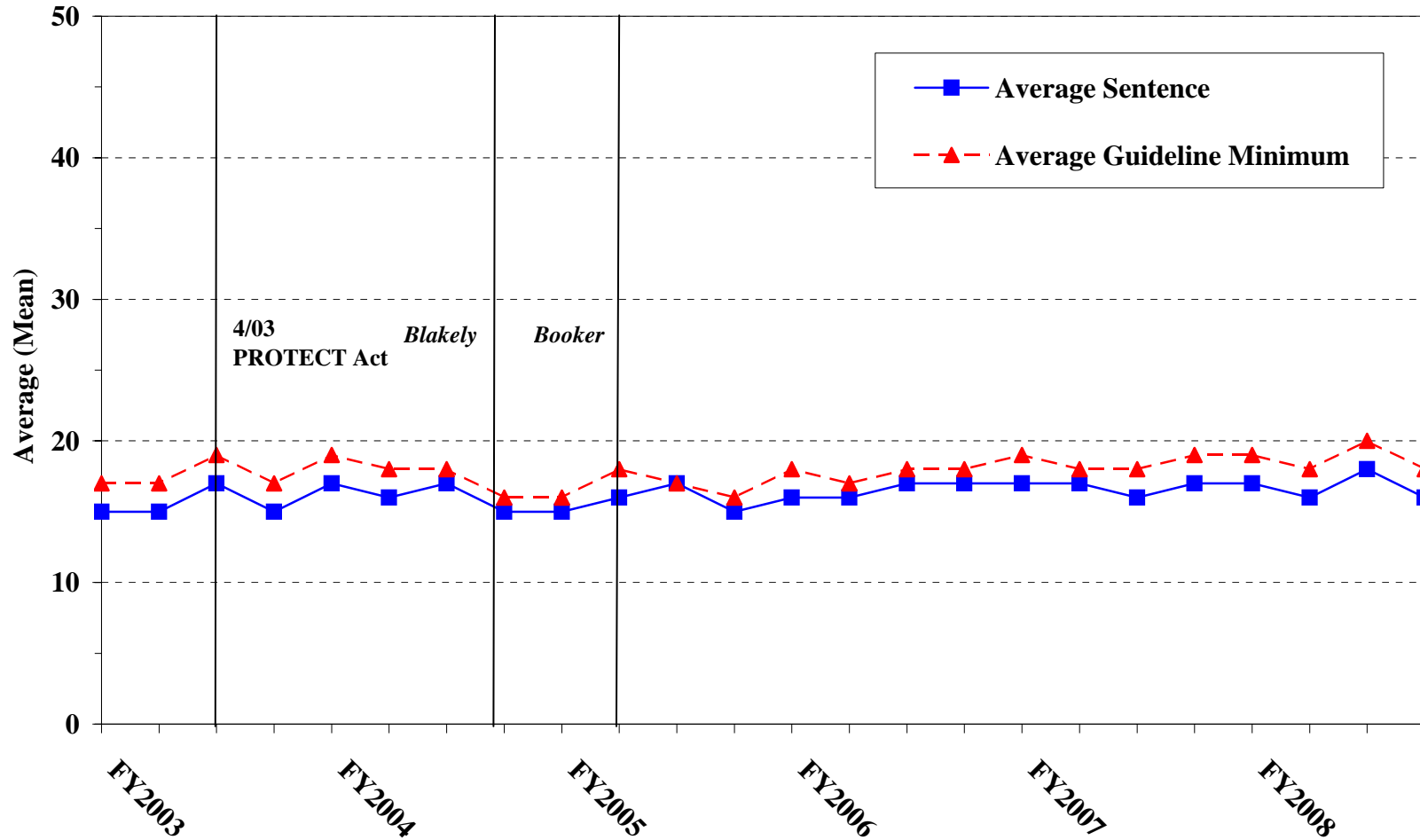
¹Figure includes only cases with a primary sentencing guideline of USSG §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition). Cases with guideline minimums of life or probation were included in the guideline minimum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

Figure F

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

Fiscal Years 2003 - 2007,

4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



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.

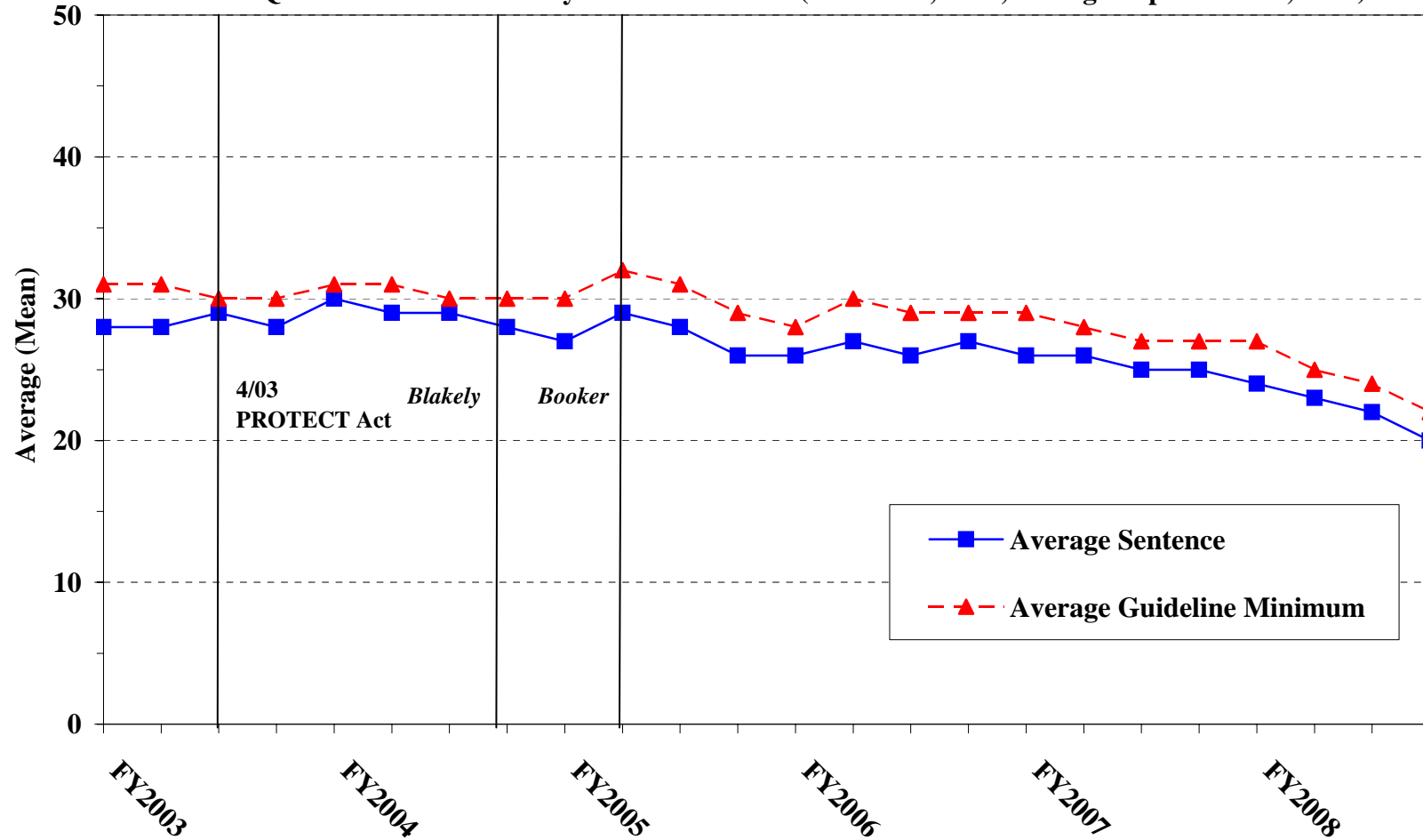
SOURCE: U.S. Sentencing Commission, 2003 - 2007 Datafiles, USSCFY03 - USSCFY07, and Preliminary Data from USSCFY08 (October 1, 2007, through September 30, 2008).

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 2003 - 2007,

4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



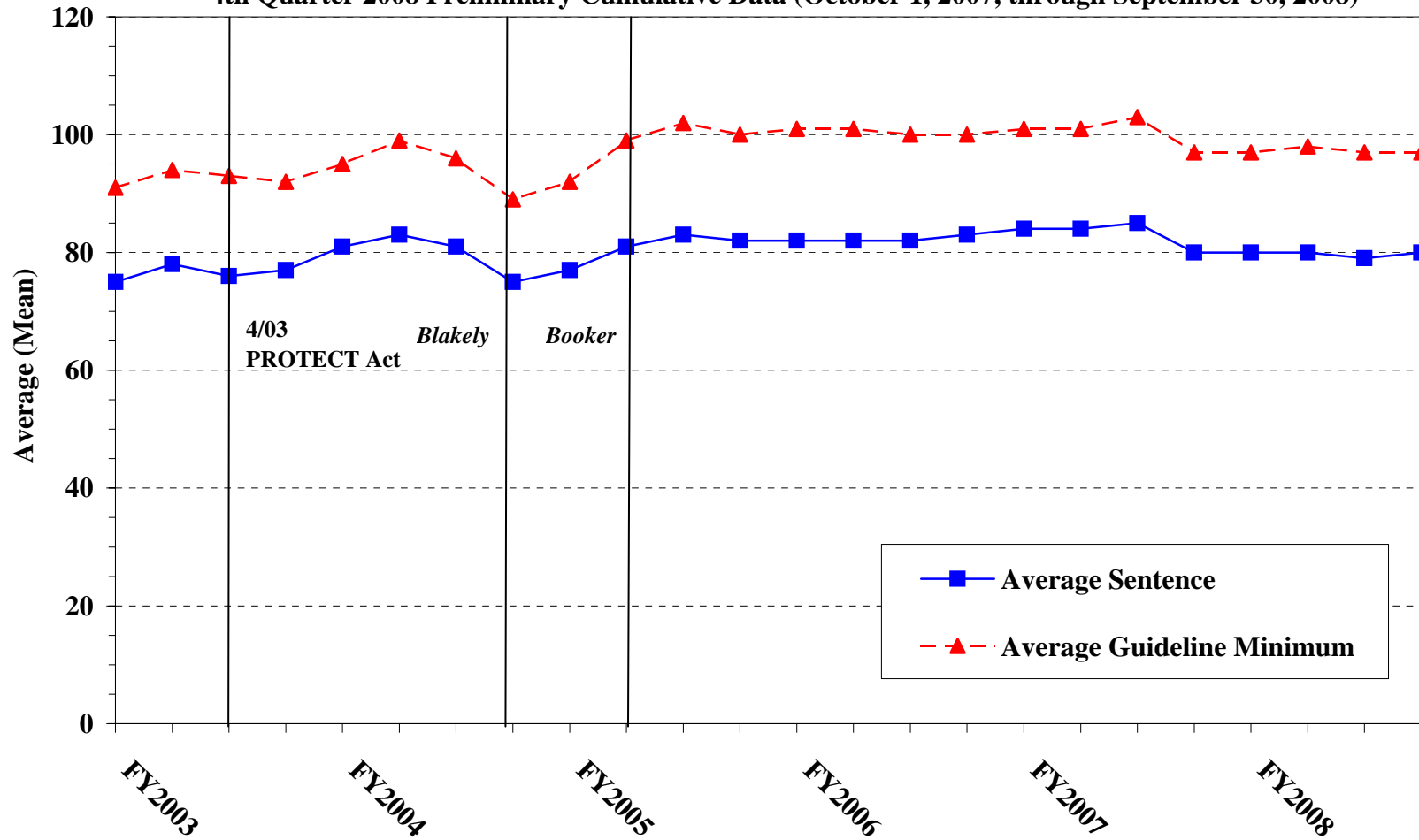
¹Figure includes only cases with a primary sentencing guideline of USSG §2L1.1. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including 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.

Figure H

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

Fiscal Years 2003 - 2007,

4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



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.

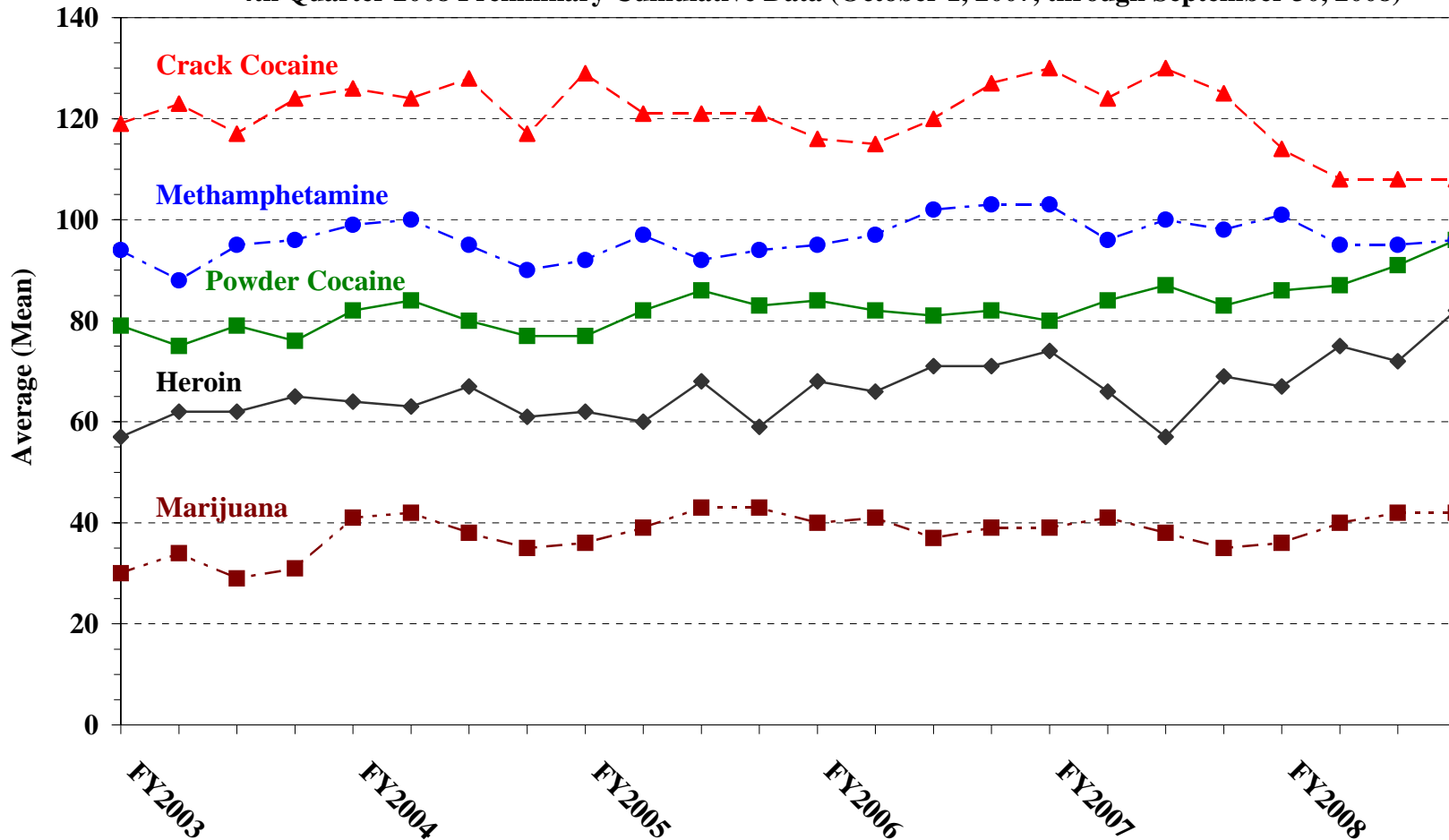
SOURCE: U.S. Sentencing Commission, 2003 - 2007 Datafiles, USSCFY03 - USSCFY07, and Preliminary Data from USSCFY08 (October 1, 2007, through September 30, 2008).

Figure I

AVERAGE SENTENCE LENGTH FOR EACH DRUG TYPE¹

Fiscal Years 2003 - 2007,

4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



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.

SOURCE: U.S. Sentencing Commission, 2003 - 2007 Datafiles, USSCFY03 - USSCFY07, and Preliminary Data from USSCFY08 (October 1, 2007, through September 30, 2008).

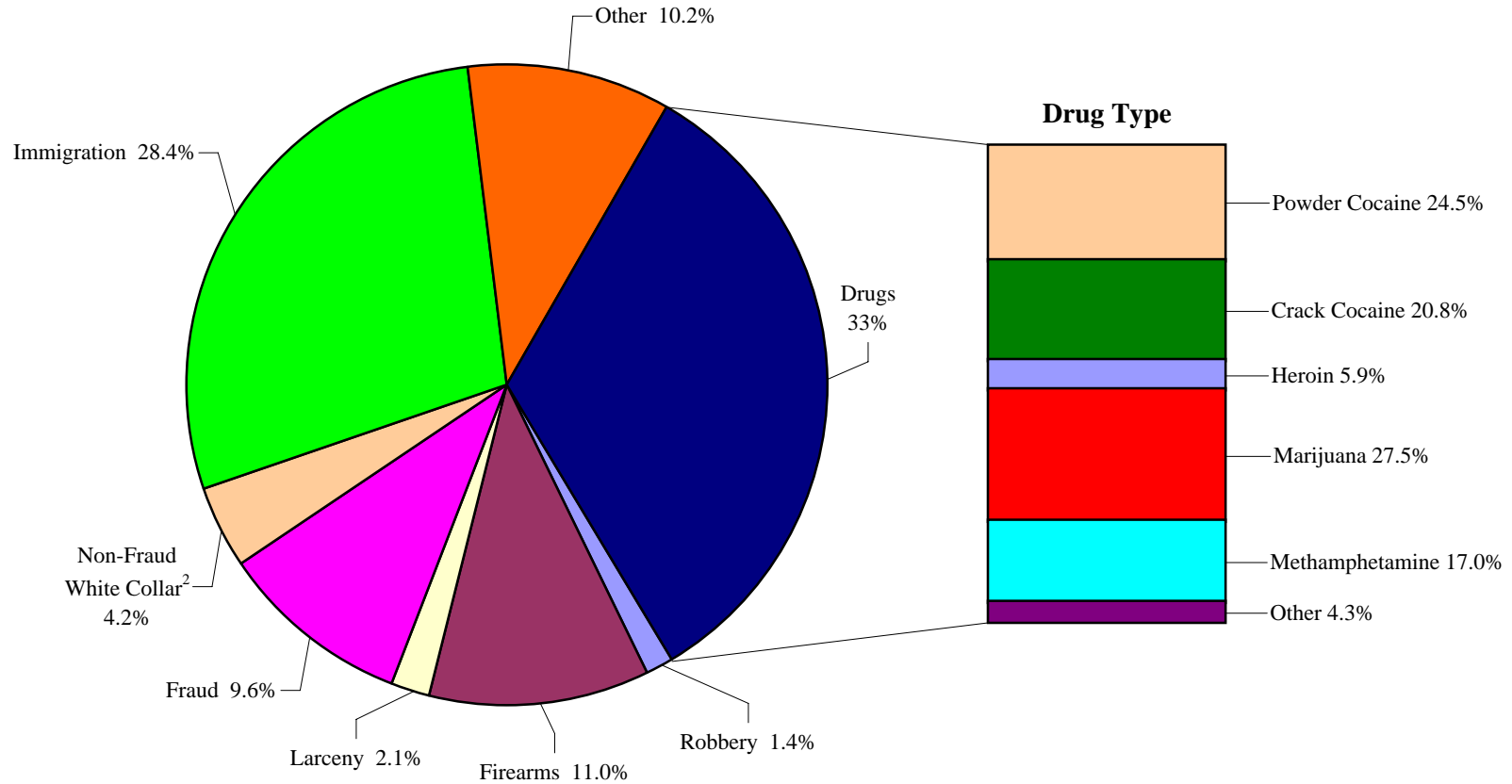
**WITHIN RANGE CASES: POSITION OF SENTENCE FOR OFFENDERS
IN EACH PRIMARY OFFENSE CATEGORY¹**
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

PRIMARY OFFENSE	TOTAL	Guideline Minimum		Lower Half of Range		Midpoint of Range		Upper Half of Range		Guideline Maximum	
		N	%	N	%	N	%	N	%	N	%
TOTAL	33,097	18,139	54.8	5,665	17.1	2,874	8.7	2,741	8.3	3,678	11.1
Murder	16	7	43.8	3	18.8	1	6.3	2	12.5	3	18.8
Manslaughter	36	11	30.6	2	5.6	5	13.9	3	8.3	15	41.7
Kidnapping/Hostage Taking	13	7	53.8	2	15.4	1	7.7	1	7.7	2	15.4
Sexual Abuse	237	117	49.4	36	15.2	31	13.1	21	8.9	32	13.5
Assault	328	137	41.8	44	13.4	33	10.1	35	10.7	79	24.1
Robbery	593	279	47.0	111	18.7	59	9.9	54	9.1	90	15.2
Arson	20	9	45.0	4	20.0	1	5.0	2	10.0	4	20.0
Drugs - Trafficking	10,126	7,017	69.3	1,395	13.8	645	6.4	441	4.4	628	6.2
Drugs - Communication Facility	81	53	65.4	5	6.2	4	4.9	4	4.9	15	18.5
Drugs - Simple Possession	210	145	69.0	14	6.7	16	7.6	15	7.1	20	9.5
Firearms	4,560	2,578	56.5	574	12.6	428	9.4	327	7.2	653	14.3
Burglary/B&E	33	16	48.5	4	12.1	5	15.2	2	6.1	6	18.2
Auto Theft	37	15	40.5	1	2.7	0	0.0	4	10.8	17	45.9
Larceny	830	585	70.5	80	9.6	46	5.5	45	5.4	74	8.9
Fraud	3,314	1,863	56.2	510	15.4	273	8.2	201	6.1	467	14.1
Embezzlement	265	183	69.1	49	18.5	13	4.9	8	3.0	12	4.5
Forgery/Counterfeiting	589	299	50.8	87	14.8	61	10.4	52	8.8	90	15.3
Bribery	81	46	56.8	21	25.9	3	3.7	3	3.7	8	9.9
Tax	203	126	62.1	36	17.7	16	7.9	10	4.9	15	7.4
Money Laundering	285	187	65.6	43	15.1	13	4.6	18	6.3	24	8.4
Racketeering/Extortion	204	116	56.9	27	13.2	12	5.9	20	9.8	29	14.2
Gambling/Lottery	52	35	67.3	11	21.2	2	3.8	2	3.8	2	3.8
Civil Rights	18	11	61.1	1	5.6	0	0.0	1	5.6	5	27.8
Immigration	8,855	2,985	33.7	2,318	26.2	1,061	12.0	1,347	15.2	1,144	12.9
Pornography/Prostitution	710	445	62.7	98	13.8	36	5.1	44	6.2	87	12.3
Prison Offenses	231	111	48.1	34	14.7	32	13.9	16	6.9	38	16.5
Administration of Justice Offenses	463	284	61.3	59	12.7	32	6.9	33	7.1	55	11.9
Environmental/Wildlife	70	59	84.3	7	10.0	1	1.4	1	1.4	2	2.9
National Defense	19	15	78.9	4	21.1	0	0.0	0	0.0	0	0.0
Antitrust	4	2	50.0	0	0.0	0	0.0	1	25.0	1	25.0
Food & Drug	38	30	78.9	3	7.9	2	5.3	1	2.6	2	5.3
Other Miscellaneous Offenses	576	366	63.5	82	14.2	42	7.3	27	4.7	59	10.2

¹Of the 72,171 cases, 42,275 were sentenced within the applicable guideline range. Of those, 37,303 had complete guideline application information. An additional 2,651 cases were excluded due to several logical criteria. Of the remaining 34,652 cases, 1,555 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
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)



¹Of the 72,171 guideline cases, 38 were excluded due to missing primary offense category. An additional 329 of the 24,027 drug cases were excluded due to missing drug type. The Drug category includes the following offense types: Trafficking, Use of a Communication Facility, and Simple Possession. The Non-Fraud White Collar category includes the following offense types: Embezzlement, Forgery/Counterfeiting, Bribery, Money Laundering, and Tax. 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 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

Table 21

GUIDELINE OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

PRIMARY OFFENSE	N	%
TOTAL	72,133	100.0
Murder	64	0.1
Manslaughter	53	0.1
Kidnapping/Hostage Taking	52	0.1
Sexual Abuse	458	0.6
Assault	621	0.9
Robbery	1,013	1.4
Arson	57	0.1
Drugs - Trafficking	23,236	32.2
Drugs - Communication Facility	346	0.5
Drugs - Simple Possession	445	0.6
Firearms	7,925	11.0
Burglary/B&E	45	0.1
Auto Theft	59	0.1
Larceny	1,503	2.1
Fraud	6,923	9.6
Embezzlement	471	0.7
Forgery/Counterfeiting	957	1.3
Bribery	202	0.3
Tax	545	0.8
Money Laundering	817	1.1
Racketeering/Extortion	694	1.0
Gambling/Lottery	119	0.2
Civil Rights	68	0.1
Immigration	20,405	28.3
Pornography/Prostitution	1,578	2.2
Prison Offenses	346	0.5
Administration of Justice Offenses	965	1.3
Environmental/Wildlife	171	0.2
National Defense	53	0.1
Antitrust	22	0.0
Food & Drug	70	0.1
Other Miscellaneous Offenses	1,850	2.6

¹Of the 72,171 cases, 38 were excluded due to missing information on primary offense category. Descriptions of variables used in this table are provided in Appendix A.

Table 22

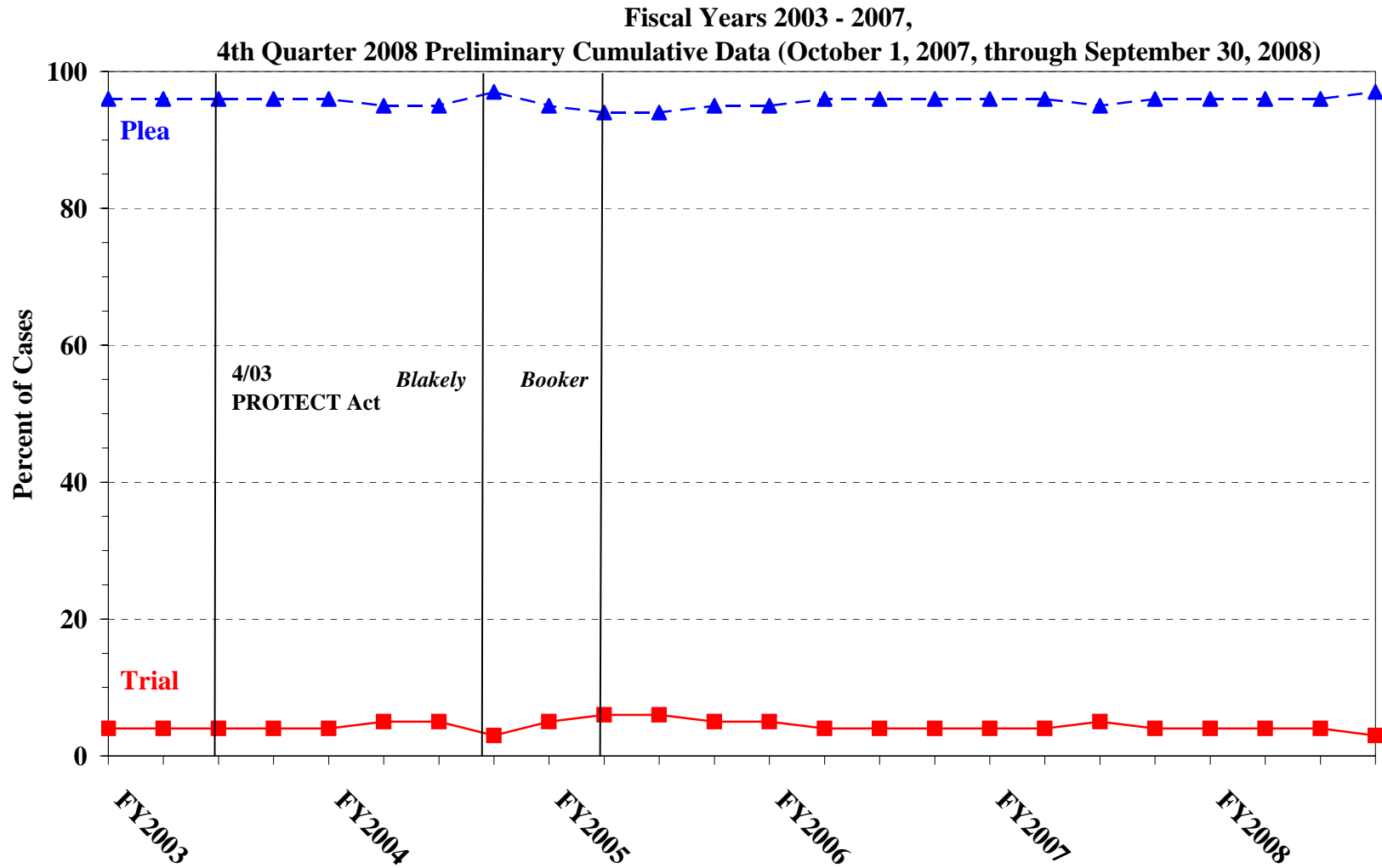
GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

PRIMARY OFFENSE	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	72,132	69,515	96.4	2,617	3.6
Murder	64	51	79.7	13	20.3
Manslaughter	53	49	92.5	4	7.5
Kidnapping/Hostage Taking	52	41	78.8	11	21.2
Sexual Abuse	458	409	89.3	49	10.7
Assault	621	550	88.6	71	11.4
Robbery	1,013	984	97.1	29	2.9
Arson	57	50	87.7	7	12.3
Drugs - Trafficking	23,236	22,352	96.2	884	3.8
Drugs - Communication Facility	346	343	99.1	3	0.9
Drugs - Simple Possession	445	434	97.5	11	2.5
Firearms	7,925	7,355	92.8	570	7.2
Burglary/B&E	45	44	97.8	1	2.2
Auto Theft	59	56	94.9	3	5.1
Larceny	1,503	1,459	97.1	44	2.9
Fraud	6,922	6,566	94.9	356	5.1
Embezzlement	471	459	97.5	12	2.5
Forgery/Counterfeiting	957	940	98.2	17	1.8
Bribery	202	197	97.5	5	2.5
Tax	545	492	90.3	53	9.7
Money Laundering	817	771	94.4	46	5.6
Racketeering/Extortion	694	638	91.9	56	8.1
Gambling/Lottery	119	115	96.6	4	3.4
Civil Rights	68	58	85.3	10	14.7
Immigration	20,405	20,257	99.3	148	0.7
Pornography/Prostitution	1,578	1,519	96.3	59	3.7
Prison Offenses	346	338	97.7	8	2.3
Administration of Justice Offenses	965	914	94.7	51	5.3
Environmental/Wildlife	171	162	94.7	9	5.3
National Defense	53	48	90.6	5	9.4
Antitrust	22	21	95.5	1	4.5
Food & Drug	70	68	97.1	2	2.9
Other Miscellaneous Offenses	1,850	1,775	95.9	75	4.1

¹Of the 72,171 cases, 39 were excluded due to one or both of the following reasons: missing primary offense category (38) or missing information on mode of conviction (38). 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
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

PRIMARY OFFENSE	TOTAL	WHITE		BLACK		HISPANIC		OTHER	
		N	%	N	%	N	%	N	%
TOTAL	66,433	19,610	29.5	15,940	24.0	28,242	42.5	2,641	4.0
Murder	62	12	19.4	8	12.9	16	25.8	26	41.9
Manslaughter	53	4	7.5	3	5.7	1	1.9	45	84.9
Kidnapping/Hostage Taking	51	12	23.5	15	29.4	19	37.3	5	9.8
Sexual Abuse	454	241	53.1	37	8.1	40	8.8	136	30.0
Assault	570	160	28.1	85	14.9	98	17.2	227	39.8
Robbery	1,004	491	48.9	398	39.6	83	8.3	32	3.2
Arson	56	29	51.8	10	17.9	8	14.3	9	16.1
Drugs - Trafficking	23,117	5,803	25.1	7,082	30.6	9,503	41.1	729	3.2
Drugs - Communication Facility	340	108	31.8	103	30.3	116	34.1	13	3.8
Drugs - Simple Possession	296	178	60.1	83	28.0	26	8.8	9	3.0
Firearms	7,858	2,446	31.1	3,967	50.5	1,244	15.8	201	2.6
Burglary/B&E	45	22	48.9	8	17.8	2	4.4	13	28.9
Auto Theft	59	33	55.9	10	16.9	15	25.4	1	1.7
Larceny	1,286	624	48.5	414	32.2	174	13.5	74	5.8
Fraud	6,291	2,904	46.2	1,879	29.9	1,134	18.0	374	5.9
Embezzlement	443	265	59.8	101	22.8	32	7.2	45	10.2
Forgery/Counterfeiting	945	434	45.9	355	37.6	125	13.2	31	3.3
Bribery	190	93	48.9	48	25.3	33	17.4	16	8.4
Tax	536	384	71.6	85	15.9	33	6.2	34	6.3
Money Laundering	791	286	36.2	123	15.5	311	39.3	71	9.0
Racketeering/Extortion	687	257	37.4	191	27.8	168	24.5	71	10.3
Gambling/Lottery	119	104	87.4	2	1.7	2	1.7	11	9.2
Civil Rights	65	34	52.3	17	26.2	10	15.4	4	6.2
Immigration	17,056	2,096	12.3	338	2.0	14,433	84.6	189	1.1
Pornography/Prostitution	1,570	1,350	86.0	69	4.4	111	7.1	40	2.5
Prison Offenses	322	86	26.7	122	37.9	86	26.7	28	8.7
Administration of Justice Offenses	892	399	44.7	178	20.0	249	27.9	66	7.4
Environmental/Wildlife	129	99	76.7	5	3.9	7	5.4	18	14.0
National Defense	52	19	36.5	6	11.5	17	32.7	10	19.2
Antitrust	18	16	88.9	1	5.6	0	0.0	1	5.6
Food & Drug	63	45	71.4	1	1.6	7	11.1	10	15.9
Other Miscellaneous Offenses	1,013	576	56.9	196	19.3	139	13.7	102	10.1

¹Of the 72,171 cases, 5,738 were excluded due to one or both of the following reasons: missing primary offense category (38) or missing race (5,736). Descriptions of variables used in this table are provided in Appendix A.

Table 24

GENDER OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

PRIMARY OFFENSE	TOTAL	MALE		FEMALE	
		N	%	N	%
TOTAL	69,052	60,303	87.3	8,749	12.7
Murder	62	53	85.5	9	14.5
Manslaughter	53	44	83.0	9	17.0
Kidnapping/Hostage Taking	52	48	92.3	4	7.7
Sexual Abuse	457	441	96.5	16	3.5
Assault	592	530	89.5	62	10.5
Robbery	1,009	910	90.2	99	9.8
Arson	56	53	94.6	3	5.4
Drugs - Trafficking	23,185	20,336	87.7	2,849	12.3
Drugs - Communication Facility	344	273	79.4	71	20.6
Drugs - Simple Possession	347	268	77.2	79	22.8
Firearms	7,893	7,639	96.8	254	3.2
Burglary/B&E	45	36	80.0	9	20.0
Auto Theft	59	56	94.9	3	5.1
Larceny	1,363	833	61.1	530	38.9
Fraud	6,546	4,693	71.7	1,853	28.3
Embezzlement	458	210	45.9	248	54.1
Forgery/Counterfeiting	953	723	75.9	230	24.1
Bribery	194	162	83.5	32	16.5
Tax	543	461	84.9	82	15.1
Money Laundering	803	631	78.6	172	21.4
Racketeering/Extortion	690	624	90.4	66	9.6
Gambling/Lottery	119	104	87.4	15	12.6
Civil Rights	68	57	83.8	11	16.2
Immigration	18,760	17,399	92.7	1,361	7.3
Pornography/Prostitution	1,576	1,548	98.2	28	1.8
Prison Offenses	335	302	90.1	33	9.9
Administration of Justice Offenses	912	622	68.2	290	31.8
Environmental/Wildlife	145	131	90.3	14	9.7
National Defense	52	44	84.6	8	15.4
Antitrust	21	21	100.0	0	0.0
Food & Drug	66	48	72.7	18	27.3
Other Miscellaneous Offenses	1,294	1,003	77.5	291	22.5

¹Of the 72,171 cases, 3,119 were excluded due to one or both of the following reasons: missing primary offense category (38) or missing gender (3,111). Descriptions of variables used in this table are provided in Appendix A.

Table 25

AGE, RACE, AND GENDER OF OFFENDERS¹

4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

Gender and Age	White		Black		Hispanic		Other	
	N	%	N	%	N	%	N	%
Males	16,229	100.0	13,977	100.0	25,543	100.0	2,087	100.0
Under 21	471	2.9	480	3.4	1,217	4.8	107	5.1
21 - 25	1,865	11.5	2,625	18.8	4,394	17.2	366	17.5
26 - 30	2,583	15.9	3,532	25.3	5,624	22.0	375	18.0
31 - 35	2,291	14.1	2,719	19.5	5,133	20.1	325	15.6
36 - 40	2,215	13.6	1,903	13.6	3,786	14.8	302	14.5
41 - 50	3,691	22.7	1,894	13.6	4,016	15.7	368	17.6
Over 50	3,113	19.2	824	5.9	1,373	5.4	244	11.7
Females	3,301	100.0	1,925	100.0	2,556	100.0	519	100.0
Under 21	116	3.5	49	2.5	140	5.5	17	3.3
21 - 25	484	14.7	351	18.2	434	17.0	77	14.8
26 - 30	534	16.2	384	19.9	565	22.1	98	18.9
31 - 35	462	14.0	331	17.2	415	16.2	74	14.3
36 - 40	465	14.1	279	14.5	381	14.9	66	12.7
41 - 50	771	23.4	337	17.5	416	16.3	101	19.5
Over 50	469	14.2	194	10.1	205	8.0	86	16.6

¹Of the 72,171 cases, 6,034 were excluded due to one or more of the following reasons: missing race (5,736), missing gender (3,111), or missing age (761). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

Table 26

CITIZENSHIP OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

PRIMARY OFFENSE	TOTAL	U.S. CITIZEN		NON-U.S. CITIZEN	
		N	%	N	%
TOTAL	69,532	41,255	59.3	28,277	40.7
Murder	62	54	87.1	8	12.9
Manslaughter	53	53	100.0	0	0.0
Kidnapping/Hostage Taking	51	27	52.9	24	47.1
Sexual Abuse	457	421	92.1	36	7.9
Assault	575	504	87.7	71	12.3
Robbery	1,008	979	97.1	29	2.9
Arson	56	54	96.4	2	3.6
Drugs - Trafficking	23,151	16,390	70.8	6,761	29.2
Drugs - Communication Facility	340	257	75.6	83	24.4
Drugs - Simple Possession	308	299	97.1	9	2.9
Firearms	7,888	7,211	91.4	677	8.6
Burglary/B&E	45	45	100.0	0	0.0
Auto Theft	59	55	93.2	4	6.8
Larceny	1,309	1,212	92.6	97	7.4
Fraud	6,525	5,064	77.6	1,461	22.4
Embezzlement	448	438	97.8	10	2.2
Forgery/Counterfeiting	949	850	89.6	99	10.4
Bribery	191	172	90.1	19	9.9
Tax	541	508	93.9	33	6.1
Money Laundering	792	515	65.0	277	35.0
Racketeering/Extortion	688	557	81.0	131	19.0
Gambling/Lottery	118	113	95.8	5	4.2
Civil Rights	66	60	90.9	6	9.1
Immigration	19,735	1,743	8.8	17,992	91.2
Pornography/Prostitution	1,575	1,511	95.9	64	4.1
Prison Offenses	321	295	91.9	26	8.1
Administration of Justice Offenses	897	723	80.6	174	19.4
Environmental/Wildlife	133	122	91.7	11	8.3
National Defense	52	29	55.8	23	44.2
Antitrust	18	15	83.3	3	16.7
Food & Drug	64	54	84.4	10	15.6
Other Miscellaneous Offenses	1,057	925	87.5	132	12.5

¹Of the 72,171 cases, 2,639 were excluded due to one or both of the following reasons: missing primary offense category (38) or missing citizenship information (2,638). Descriptions of variables used in this table are provided in Appendix A.

Table 27

DOCUMENT SUBMISSION BY EACH CIRCUIT AND DISTRICT¹
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received N	Received N	Received N	Received N	No Written Plea/Trial N	Received N	Received N	Waived N
TOTAL	72,171	336,949	72,132	70,881	53,949	16,151	71,890	68,097	4,021
D.C. CIRCUIT	383	1,864	383	383	344	38	382	372	11
District of Columbia	383	1,864	383	383	344	38	382	372	11
FIRST CIRCUIT	1,630	7,339	1,630	1,620	959	617	1,625	1,505	125
Maine	207	908	207	207	82	124	207	205	2
Massachusetts	452	1,952	452	446	170	272	452	432	20
New Hampshire	220	1,054	220	220	175	44	219	220	0
Puerto Rico	667	3,029	667	664	469	158	665	564	103
Rhode Island	84	396	84	83	63	19	82	84	0
SECOND CIRCUIT	4,221	19,870	4,221	4,177	3,220	897	4,195	4,057	164
Connecticut	378	1,875	378	378	369	8	374	376	2
New York									
Eastern	1,192	5,820	1,192	1,190	1,061	122	1,192	1,185	7
Northern	476	2,129	476	439	319	120	475	420	56
Southern	1,373	6,182	1,373	1,370	710	609	1,363	1,366	7
Western	640	3,069	640	639	609	30	629	552	88
Vermont	162	795	162	161	152	8	162	158	4
THIRD CIRCUIT	3,034	14,465	3,034	3,032	2,427	558	3,017	2,955	79
Delaware	114	560	114	114	105	9	114	113	1
New Jersey	960	4,708	960	959	879	78	954	956	4
Pennsylvania									
Eastern	733	3,397	733	733	476	253	732	723	10
Middle	635	3,116	635	635	593	36	634	619	16
Western	526	2,373	526	526	326	166	517	478	48
Virgin Islands	66	311	66	65	48	16	66	66	0
FOURTH CIRCUIT	6,508	30,185	6,508	6,175	4,989	1,331	6,431	6,082	426
Maryland	730	3,472	730	706	619	99	725	692	38
North Carolina									
Eastern	688	3,205	688	666	527	146	687	637	51
Middle	345	1,702	345	345	322	22	345	345	0
Western	780	3,684	780	775	574	197	778	777	3
South Carolina	1,180	5,468	1,180	1,177	763	407	1,178	1,170	10
Virginia									
Eastern	1,669	7,214	1,669	1,393	1,185	349	1,602	1,365	304
Western	394	1,897	394	391	328	61	394	390	4
West Virginia									
Northern	459	2,258	459	459	438	21	459	443	16
Southern	263	1,285	263	263	233	29	263	263	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	16,918	77,398	16,918	16,852	10,885	5,348	16,902	15,841	1,077
Louisiana									
Eastern	449	2,040	449	449	244	194	449	449	0
Middle	203	970	203	203	162	36	203	199	4
Western	320	1,541	320	318	270	43	319	314	6
Mississippi									
Northern	179	871	179	174	170	9	179	169	10
Southern	398	1,918	398	386	357	37	398	379	19
Texas									
Eastern	956	4,626	956	954	844	111	956	916	40
Northern	1,050	4,988	1,050	1,049	791	259	1,050	1,048	2
Southern	6,335	30,327	6,335	6,333	5,083	1,211	6,335	6,241	94
Western	7,028	30,117	7,028	6,986	2,964	3,448	7,013	6,126	902
SIXTH CIRCUIT	5,130	24,413	5,130	5,087	4,151	920	5,113	4,932	198
Kentucky									
Eastern	664	3,216	664	664	576	85	664	648	16
Western	456	2,023	456	453	326	107	455	333	123
Michigan									
Eastern	705	3,409	705	704	594	108	705	701	4
Western	443	2,089	443	442	328	112	442	434	9
Ohio									
Northern	846	4,033	846	846	659	184	845	837	9
Southern	587	2,885	587	579	552	32	586	581	6
Tennessee									
Eastern	568	2,707	568	564	448	115	563	564	4
Middle	275	1,249	275	250	203	56	268	253	22
Western	586	2,802	586	585	465	121	585	581	5
SEVENTH CIRCUIT	2,829	13,545	2,829	2,810	2,270	551	2,824	2,812	17
Illinois									
Central	384	1,748	384	378	222	160	384	380	4
Northern	746	3,563	746	740	591	151	743	743	3
Southern	296	1,383	296	296	203	92	296	292	4
Indiana									
Northern	432	2,092	432	427	369	63	432	432	0
Southern	293	1,431	293	293	262	30	292	291	2
Wisconsin									
Eastern	487	2,399	487	487	454	33	487	484	3
Western	191	929	191	189	169	22	190	190	1
EIGHTH CIRCUIT	5,192	24,661	5,192	5,177	3,973	933	5,187	5,132	60
Arkansas									
Eastern	421	1,949	421	418	311	72	418	381	40
Western	206	1,023	206	206	199	7	206	206	0
Iowa									
Northern	584	2,543	584	584	207	140	584	584	0
Southern	359	1,660	359	359	227	131	359	356	3
Minnesota	563	2,767	563	562	525	36	563	554	9
Missouri									
Eastern	974	4,837	974	973	944	28	972	974	0
Western	766	3,497	766	761	439	326	766	765	1
Nebraska	635	3,126	635	635	589	44	635	632	3
North Dakota	241	1,144	241	236	186	54	241	240	1
South Dakota	443	2,115	443	443	346	95	443	440	3

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	13,624	64,686	13,585	13,042	12,106	1,222	13,524	12,429	1,142
Alaska	132	601	132	132	81	47	130	126	6
Arizona	3,573	17,353	3,573	3,460	3,274	259	3,571	3,475	98
California									
Central	1,711	7,614	1,672	1,361	1,353	158	1,630	1,598	60
Eastern	854	4,151	854	847	751	98	853	846	8
Northern	622	2,957	622	616	554	63	620	545	77
Southern	3,571	16,858	3,571	3,479	3,363	192	3,564	2,881	690
Guam	59	284	59	59	48	11	59	59	0
Hawaii	268	1,222	268	268	158	104	268	260	8
Idaho	260	1,256	260	259	221	39	260	256	4
Montana	411	1,967	411	410	326	83	411	409	2
Nevada	426	2,040	426	424	364	61	426	400	26
Northern Mariana Islands	17	82	17	17	14	1	17	17	0
Oregon	603	2,936	603	597	551	52	600	585	18
Washington									
Eastern	327	1,600	327	326	301	22	327	319	8
Western	790	3,765	790	787	747	32	788	653	137
TENTH CIRCUIT	5,834	26,868	5,834	5,769	3,923	1,820	5,831	5,511	323
Colorado	468	2,293	468	459	450	16	468	448	20
Kansas	660	3,182	660	650	570	79	660	642	18
New Mexico	2,806	12,726	2,806	2,801	1,525	1,274	2,803	2,791	15
Oklahoma									
Eastern	85	381	85	85	41	43	85	85	0
Northern	209	940	209	208	105	104	209	209	0
Western	440	1,796	440	401	217	192	440	298	142
Utah	842	4,030	842	841	750	70	842	755	87
Wyoming	324	1,520	324	324	265	42	324	283	41
ELEVENTH CIRCUIT	6,868	31,655	6,868	6,757	4,702	1,916	6,859	6,469	399
Alabama									
Middle	256	1,208	256	253	192	64	256	251	5
Northern	458	2,157	458	454	350	84	457	438	20
Southern	477	2,270	477	477	365	110	477	474	3
Florida									
Middle	1,623	7,519	1,623	1,622	1,029	591	1,622	1,623	0
Northern	337	1,548	337	330	216	117	337	328	9
Southern	2,108	9,628	2,108	2,023	1,402	614	2,105	1,990	118
Georgia									
Middle	428	1,887	428	426	273	117	426	334	94
Northern	683	3,243	683	674	534	143	681	671	12
Southern	498	2,195	498	498	341	76	498	360	138

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 1,205 cases for which the Commission was unable to determine definitively whether the defendant's guilty plea was entered pursuant to a written plea agreement.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08 (October 1, 2007, through September 30, 2008).

Table 28

**RATE OF SUBMISSION OF STATEMENT OF REASONS FORM
IN EACH CIRCUIT AND DISTRICT
4th Quarter 2008 Preliminary Cumulative Data (October 1, 2007, through September 30, 2008)**

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
TOTAL	72,171	63,116	87.5	7,793	10.8	1,262	1.7
D.C. CIRCUIT	383	365	95.3	18	4.7	0	0.0
District of Columbia	383	365	95.3	18	4.7	0	0.0
FIRST CIRCUIT	1,630	1,611	98.8	10	0.6	9	0.6
Maine	207	206	99.5	1	0.5	0	0.0
Massachusetts	452	443	98.0	3	0.7	6	1.3
New Hampshire	220	219	99.5	1	0.5	0	0.0
Puerto Rico	667	660	99.0	5	0.7	2	0.3
Rhode Island	84	83	98.8	0	0.0	1	1.2
SECOND CIRCUIT	4,221	3,990	94.5	187	4.4	44	1.0
Connecticut	378	375	99.2	3	0.8	0	0.0
New York							
Eastern	1,192	1,038	87.1	152	12.8	2	0.2
Northern	476	436	91.6	3	0.6	37	7.8
Southern	1,373	1,351	98.4	19	1.4	3	0.2
Western	640	636	99.4	3	0.5	1	0.2
Vermont	162	154	95.1	7	4.3	1	0.6
THIRD CIRCUIT	3,034	2,159	71.2	873	28.8	2	0.1
Delaware	114	113	99.1	1	0.9	0	0.0
New Jersey	960	104	10.8	855	89.1	1	0.1
Pennsylvania							
Eastern	733	726	99.0	7	1.0	0	0.0
Middle	635	632	99.5	3	0.5	0	0.0
Western	526	521	99.0	5	1.0	0	0.0
Virgin Islands	66	63	95.5	2	3.0	1	1.5
FOURTH CIRCUIT	6,508	6,023	92.5	163	2.5	322	4.9
Maryland	730	703	96.3	12	1.6	15	2.1
North Carolina							
Eastern	688	662	96.2	4	0.6	22	3.2
Middle	345	344	99.7	1	0.3	0	0.0
Western	780	764	97.9	11	1.4	5	0.6
South Carolina	1,180	1,173	99.4	4	0.3	3	0.3
Virginia							
Eastern	1,669	1,275	76.4	120	7.2	274	16.4
Western	394	389	98.7	2	0.5	3	0.8
West Virginia							
Northern	459	455	99.1	4	0.9	0	0.0
Southern	263	258	98.1	5	1.9	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
FIFTH CIRCUIT	16,918	11,702	69.2	5,157	30.5	59	0.3
Louisiana							
Eastern	449	437	97.3	12	2.7	0	0.0
Middle	203	203	100.0	0	0.0	0	0.0
Western	320	292	91.3	27	8.4	1	0.3
Mississippi							
Northern	179	173	96.6	1	0.6	5	2.8
Southern	398	383	96.2	3	0.8	12	3.0
Texas							
Eastern	956	947	99.1	7	0.7	2	0.2
Northern	1,050	1,036	98.7	13	1.2	1	0.1
Southern	6,335	6,317	99.7	16	0.3	2	0.0
Western	7,028	1,914	27.2	5,078	72.3	36	0.5
SIXTH CIRCUIT	5,130	4,802	93.6	285	5.6	43	0.8
Kentucky							
Eastern	664	661	99.5	3	0.5	0	0.0
Western	456	452	99.1	1	0.2	3	0.7
Michigan							
Eastern	705	575	81.6	129	18.3	1	0.1
Western	443	440	99.3	2	0.5	1	0.2
Ohio							
Northern	846	845	99.9	1	0.1	0	0.0
Southern	587	524	89.3	55	9.4	8	1.4
Tennessee							
Eastern	568	562	98.9	2	0.4	4	0.7
Middle	275	168	61.1	82	29.8	25	9.1
Western	586	575	98.1	10	1.7	1	0.2
SEVENTH CIRCUIT	2,829	2,595	91.7	215	7.6	19	0.7
Illinois							
Central	384	377	98.2	1	0.3	6	1.6
Northern	746	691	92.6	49	6.6	6	0.8
Southern	296	296	100.0	0	0.0	0	0.0
Indiana							
Northern	432	378	87.5	49	11.3	5	1.2
Southern	293	291	99.3	2	0.7	0	0.0
Wisconsin							
Eastern	487	406	83.4	81	16.6	0	0.0
Western	191	156	81.7	33	17.3	2	1.0
EIGHTH CIRCUIT	5,192	5,091	98.1	86	1.7	15	0.3
Arkansas							
Eastern	421	416	98.8	2	0.5	3	0.7
Western	206	203	98.5	3	1.5	0	0.0
Iowa							
Northern	584	578	99.0	6	1.0	0	0.0
Southern	359	352	98.1	7	1.9	0	0.0
Minnesota	563	519	92.2	43	7.6	1	0.2
Missouri							
Eastern	974	953	97.8	20	2.1	1	0.1
Western	766	759	99.1	2	0.3	5	0.7
Nebraska	635	633	99.7	2	0.3	0	0.0
North Dakota	241	235	97.5	1	0.4	5	2.1
South Dakota	443	443	100.0	0	0.0	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
NINTH CIRCUIT	13,624	12,491	91.7	553	4.1	580	4.3
Alaska	132	131	99.2	1	0.8	0	0.0
Arizona	3,573	3,391	94.9	70	2.0	112	3.1
California							
Central	1,711	1,333	77.9	28	1.6	350	20.5
Eastern	854	838	98.1	9	1.1	7	0.8
Northern	622	612	98.4	4	0.6	6	1.0
Southern	3,571	3,466	97.1	13	0.4	92	2.6
Guam	59	58	98.3	1	1.7	0	0.0
Hawaii	268	257	95.9	11	4.1	0	0.0
Idaho	260	259	99.6	0	0.0	1	0.4
Montana	411	406	98.8	4	1.0	1	0.2
Nevada	426	421	98.8	3	0.7	2	0.5
Northern Mariana Islands	17	17	100.0	0	0.0	0	0.0
Oregon	603	193	32.0	404	67.0	6	1.0
Washington							
Eastern	327	324	99.1	2	0.6	1	0.3
Western	790	785	99.4	3	0.4	2	0.3
TENTH CIRCUIT	5,834	5,619	96.3	154	2.6	61	1.0
Colorado	468	405	86.5	56	12.0	7	1.5
Kansas	660	649	98.3	1	0.2	10	1.5
New Mexico	2,806	2,784	99.2	17	0.6	5	0.2
Oklahoma							
Eastern	85	85	100.0	0	0.0	0	0.0
Northern	209	208	99.5	0	0.0	1	0.5
Western	440	392	89.1	10	2.3	38	8.6
Utah	842	773	91.8	69	8.2	0	0.0
Wyoming	324	323	99.7	1	0.3	0	0.0
ELEVENTH CIRCUIT	6,868	6,668	97.1	92	1.3	108	1.6
Alabama							
Middle	256	252	98.4	1	0.4	3	1.2
Northern	458	451	98.5	3	0.7	4	0.9
Southern	477	475	99.6	2	0.4	0	0.0
Florida							
Middle	1,623	1,614	99.4	8	0.5	1	0.1
Northern	337	332	98.5	1	0.3	4	1.2
Southern	2,108	2,012	95.4	11	0.5	85	4.0
Georgia							
Middle	428	404	94.4	22	5.1	2	0.5
Northern	683	632	92.5	42	6.1	9	1.3
Southern	498	496	99.6	2	0.4	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