

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



**1st Quarter Release
Preliminary Fiscal Year 2009 Data
Through December 31, 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 1995-2008 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

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

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

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

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

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

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

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

	N	%
TOTAL CASES	17,000	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	10,123	59.5
CASES SENTENCED ABOVE GUIDELINE RANGE	282	1.6
DEPARTURE ABOVE GUIDELINE RANGE	96	0.5
Upward Departure From Guideline Range ²	73	0.4
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	23	0.1
OTHERWISE ABOVE GUIDELINE RANGE	186	1.1
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	174	1.0
All Remaining Cases Above Guideline Range ⁵	12	0.1
GOVERNMENT SPONSORED BELOW RANGE⁶	4,086	24.1
§5K1.1 Substantial Assistance Departure	2,049	12.1
§5K3.1 Early Disposition Program Departure	1,405	8.3
Other Government Sponsored Below Range	632	3.7
NON-GOVERNMENT SPONSORED BELOW RANGE	2,509	14.7
DEPARTURE BELOW GUIDELINE RANGE	518	3.0
Downward Departure From Guideline Range ²	365	2.1
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	153	0.9
OTHERWISE BELOW GUIDELINE RANGE	1,991	11.7
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	1,808	10.6
All Remaining Cases Below Guideline Range ⁵	183	1.1

¹This table reflects the 17,289 cases sentenced on or after October 1, 2008, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by April 8, 2009. Of these, 289 cases were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

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

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

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

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

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

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

SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT¹
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 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	17,000	10,123	59.5	73	0.4	23	0.1	174	1.0	12	0.1
D.C. CIRCUIT	90	45	50.0	0	0.0	0	0.0	0	0.0	0	0.0
District of Columbia	90	45	50.0	0	0.0	0	0.0	0	0.0	0	0.0
FIRST CIRCUIT	315	163	51.7	0	0.0	0	0.0	4	1.3	0	0.0
Maine	50	31	62.0	0	0.0	0	0.0	0	0.0	0	0.0
Massachusetts	104	43	41.3	0	0.0	0	0.0	3	2.9	0	0.0
New Hampshire	50	20	40.0	0	0.0	0	0.0	1	2.0	0	0.0
Puerto Rico	85	58	68.2	0	0.0	0	0.0	0	0.0	0	0.0
Rhode Island	26	11	42.3	0	0.0	0	0.0	0	0.0	0	0.0
SECOND CIRCUIT	997	439	44.0	0	0.0	2	0.2	1	0.1	0	0.0
Connecticut	88	34	38.6	0	0.0	0	0.0	0	0.0	0	0.0
New York											
Eastern	267	81	30.3	0	0.0	1	0.4	0	0.0	0	0.0
Northern	92	58	63.0	0	0.0	0	0.0	0	0.0	0	0.0
Southern	353	167	47.3	0	0.0	1	0.3	1	0.3	0	0.0
Western	144	82	56.9	0	0.0	0	0.0	0	0.0	0	0.0
Vermont	53	17	32.1	0	0.0	0	0.0	0	0.0	0	0.0
THIRD CIRCUIT	644	294	45.7	1	0.2	1	0.2	7	1.1	1	0.2
Delaware	19	5	26.3	0	0.0	0	0.0	0	0.0	0	0.0
New Jersey	214	93	43.5	0	0.0	0	0.0	0	0.0	0	0.0
Pennsylvania											
Eastern	158	58	36.7	1	0.6	0	0.0	2	1.3	0	0.0
Middle	145	71	49.0	0	0.0	1	0.7	0	0.0	1	0.7
Western	94	61	64.9	0	0.0	0	0.0	1	1.1	0	0.0
Virgin Islands	14	6	42.9	0	0.0	0	0.0	4	28.6	0	0.0
FOURTH CIRCUIT	1,213	766	63.1	5	0.4	7	0.6	15	1.2	3	0.2
Maryland	164	76	46.3	0	0.0	2	1.2	1	0.6	0	0.0
North Carolina											
Eastern	26	17	65.4	0	0.0	0	0.0	0	0.0	0	0.0
Middle	49	36	73.5	1	2.0	0	0.0	1	2.0	0	0.0
Western	137	70	51.1	0	0.0	0	0.0	0	0.0	1	0.7
South Carolina	252	168	66.7	0	0.0	1	0.4	2	0.8	0	0.0
Virginia											
Eastern	328	243	74.1	3	0.9	4	1.2	6	1.8	1	0.3
Western	107	54	50.5	1	0.9	0	0.0	3	2.8	0	0.0
West Virginia											
Northern	100	72	72.0	0	0.0	0	0.0	1	1.0	0	0.0
Southern	50	30	60.0	0	0.0	0	0.0	1	2.0	1	2.0

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	2,049	12.1	1,405	8.3	632	3.7	365	2.1	153	0.9	1,808	10.6	183	1.1
D.C. CIRCUIT	20	22.2	0	0.0	12	13.3	0	0.0	0	0.0	9	10.0	4	4.4
District of Columbia	20	22.2	0	0.0	12	13.3	0	0.0	0	0.0	9	10.0	4	4.4
FIRST CIRCUIT	49	15.6	1	0.3	20	6.3	5	1.6	5	1.6	65	20.6	3	1.0
Maine	12	24.0	0	0.0	0	0.0	0	0.0	0	0.0	7	14.0	0	0.0
Massachusetts	6	5.8	0	0.0	9	8.7	2	1.9	3	2.9	37	35.6	1	1.0
New Hampshire	16	32.0	0	0.0	3	6.0	1	2.0	0	0.0	9	18.0	0	0.0
Puerto Rico	11	12.9	1	1.2	7	8.2	2	2.4	2	2.4	2	2.4	2	2.4
Rhode Island	4	15.4	0	0.0	1	3.8	0	0.0	0	0.0	10	38.5	0	0.0
SECOND CIRCUIT	216	21.7	0	0.0	47	4.7	29	2.9	26	2.6	220	22.1	17	1.7
Connecticut	22	25.0	0	0.0	5	5.7	7	8.0	5	5.7	15	17.0	0	0.0
New York														
Eastern	75	28.1	0	0.0	18	6.7	8	3.0	7	2.6	68	25.5	9	3.4
Northern	19	20.7	0	0.0	3	3.3	3	3.3	0	0.0	9	9.8	0	0.0
Southern	51	14.4	0	0.0	13	3.7	4	1.1	7	2.0	104	29.5	5	1.4
Western	40	27.8	0	0.0	6	4.2	0	0.0	0	0.0	14	9.7	2	1.4
Vermont	9	17.0	0	0.0	2	3.8	7	13.2	7	13.2	10	18.9	1	1.9
THIRD CIRCUIT	159	24.7	0	0.0	19	3.0	9	1.4	10	1.6	133	20.7	10	1.6
Delaware	4	21.1	0	0.0	1	5.3	0	0.0	0	0.0	4	21.1	5	26.3
New Jersey	65	30.4	0	0.0	4	1.9	3	1.4	1	0.5	45	21.0	3	1.4
Pennsylvania														
Eastern	47	29.7	0	0.0	1	0.6	1	0.6	3	1.9	45	28.5	0	0.0
Middle	34	23.4	0	0.0	12	8.3	2	1.4	0	0.0	23	15.9	1	0.7
Western	8	8.5	0	0.0	1	1.1	3	3.2	5	5.3	15	16.0	0	0.0
Virgin Islands	1	7.1	0	0.0	0	0.0	0	0.0	1	7.1	1	7.1	1	7.1
FOURTH CIRCUIT	194	16.0	0	0.0	27	2.2	26	2.1	10	0.8	149	12.3	11	0.9
Maryland	33	20.1	0	0.0	13	7.9	3	1.8	3	1.8	29	17.7	4	2.4
North Carolina														
Eastern	7	26.9	0	0.0	0	0.0	0	0.0	0	0.0	2	7.7	0	0.0
Middle	6	12.2	0	0.0	0	0.0	0	0.0	0	0.0	5	10.2	0	0.0
Western	47	34.3	0	0.0	0	0.0	2	1.5	2	1.5	13	9.5	2	1.5
South Carolina	42	16.7	0	0.0	9	3.6	5	2.0	2	0.8	23	9.1	0	0.0
Virginia														
Eastern	19	5.8	0	0.0	3	0.9	9	2.7	3	0.9	32	9.8	5	1.5
Western	31	29.0	0	0.0	0	0.0	3	2.8	0	0.0	15	14.0	0	0.0
West Virginia														
Northern	8	8.0	0	0.0	2	2.0	2	2.0	0	0.0	15	15.0	0	0.0
Southern	1	2.0	0	0.0	0	0.0	2	4.0	0	0.0	15	30.0	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	4,441	3,216	72.4	27	0.6	3	0.1	66	1.5	2	0.0
Louisiana											
Eastern	104	69	66.3	2	1.9	0	0.0	2	1.9	0	0.0
Middle	42	27	64.3	1	2.4	0	0.0	0	0.0	0	0.0
Western	96	76	79.2	1	1.0	0	0.0	5	5.2	1	1.0
Mississippi											
Northern	25	17	68.0	0	0.0	0	0.0	0	0.0	0	0.0
Southern	66	59	89.4	0	0.0	0	0.0	1	1.5	0	0.0
Texas											
Eastern	267	204	76.4	6	2.2	0	0.0	1	0.4	0	0.0
Northern	218	149	68.3	4	1.8	2	0.9	5	2.3	0	0.0
Southern	1,632	1,019	62.4	6	0.4	1	0.1	8	0.5	1	0.1
Western	1,991	1,596	80.2	7	0.4	0	0.0	44	2.2	0	0.0
SIXTH CIRCUIT	1,078	627	58.2	9	0.8	2	0.2	10	0.9	0	0.0
Kentucky											
Eastern	168	81	48.2	1	0.6	0	0.0	1	0.6	0	0.0
Western	85	62	72.9	0	0.0	0	0.0	2	2.4	0	0.0
Michigan											
Eastern	169	110	65.1	1	0.6	0	0.0	2	1.2	0	0.0
Western	132	77	58.3	2	1.5	0	0.0	2	1.5	0	0.0
Ohio											
Northern	78	35	44.9	0	0.0	0	0.0	0	0.0	0	0.0
Southern	111	47	42.3	3	2.7	1	0.9	1	0.9	0	0.0
Tennessee											
Eastern	134	96	71.6	1	0.7	0	0.0	1	0.7	0	0.0
Middle	68	44	64.7	0	0.0	0	0.0	0	0.0	0	0.0
Western	133	75	56.4	1	0.8	1	0.8	1	0.8	0	0.0
SEVENTH CIRCUIT	606	337	55.6	0	0.0	3	0.5	11	1.8	0	0.0
Illinois											
Central	83	42	50.6	0	0.0	0	0.0	1	1.2	0	0.0
Northern	158	71	44.9	0	0.0	1	0.6	1	0.6	0	0.0
Southern	70	56	80.0	0	0.0	2	2.9	1	1.4	0	0.0
Indiana											
Northern	101	68	67.3	0	0.0	0	0.0	3	3.0	0	0.0
Southern	49	34	69.4	0	0.0	0	0.0	1	2.0	0	0.0
Wisconsin											
Eastern	103	35	34.0	0	0.0	0	0.0	4	3.9	0	0.0
Western	42	31	73.8	0	0.0	0	0.0	0	0.0	0	0.0
EIGHTH CIRCUIT	1,308	801	61.2	6	0.5	1	0.1	13	1.0	3	0.2
Arkansas											
Eastern	109	72	66.1	0	0.0	0	0.0	3	2.8	0	0.0
Western	61	49	80.3	0	0.0	0	0.0	1	1.6	0	0.0
Iowa											
Northern	71	33	46.5	2	2.8	0	0.0	0	0.0	1	1.4
Southern	93	48	51.6	0	0.0	0	0.0	0	0.0	0	0.0
Minnesota	151	61	40.4	0	0.0	0	0.0	0	0.0	1	0.7
Missouri											
Eastern	259	157	60.6	0	0.0	0	0.0	2	0.8	0	0.0
Western	200	122	61.0	0	0.0	0	0.0	3	1.5	0	0.0
Nebraska	157	93	59.2	3	1.9	0	0.0	0	0.0	1	0.6
North Dakota	76	62	81.6	0	0.0	1	1.3	1	1.3	0	0.0
South Dakota	131	104	79.4	1	0.8	0	0.0	3	2.3	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	305	6.9	299	6.7	155	3.5	116	2.6	6	0.1	208	4.7	38	0.9
Louisiana														
Eastern	15	14.4	0	0.0	4	3.8	2	1.9	0	0.0	8	7.7	2	1.9
Middle	11	26.2	0	0.0	0	0.0	0	0.0	0	0.0	3	7.1	0	0.0
Western	2	2.1	0	0.0	1	1.0	0	0.0	1	1.0	8	8.3	1	1.0
Mississippi														
Northern	6	24.0	0	0.0	1	4.0	0	0.0	0	0.0	1	4.0	0	0.0
Southern	3	4.5	0	0.0	1	1.5	1	1.5	0	0.0	1	1.5	0	0.0
Texas														
Eastern	28	10.5	0	0.0	14	5.2	5	1.9	1	0.4	7	2.6	1	0.4
Northern	31	14.2	0	0.0	5	2.3	0	0.0	1	0.5	19	8.7	2	0.9
Southern	92	5.6	261	16.0	103	6.3	66	4.0	1	0.1	72	4.4	2	0.1
Western	117	5.9	38	1.9	26	1.3	42	2.1	2	0.1	89	4.5	30	1.5
SIXTH CIRCUIT	244	22.6	0	0.0	20	1.9	15	1.4	14	1.3	123	11.4	14	1.3
Kentucky														
Eastern	68	40.5	0	0.0	0	0.0	1	0.6	0	0.0	14	8.3	2	1.2
Western	9	10.6	0	0.0	4	4.7	2	2.4	0	0.0	4	4.7	2	2.4
Michigan														
Eastern	23	13.6	0	0.0	0	0.0	1	0.6	1	0.6	29	17.2	2	1.2
Western	20	15.2	0	0.0	1	0.8	0	0.0	3	2.3	25	18.9	2	1.5
Ohio														
Northern	28	35.9	0	0.0	1	1.3	0	0.0	1	1.3	11	14.1	2	2.6
Southern	28	25.2	0	0.0	7	6.3	4	3.6	5	4.5	13	11.7	2	1.8
Tennessee														
Eastern	25	18.7	0	0.0	0	0.0	3	2.2	1	0.7	7	5.2	0	0.0
Middle	12	17.6	0	0.0	4	5.9	0	0.0	1	1.5	7	10.3	0	0.0
Western	31	23.3	0	0.0	3	2.3	4	3.0	2	1.5	13	9.8	2	1.5
SEVENTH CIRCUIT	99	16.3	0	0.0	25	4.1	10	1.7	17	2.8	98	16.2	6	1.0
Illinois														
Central	23	27.7	0	0.0	2	2.4	1	1.2	1	1.2	13	15.7	0	0.0
Northern	31	19.6	0	0.0	3	1.9	7	4.4	9	5.7	32	20.3	3	1.9
Southern	5	7.1	0	0.0	0	0.0	0	0.0	3	4.3	3	4.3	0	0.0
Indiana														
Northern	19	18.8	0	0.0	4	4.0	1	1.0	1	1.0	4	4.0	1	1.0
Southern	1	2.0	0	0.0	5	10.2	0	0.0	0	0.0	8	16.3	0	0.0
Wisconsin														
Eastern	17	16.5	0	0.0	11	10.7	0	0.0	2	1.9	32	31.1	2	1.9
Western	3	7.1	0	0.0	0	0.0	1	2.4	1	2.4	6	14.3	0	0.0
EIGHTH CIRCUIT	193	14.8	6	0.5	41	3.1	22	1.7	8	0.6	204	15.6	10	0.8
Arkansas														
Eastern	15	13.8	0	0.0	4	3.7	1	0.9	1	0.9	13	11.9	0	0.0
Western	8	13.1	0	0.0	0	0.0	2	3.3	0	0.0	1	1.6	0	0.0
Iowa														
Northern	19	26.8	0	0.0	1	1.4	1	1.4	0	0.0	14	19.7	0	0.0
Southern	15	16.1	0	0.0	5	5.4	1	1.1	0	0.0	24	25.8	0	0.0
Minnesota	46	30.5	0	0.0	2	1.3	4	2.6	1	0.7	36	23.8	0	0.0
Missouri														
Eastern	35	13.5	0	0.0	6	2.3	6	2.3	2	0.8	45	17.4	6	2.3
Western	40	20.0	0	0.0	8	4.0	0	0.0	0	0.0	25	12.5	2	1.0
Nebraska	5	3.2	6	3.8	12	7.6	2	1.3	2	1.3	32	20.4	1	0.6
North Dakota	6	7.9	0	0.0	1	1.3	2	2.6	0	0.0	3	3.9	0	0.0
South Dakota	4	3.1	0	0.0	2	1.5	3	2.3	2	1.5	11	8.4	1	0.8

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	3,243	1,400	43.2	22	0.7	2	0.1	17	0.5	2	0.1
Alaska	32	11	34.4	0	0.0	0	0.0	0	0.0	0	0.0
Arizona	830	226	27.2	17	2.0	0	0.0	2	0.2	0	0.0
California											
Central	341	141	41.3	1	0.3	0	0.0	2	0.6	0	0.0
Eastern	230	117	50.9	0	0.0	0	0.0	3	1.3	1	0.4
Northern	129	70	54.3	0	0.0	0	0.0	1	0.8	0	0.0
Southern	920	425	46.2	3	0.3	0	0.0	2	0.2	1	0.1
Guam	11	7	63.6	0	0.0	0	0.0	0	0.0	0	0.0
Hawaii	77	34	44.2	0	0.0	0	0.0	1	1.3	0	0.0
Idaho	65	26	40.0	0	0.0	0	0.0	1	1.5	0	0.0
Montana	110	78	70.9	0	0.0	2	1.8	1	0.9	0	0.0
Nevada	85	54	63.5	0	0.0	0	0.0	0	0.0	0	0.0
Northern Mariana Islands	8	8	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	142	69	48.6	1	0.7	0	0.0	1	0.7	0	0.0
Washington											
Eastern	86	46	53.5	0	0.0	0	0.0	2	2.3	0	0.0
Western	177	88	49.7	0	0.0	0	0.0	1	0.6	0	0.0
TENTH CIRCUIT	1,393	917	65.8	2	0.1	1	0.1	12	0.9	0	0.0
Colorado	117	66	56.4	0	0.0	1	0.9	3	2.6	0	0.0
Kansas	139	84	60.4	1	0.7	0	0.0	7	5.0	0	0.0
New Mexico	695	459	66.0	0	0.0	0	0.0	0	0.0	0	0.0
Oklahoma											
Eastern	13	8	61.5	1	7.7	0	0.0	0	0.0	0	0.0
Northern	66	57	86.4	0	0.0	0	0.0	0	0.0	0	0.0
Western	92	84	91.3	0	0.0	0	0.0	1	1.1	0	0.0
Utah	184	105	57.1	0	0.0	0	0.0	0	0.0	0	0.0
Wyoming	87	54	62.1	0	0.0	0	0.0	1	1.1	0	0.0
ELEVENTH CIRCUIT	1,672	1,118	66.9	1	0.1	1	0.1	18	1.1	1	0.1
Alabama											
Middle	52	28	53.8	0	0.0	0	0.0	0	0.0	0	0.0
Northern	99	61	61.6	0	0.0	0	0.0	0	0.0	0	0.0
Southern	102	72	70.6	0	0.0	0	0.0	0	0.0	0	0.0
Florida											
Middle	459	283	61.7	0	0.0	1	0.2	5	1.1	0	0.0
Northern	109	77	70.6	0	0.0	0	0.0	2	1.8	0	0.0
Southern	485	354	73.0	0	0.0	0	0.0	2	0.4	1	0.2
Georgia											
Middle	74	54	73.0	0	0.0	0	0.0	3	4.1	0	0.0
Northern	172	91	52.9	0	0.0	0	0.0	1	0.6	0	0.0
Southern	120	98	81.7	1	0.8	0	0.0	5	4.2	0	0.0

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
NINTH CIRCUIT	248	7.6	959	29.6	154	4.7	82	2.5	38	1.2	272	8.4	47	1.4
Alaska	10	31.3	0	0.0	3	9.4	0	0.0	4	12.5	2	6.3	2	6.3
Arizona	27	3.3	460	55.4	20	2.4	18	2.2	8	1.0	41	4.9	11	1.3
California														
Central	28	8.2	82	24.0	20	5.9	11	3.2	9	2.6	37	10.9	10	2.9
Eastern	24	10.4	50	21.7	9	3.9	2	0.9	3	1.3	20	8.7	1	0.4
Northern	7	5.4	10	7.8	21	16.3	0	0.0	3	2.3	17	13.2	0	0.0
Southern	39	4.2	324	35.2	23	2.5	41	4.5	5	0.5	40	4.3	17	1.8
Guam	2	18.2	0	0.0	0	0.0	0	0.0	0	0.0	2	18.2	0	0.0
Hawaii	33	42.9	0	0.0	0	0.0	1	1.3	0	0.0	7	9.1	1	1.3
Idaho	13	20.0	12	18.5	1	1.5	1	1.5	0	0.0	11	16.9	0	0.0
Montana	13	11.8	0	0.0	1	0.9	1	0.9	0	0.0	13	11.8	1	0.9
Nevada	3	3.5	0	0.0	7	8.2	0	0.0	0	0.0	19	22.4	2	2.4
Northern Mariana Islands	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	26	18.3	2	1.4	12	8.5	1	0.7	2	1.4	26	18.3	2	1.4
Washington														
Eastern	7	8.1	15	17.4	7	8.1	0	0.0	0	0.0	9	10.5	0	0.0
Western	16	9.0	4	2.3	30	16.9	6	3.4	4	2.3	28	15.8	0	0.0
TENTH CIRCUIT	69	5.0	132	9.5	97	7.0	37	2.7	12	0.9	105	7.5	9	0.6
Colorado	22	18.8	0	0.0	3	2.6	3	2.6	1	0.9	17	14.5	1	0.9
Kansas	21	15.1	0	0.0	15	10.8	0	0.0	0	0.0	10	7.2	1	0.7
New Mexico	6	0.9	99	14.2	64	9.2	25	3.6	6	0.9	34	4.9	2	0.3
Oklahoma														
Eastern	0	0.0	0	0.0	0	0.0	1	7.7	1	7.7	2	15.4	0	0.0
Northern	6	9.1	0	0.0	0	0.0	0	0.0	0	0.0	3	4.5	0	0.0
Western	1	1.1	0	0.0	2	2.2	0	0.0	0	0.0	4	4.3	0	0.0
Utah	5	2.7	33	17.9	10	5.4	7	3.8	0	0.0	20	10.9	4	2.2
Wyoming	8	9.2	0	0.0	3	3.4	1	1.1	4	4.6	15	17.2	1	1.1
ELEVENTH CIRCUIT	253	15.1	8	0.5	15	0.9	14	0.8	7	0.4	222	13.3	14	0.8
Alabama														
Middle	19	36.5	0	0.0	1	1.9	0	0.0	0	0.0	3	5.8	1	1.9
Northern	18	18.2	0	0.0	0	0.0	0	0.0	1	1.0	18	18.2	1	1.0
Southern	20	19.6	0	0.0	0	0.0	1	1.0	0	0.0	9	8.8	0	0.0
Florida														
Middle	88	19.2	8	1.7	1	0.2	6	1.3	3	0.7	60	13.1	4	0.9
Northern	23	21.1	0	0.0	0	0.0	0	0.0	0	0.0	6	5.5	1	0.9
Southern	40	8.2	0	0.0	4	0.8	2	0.4	2	0.4	77	15.9	3	0.6
Georgia														
Middle	7	9.5	0	0.0	1	1.4	0	0.0	1	1.4	8	10.8	0	0.0
Northern	29	16.9	0	0.0	7	4.1	4	2.3	0	0.0	37	21.5	3	1.7
Southern	9	7.5	0	0.0	1	0.8	1	0.8	0	0.0	4	3.3	1	0.8

¹Of the 17,289 cases, 289 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: Eastern Virginia (23.2%), Middle Georgia (17.8%), Northern New York (14.0%), Middle Tennessee (8.1%), Maryland (7.3%), Eastern North Carolina (7.1%), and Southern Mississippi (5.7%). Descriptions of variables used in this table are provided in Appendix A.

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

Table 3

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY EACH PRIMARY OFFENSE CATEGORY¹
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 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	17,000	10,123	59.5	73	0.4	23	0.1	174	1.0	12	0.1
Murder	14	10	71.4	0	0.0	0	0.0	0	0.0	0	0.0
Manslaughter	11	8	72.7	1	9.1	0	0.0	0	0.0	0	0.0
Kidnapping/Hostage Taking	10	4	40.0	1	10.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	98	75	76.5	0	0.0	0	0.0	5	5.1	0	0.0
Assault	146	91	62.3	6	4.1	1	0.7	6	4.1	0	0.0
Robbery	208	132	63.5	2	1.0	0	0.0	9	4.3	1	0.5
Arson	9	5	55.6	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	5,162	2,583	50.0	12	0.2	2	0.0	16	0.3	3	0.1
Drugs - Communication Facility	100	51	51.0	0	0.0	0	0.0	1	1.0	0	0.0
Drugs - Simple Possession	101	88	87.1	0	0.0	0	0.0	4	4.0	0	0.0
Firearms	1,779	1,143	64.2	5	0.3	8	0.4	23	1.3	1	0.1
Burglary/B&E	5	5	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Auto Theft	13	9	69.2	0	0.0	0	0.0	0	0.0	0	0.0
Larceny	277	209	75.5	2	0.7	0	0.0	4	1.4	0	0.0
Fraud	1,511	948	62.7	10	0.7	3	0.2	21	1.4	2	0.1
Embezzlement	107	75	70.1	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	207	138	66.7	2	1.0	0	0.0	4	1.9	0	0.0
Bribery	35	14	40.0	0	0.0	0	0.0	0	0.0	0	0.0
Tax	141	63	44.7	0	0.0	0	0.0	1	0.7	0	0.0
Money Laundering	188	80	42.6	1	0.5	0	0.0	0	0.0	0	0.0
Racketeering/Extortion	145	65	44.8	0	0.0	4	2.8	3	2.1	0	0.0
Gambling/Lottery	14	6	42.9	0	0.0	0	0.0	0	0.0	0	0.0
Civil Rights	14	6	42.9	0	0.0	0	0.0	1	7.1	0	0.0
Immigration	5,495	3,553	64.7	27	0.5	2	0.0	60	1.1	3	0.1
Pornography/Prostitution	438	228	52.1	2	0.5	0	0.0	5	1.1	0	0.0
Prison Offenses	110	82	74.5	0	0.0	1	0.9	0	0.0	2	1.8
Administration of Justice Offenses	228	135	59.2	1	0.4	1	0.4	4	1.8	0	0.0
Environmental/Wildlife	26	15	57.7	0	0.0	0	0.0	0	0.0	0	0.0
National Defense	13	10	76.9	0	0.0	0	0.0	0	0.0	0	0.0
Antitrust	4	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Food & Drug	18	9	50.0	0	0.0	0	0.0	0	0.0	0	0.0
Other Miscellaneous Offenses	373	283	75.9	1	0.3	1	0.3	7	1.9	0	0.0

Table 3 (cont.)

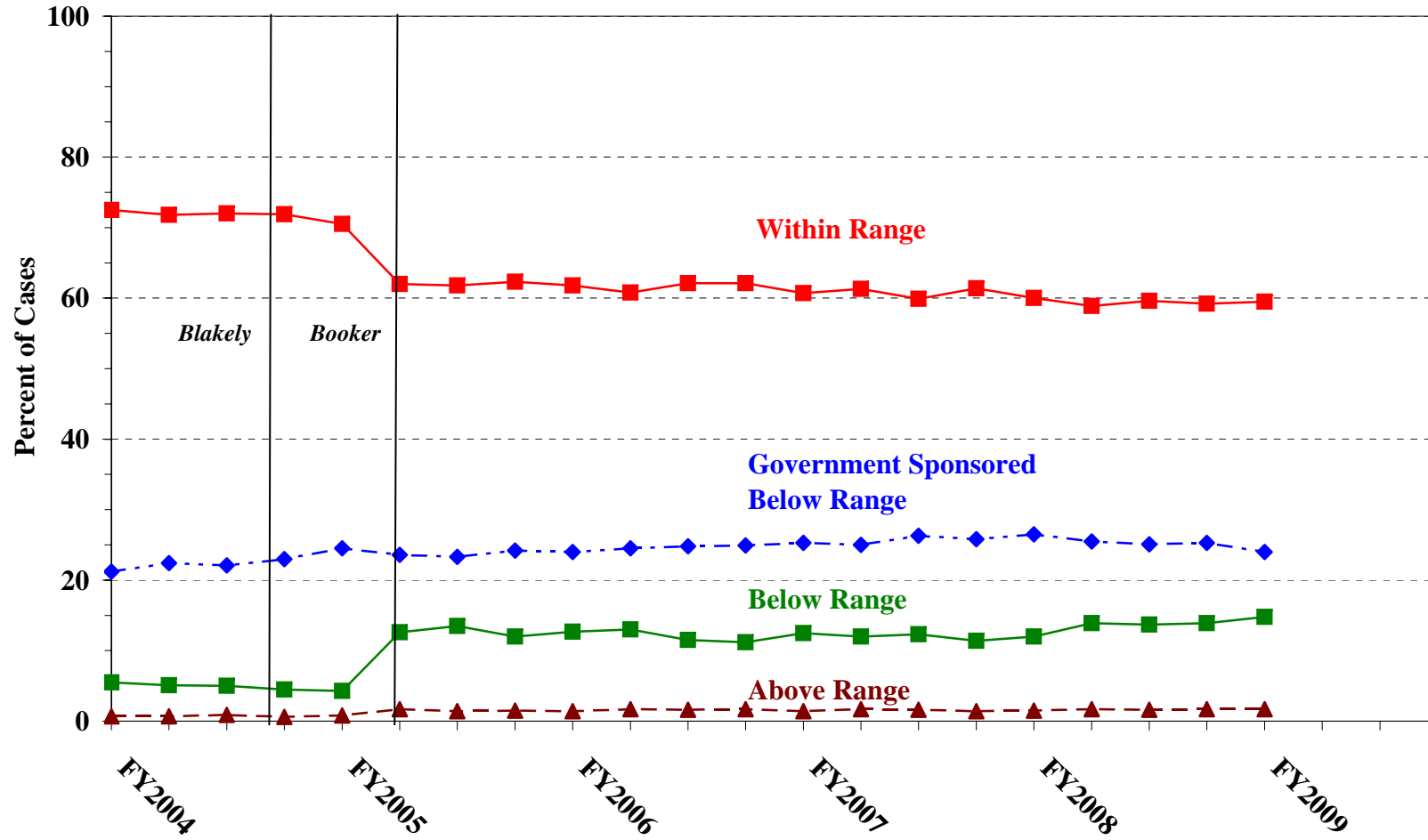
PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	2,049	12.1	1,405	8.3	632	3.7	365	2.1	153	0.9	1,808	10.6	183	1.1
Murder	2	14.3	0	0.0	0	0.0	0	0.0	1	7.1	1	7.1	0	0.0
Manslaughter	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	2	18.2	0	0.0
Kidnapping/Hostage Taking	4	40.0	1	10.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	3	3.1	1	1.0	4	4.1	3	3.1	0	0.0	6	6.1	1	1.0
Assault	2	1.4	0	0.0	9	6.2	9	6.2	5	3.4	16	11.0	1	0.7
Robbery	21	10.1	0	0.0	6	2.9	3	1.4	5	2.4	27	13.0	2	1.0
Arson	2	22.2	0	0.0	0	0.0	0	0.0	1	11.1	1	11.1	0	0.0
Drugs - Trafficking	1,301	25.2	244	4.7	184	3.6	110	2.1	59	1.1	608	11.8	40	0.8
Drugs - Communication Facility	15	15.0	0	0.0	5	5.0	3	3.0	1	1.0	24	24.0	0	0.0
Drugs - Simple Possession	4	4.0	0	0.0	1	1.0	0	0.0	0	0.0	2	2.0	2	2.0
Firearms	198	11.1	8	0.4	69	3.9	36	2.0	20	1.1	241	13.5	27	1.5
Burglary/B&E	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Auto Theft	1	7.7	0	0.0	2	15.4	1	7.7	0	0.0	0	0.0	0	0.0
Larceny	17	6.1	0	0.0	7	2.5	1	0.4	0	0.0	34	12.3	3	1.1
Fraud	205	13.6	2	0.1	34	2.3	33	2.2	12	0.8	220	14.6	21	1.4
Embezzlement	3	2.8	0	0.0	1	0.9	3	2.8	3	2.8	18	16.8	4	3.7
Forgery/Counterfeiting	21	10.1	0	0.0	1	0.5	1	0.5	3	1.4	35	16.9	2	1.0
Bribery	9	25.7	0	0.0	4	11.4	0	0.0	0	0.0	8	22.9	0	0.0
Tax	17	12.1	0	0.0	5	3.5	6	4.3	2	1.4	44	31.2	3	2.1
Money Laundering	39	20.7	3	1.6	16	8.5	3	1.6	2	1.1	42	22.3	2	1.1
Racketeering/Extortion	29	20.0	0	0.0	22	15.2	1	0.7	3	2.1	18	12.4	0	0.0
Gambling/Lottery	7	50.0	0	0.0	0	0.0	0	0.0	0	0.0	1	7.1	0	0.0
Civil Rights	3	21.4	0	0.0	1	7.1	0	0.0	0	0.0	2	14.3	1	7.1
Immigration	68	1.2	1,146	20.9	180	3.3	125	2.3	23	0.4	249	4.5	59	1.1
Pornography/Prostitution	21	4.8	0	0.0	35	8.0	5	1.1	8	1.8	127	29.0	7	1.6
Prison Offenses	4	3.6	0	0.0	10	9.1	4	3.6	0	0.0	6	5.5	1	0.9
Administration of Justice Offenses	21	9.2	0	0.0	12	5.3	12	5.3	3	1.3	39	17.1	0	0.0
Environmental/Wildlife	1	3.8	0	0.0	4	15.4	0	0.0	0	0.0	6	23.1	0	0.0
National Defense	0	0.0	0	0.0	1	7.7	1	7.7	0	0.0	0	0.0	1	7.7
Antitrust	4	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Food & Drug	2	11.1	0	0.0	6	33.3	0	0.0	0	0.0	1	5.6	0	0.0
Other Miscellaneous Offenses	25	6.7	0	0.0	13	3.5	5	1.3	2	0.5	30	8.0	6	1.6

¹Of the 17,289 cases, 289 were excluded due to missing information from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

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

Figure A

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



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

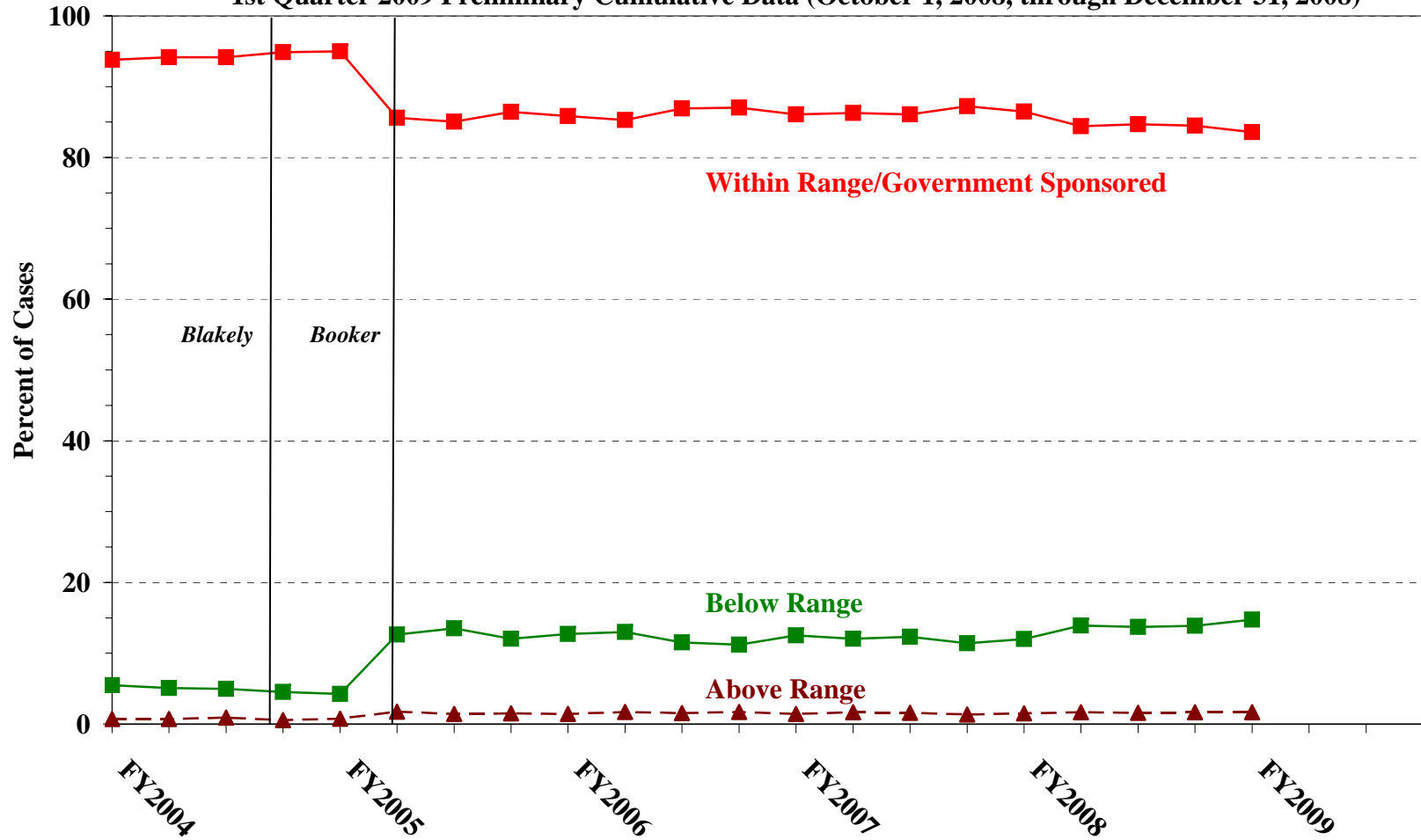
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through December 31, 2008).

Figure B

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

Fiscal Years 2004 - 2008,

1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)



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

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

Table 4

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

FISCAL YEAR	WITHIN GUIDELINE RANGE	GOVERNMENT SPONSORED BELOW RANGE	BELOW RANGE	ABOVE RANGE
Quarter	%	%	%	%
FY2004				
1st Quarter	72.5	21.2	5.5	0.7
2ndQuarter	71.8	22.4	5.1	0.7
3rd Quarter	72.0	22.1	5.0	0.9
4th Quarter	71.9	23.0	4.5	0.6
FY2005				
1st Quarter	70.5	24.5	4.3	0.8
2ndQuarter	62.0	23.6	12.6	1.7
3rd Quarter	61.8	23.3	13.5	1.4
4th Quarter	62.3	24.2	12.0	1.5
FY2006				
1st Quarter	61.8	24.0	12.7	1.4
2ndQuarter	60.8	24.5	13.0	1.7
3rd Quarter	62.1	24.8	11.5	1.6
4th Quarter	62.1	24.9	11.2	1.7
FY2007				
1st Quarter	60.7	25.3	12.5	1.4
2ndQuarter	61.3	25.0	12.0	1.7
3rd Quarter	59.9	26.3	12.3	1.6
4th Quarter	61.4	25.8	11.4	1.4
FY2008				
1st Quarter	60.0	26.5	12.0	1.5
2ndQuarter	58.9	25.5	13.9	1.7
3rd Quarter	59.6	25.1	13.7	1.6
4th Quarter	59.2	25.3	13.9	1.7
FY2009				
1st Quarter	59.5	24.0	14.8	1.7
2ndQuarter	--	--	--	--
3rd Quarter	--	--	--	--
4th Quarter	--	--	--	--

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

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward				Government Sponsored			Downward			
			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
§2N2.1	9	9	0	0	0	0	0	0	0	0	0	0	0
§2N3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2P1.1	58	46	0	0	0	1	1	0	2	2	0	5	1
§2P1.2	33	25	0	1	0	1	3	0	1	2	0	0	0
§2P1.3	3	0	0	0	0	0	0	0	3	0	0	0	0
§2P1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.2	8	3	0	0	0	0	2	0	0	0	1	2	0
§2Q1.3	5	4	0	0	0	0	0	0	0	0	0	1	0
§2Q1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q2.1	17	10	0	0	0	0	0	0	2	0	0	5	0
§2Q2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2R1.1	2	0	0	0	0	0	2	0	0	0	0	0	0
§2S1.1	208	84	0	0	0	0	57	2	11	4	3	44	3
§2S1.2	1	1	0	0	0	0	0	0	0	0	0	0	0
§2S1.3	65	35	1	0	0	0	8	1	8	0	2	10	0
§2S1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.1	118	54	1	0	1	0	15	0	6	6	2	31	2
§2T1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.4	30	13	0	0	0	0	3	0	0	2	0	12	0
§2T1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.6	5	3	0	0	0	0	0	0	0	0	0	2	0
§2T1.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.9	2	0	0	0	0	0	0	0	0	0	0	2	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	4	3	0	0	0	0	0	0	0	0	0	1	0
§2T3.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T4.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X1.1	4	1	0	0	0	0	1	0	0	0	0	2	0
§2X2.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X3.1	32	20	1	1	1	0	3	0	0	2	0	4	0
§2X4.1	110	69	0	0	2	0	12	0	4	4	1	18	0
§2X5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X5.2	40	35	0	0	4	0	0	0	0	0	0	1	0
§2X6.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X7.1	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	15,847	9,106	70	22	174	11	2,036	1,363	606	358	152	1,777	172

¹Of the 17,289 cases, 1,442 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 (289) or missing guideline applied (1,398). Descriptions of variables used in this table are provided in Appendix A.

²In 206 cases the defendant was convicted of one or more counts of violating 18 U.S.C. § 1028A. By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 206 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

³In 507 cases the defendant was convicted of one or more counts of violating 18 U.S.C. § 924(c). By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 507 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
IN EACH OUTSIDE OF THE RANGE ATTRIBUTION CATEGORY¹
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 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	6,877	1,439	20.9	1,369	19.9	534	7.8	354	5.1	22	0.3
Above Range	282	1	0.4	0	0.0	51	18.1	21	7.4	0	0.0
Upward Departure From Guideline Range	73	0	0.0	0	0.0	17	23.3	11	15.1	0	0.0
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	23	0	0.0	0	0.0	10	43.5	1	4.3	0	0.0
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	174	0	0.0	0	0.0	23	13.2	9	5.2	0	0.0
All Remaining Cases Above Guideline Range	12	1	8.3	0	0.0	1	8.3	0	0.0	0	0.0
Government Sponsored Below Range	4,086	1,438	35.2	1,369	33.5	483	11.8	333	8.1	22	0.5
§5K1.1 Substantial Assistance Departure	2,049	1,438	70.2	18	0.9	42	2.0	29	1.4	3	0.1
§5K3.1 Early Disposition Program Departure	1,405	0	0.0	1,351	96.2	204	14.5	52	3.7	1	0.1
Other Government Sponsored Below Range	632	0	0.0	0	0.0	237	37.5	252	39.9	18	2.8
Below Range	2,509	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure From Guideline Range	365	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	153	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	1,808	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	183	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	586	8.5	51	0.7	150	2.2	665	9.7	765	11.1	1,139	16.6	793	11.5
Above Range	0	0.0	0	0.0	31	11.0	4	1.4	3	1.1	143	50.7	54	19.1
Upward Departure From Guideline Range	0	0.0	0	0.0	9	12.3	1	1.4	1	1.4	29	39.7	10	13.7
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	10	43.5	1	4.3	0	0.0	16	69.6	3	13.0
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	12	6.9	2	1.1	2	1.1	98	56.3	31	17.8
All Remaining Cases Above Guideline Range	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	10	83.3
Government Sponsored Below Range	586	14.3	51	1.2	119	2.9	176	4.3	100	2.4	165	4.0	92	2.3
§5K1.1 Substantial Assistance Departure	586	28.6	0	0.0	32	1.6	67	3.3	54	2.6	70	3.4	44	2.1
§5K3.1 Early Disposition Program Departure	0	0.0	51	3.6	5	0.4	58	4.1	29	2.1	30	2.1	15	1.1
Other Government Sponsored Below Range	0	0.0	0	0.0	82	13.0	51	8.1	17	2.7	65	10.3	33	5.2
Below Range	0	0.0	0	0.0	0	0.0	485	19.3	662	26.4	831	33.1	647	25.8
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	125	34.2	77	21.1	115	31.5	55	15.1
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	50	32.7	79	51.6	90	58.8	18	11.8
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	302	16.7	500	27.7	624	34.5	407	22.5
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	8	4.4	6	3.3	2	1.1	167	91.3

¹Multiple attributions may be made on the SOR. Therefore, the numbers reported in this table may exceed the number of total cases. For example, among SORs with an attribution, 877 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
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,942	37.0	31.0	48.1
Murder	2	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	2	--	--	--
Sexual Abuse	2	--	--	--
Assault	2	--	--	--
Robbery	21	41.0	27.0	31.0
Arson	2	--	--	--
Drugs - Trafficking	1,228	54.0	43.0	44.4
Drugs - Communication Facility	14	2.5	12.0	83.3
Drugs - Simple Possession	4	2.0	10.0	96.8
Firearms	189	48.0	30.0	44.6
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	15	6.0	10.0	83.8
Fraud	194	12.0	15.0	58.7
Embezzlement	2	--	--	--
Forgery/Counterfeiting	21	4.0	8.0	66.7
Bribery	9	0.0	10.0	100.0
Tax	17	0.0	12.0	100.0
Money Laundering	39	6.0	24.0	72.2
Racketeering/Extortion	27	22.0	24.0	53.3
Gambling/Lottery	7	3.0	6.0	66.7
Civil Rights	3	25.0	30.0	50.0
Immigration	68	11.5	9.2	41.7
Pornography/Prostitution	20	63.0	40.5	30.0
Prison Offenses	4	13.5	5.5	30.6
Administration of Justice Offenses	18	1.5	9.0	90.0
Environmental/Wildlife	1	--	--	--
National Defense	0	--	--	--
Antitrust	3	6.0	15.0	80.5
Food & Drug	2	--	--	--
Other Miscellaneous Offenses	25	0.0	15.0	100.0

¹Of the 17,289 cases, 2,049 received a §5K1.1 substantial assistance departure. Of these, 1,976 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 33 cases were also excluded from this table. Of the remaining 1,943 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

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

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,341	18.0	6.0	28.6
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	1	--	--	--
Assault	0	--	--	--
Robbery	0	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	229	18.0	10.0	34.8
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	8	57.0	13.0	18.6
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	0	--	--	--
Fraud	1	--	--	--
Embezzlement	0	--	--	--
Forgery/Counterfeiting	0	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	3	0.0	10.0	100.0
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	1,098	18.0	6.0	28.3
Pornography/Prostitution	0	--	--	--
Prison Offenses	0	--	--	--
Administration of Justice Offenses	0	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	0	--	--	--

¹Of the 17,289 cases, 1,405 received a §5K3.1 early disposition program departure. Of these, 1,341 had complete guideline application information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

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

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

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	593	24.0	12.0	33.3
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	4	78.0	56.0	46.9
Assault	8	21.0	14.5	43.5
Robbery	6	44.0	9.5	17.9
Arson	0	--	--	--
Drugs - Trafficking	173	60.0	21.0	28.6
Drugs - Communication Facility	5	30.0	24.0	60.9
Drugs - Simple Possession	1	--	--	--
Firearms	67	36.0	13.0	25.0
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	7	0.0	12.0	100.0
Fraud	31	10.0	8.0	50.0
Embezzlement	1	--	--	--
Forgery/Counterfeiting	1	--	--	--
Bribery	2	--	--	--
Tax	5	0.0	6.0	100.0
Money Laundering	16	8.0	11.5	50.1
Racketeering/Extortion	21	46.0	18.0	24.3
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	170	12.3	5.3	33.3
Pornography/Prostitution	34	61.5	37.0	29.0
Prison Offenses	7	24.0	12.0	35.1
Administration of Justice Offenses	12	10.6	13.4	40.3
Environmental/Wildlife	4	2.5	6.5	79.2
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	6	0.0	12.0	100.0
Other Miscellaneous Offenses	11	0.0	12.0	100.0

¹Of the 17,289 cases, 632 received an other government sponsored downward departure. Of these, 595 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. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

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

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	338	21.0	10.0	28.6
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	3	60.0	48.0	50.4
Assault	8	31.0	6.5	23.5
Robbery	3	16.0	15.0	50.0
Arson	0	--	--	--
Drugs - Trafficking	105	51.0	13.0	23.0
Drugs - Communication Facility	3	12.0	10.0	41.5
Drugs - Simple Possession	0	--	--	--
Firearms	35	36.0	9.0	28.6
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	1	--	--	--
Fraud	26	24.7	9.0	34.2
Embezzlement	3	18.0	12.0	35.1
Forgery/Counterfeiting	1	--	--	--
Bribery	0	--	--	--
Tax	6	7.5	11.0	77.1
Money Laundering	1	--	--	--
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	115	15.0	5.3	21.8
Pornography/Prostitution	5	36.0	15.0	25.8
Prison Offenses	4	17.0	2.5	10.4
Administration of Justice Offenses	12	0.0	10.0	100.0
Environmental/Wildlife	0	--	--	--
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	4	5.0	10.0	66.7

¹Of the 17,289 cases, 365 received a downward departure from the guideline range. Of these, 340 had complete guideline application information. Of the remaining 340 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 2009 Datafile, USSCFY09 (October 1, 2008, through December 31, 2008).

**DOWNWARD DEPARTURES WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	146	28.5	20.0	36.5
Murder	1	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	0	--	--	--
Assault	5	15.0	15.0	46.8
Robbery	5	18.0	42.0	76.9
Arson	1	--	--	--
Drugs - Trafficking	57	60.0	27.0	31.0
Drugs - Communication Facility	1	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	20	18.5	18.7	29.6
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	0	--	--	--
Fraud	9	7.1	14.0	63.5
Embezzlement	3	0.0	10.0	99.6
Forgery/Counterfeiting	3	0.0	18.0	100.0
Bribery	0	--	--	--
Tax	2	--	--	--
Money Laundering	2	--	--	--
Racketeering/Extortion	2	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	22	30.0	14.5	34.1
Pornography/Prostitution	8	60.0	40.0	36.9
Prison Offenses	0	--	--	--
Administration of Justice Offenses	3	0.0	10.0	100.0
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	2	--	--	--

¹Of the 17,289 cases, 153 received a downward departure from the guideline range with *Booker* /18 U.S.C § 3553. Of these, 148 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, one additional case was also excluded from this table. Of the remaining 147 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

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

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

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,719	28.2	13.0	33.3
Murder	1	--	--	--
Manslaughter	2	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	6	15.0	16.0	42.8
Assault	16	30.0	7.0	26.2
Robbery	27	36.0	15.0	23.4
Arson	1	--	--	--
Drugs - Trafficking	580	60.0	18.0	24.8
Drugs - Communication Facility	24	12.0	18.0	69.2
Drugs - Simple Possession	2	--	--	--
Firearms	233	36.0	12.0	23.4
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	32	0.0	7.0	100.0
Fraud	212	12.0	10.0	50.0
Embezzlement	17	12.0	8.0	55.4
Forgery/Counterfeiting	34	1.0	10.0	91.3
Bribery	7	6.0	12.0	66.7
Tax	43	0.0	12.0	99.7
Money Laundering	40	23.0	16.5	34.7
Racketeering/Extortion	17	36.0	23.5	34.8
Gambling/Lottery	1	--	--	--
Civil Rights	2	--	--	--
Immigration	223	24.0	10.0	33.2
Pornography/Prostitution	122	60.0	32.0	37.5
Prison Offenses	6	25.5	7.0	23.4
Administration of Justice Offenses	35	3.0	10.0	75.0
Environmental/Wildlife	6	0.0	16.5	100.0
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	1	--	--	--
Other Miscellaneous Offenses	29	0.0	10.0	100.0

¹Of the 17,289 cases, 1,808 were sentenced below the guideline range with *Booker* /18 U.S.C § 3553. Of these, 1,724 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. Of the remaining 1,720 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

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

**ALL REMAINING BELOW GUIDELINE RANGE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	164	16.9	6.7	35.1
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	1	--	--	--
Assault	1	--	--	--
Robbery	2	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	38	80.0	13.5	24.5
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	2	--	--	--
Firearms	26	64.0	14.5	34.1
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	3	30.0	6.0	37.5
Fraud	19	6.0	6.0	50.0
Embezzlement	4	0.0	6.0	100.0
Forgery/Counterfeiting	2	--	--	--
Bribery	0	--	--	--
Tax	2	--	--	--
Money Laundering	2	--	--	--
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	1	--	--	--
Immigration	48	7.5	4.5	40.0
Pornography/Prostitution	7	60.0	25.0	23.1
Prison Offenses	1	--	--	--
Administration of Justice Offenses	0	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	4	0.0	6.0	100.0

¹Of the 17,289 cases, 183 were otherwise sentenced below the guideline range. Of these, 164 had complete guideline application information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

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

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

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	69	54.0	10.0	36.8
Murder	0	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	0	--	--	--
Assault	5	78.0	24.0	25.0
Robbery	2	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	12	81.0	8.0	25.0
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	5	57.0	11.0	35.2
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	2	--	--	--
Fraud	10	27.0	7.0	48.2
Embezzlement	0	--	--	--
Forgery/Counterfeiting	2	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	24	36.0	9.0	50.0
Pornography/Prostitution	2	--	--	--
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 17,289 cases, 73 received an upward departure from the guideline range. Of these, 69 had complete guideline application information. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

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

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

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	21	84.0	28.0	39.0
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	0	--	--	--
Assault	1	--	--	--
Robbery	0	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	1	--	--	--
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	7	84.0	38.0	38.9
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	0	--	--	--
Fraud	3	96.0	23.0	29.2
Embezzlement	0	--	--	--
Forgery/Counterfeiting	0	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	0	--	--	--
Racketeering/Extortion	4	270.0	154.0	143.5
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	2	--	--	--
Pornography/Prostitution	0	--	--	--
Prison Offenses	1	--	--	--
Administration of Justice Offenses	1	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	1	--	--	--

¹Of the 17,289 cases, 23 received an upward departure from the guideline range with *Booker* /18 U.S.C § 3553. Of these, 21 had complete guideline application information. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

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

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

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	164	47.5	9.0	37.9
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	4	120.0	14.5	52.6
Assault	6	66.0	14.5	31.9
Robbery	9	144.0	33.0	17.4
Arson	0	--	--	--
Drugs - Trafficking	12	67.5	11.0	20.1
Drugs - Communication Facility	1	--	--	--
Drugs - Simple Possession	4	30.0	18.0	83.3
Firearms	22	120.0	19.0	33.4
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	4	78.0	27.0	41.1
Fraud	19	60.0	6.0	37.3
Embezzlement	0	--	--	--
Forgery/Counterfeiting	4	42.0	9.5	31.7
Bribery	0	--	--	--
Tax	1	--	--	--
Money Laundering	0	--	--	--
Racketeering/Extortion	3	60.0	19.0	46.3
Gambling/Lottery	0	--	--	--
Civil Rights	1	--	--	--
Immigration	58	14.5	6.0	50.0
Pornography/Prostitution	5	96.0	23.0	23.1
Prison Offenses	0	--	--	--
Administration of Justice Offenses	4	36.0	3.0	11.7
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	7	12.0	6.0	100.0

¹Of the 17,289 cases, 174 were sentenced above the guideline range with *Booker* /18 U.S.C § 3553. Of these, 167 had complete guideline application information. 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.

**ALL REMAINING ABOVE GUIDELINE RANGE CASES: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	9	66.0	15.0	27.7
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	0	--	--	--
Assault	0	--	--	--
Robbery	1	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	3	108.0	37.0	27.7
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	1	--	--	--
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	0	--	--	--
Fraud	1	--	--	--
Embezzlement	0	--	--	--
Forgery/Counterfeiting	0	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	0	--	--	--
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	2	--	--	--
Pornography/Prostitution	0	--	--	--
Prison Offenses	1	--	--	--
Administration of Justice Offenses	0	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	0	--	--	--

¹Of the 17,289 cases, 12 were otherwise sentenced above the guideline range. Of these, ten had complete guideline application information. Furthermore, one case was 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 2009 Datafile, USSCFY09 (October 1, 2008, through December 31, 2008).

OFFENDERS RECEIVING SENTENCING OPTIONS IN EACH PRIMARY OFFENSE CATEGORY¹
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 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	17,167	15,527	90.4	15,114	88.0	413	2.4	1,640	9.6	490	2.9	1,150	6.7
Murder	14	14	100.0	14	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Manslaughter	11	11	100.0	11	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Kidnapping/Hostage Taking	10	10	100.0	9	90.0	1	10.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	98	95	96.9	91	92.9	4	4.1	3	3.1	1	1.0	2	2.0
Assault	146	134	91.8	131	89.7	3	2.1	12	8.2	6	4.1	6	4.1
Robbery	206	205	99.5	199	96.6	6	2.9	1	0.5	0	0.0	1	0.5
Arson	9	9	100.0	9	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	5,172	5,014	96.9	4,902	94.8	112	2.2	158	3.1	70	1.4	88	1.7
Drugs - Communication Facility	100	74	74.0	71	71.0	3	3.0	26	26.0	15	15.0	11	11.0
Drugs - Simple Possession	108	55	50.9	51	47.2	4	3.7	53	49.1	6	5.6	47	43.5
Firearms	1,780	1,678	94.3	1,644	92.4	34	1.9	102	5.7	36	2.0	66	3.7
Burglary/B&E	5	5	100.0	5	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Auto Theft	13	12	92.3	12	92.3	0	0.0	1	7.7	0	0.0	1	7.7
Larceny	270	135	50.0	116	43.0	19	7.0	135	50.0	30	11.1	105	38.9
Fraud	1,531	1,207	78.8	1,121	73.2	86	5.6	324	21.2	113	7.4	211	13.8
Embezzlement	108	60	55.6	51	47.2	9	8.3	48	44.4	10	9.3	38	35.2
Forgery/Counterfeiting	207	158	76.3	149	72.0	9	4.3	49	23.7	24	11.6	25	12.1
Bribery	35	26	74.3	25	71.4	1	2.9	9	25.7	4	11.4	5	14.3
Tax	141	93	66.0	78	55.3	15	10.6	48	34.0	28	19.9	20	14.2
Money Laundering	190	148	77.9	135	71.1	13	6.8	42	22.1	14	7.4	28	14.7
Racketeering/Extortion	147	134	91.2	131	89.1	3	2.0	13	8.8	4	2.7	9	6.1
Gambling/Lottery	14	7	50.0	5	35.7	2	14.3	7	50.0	5	35.7	2	14.3
Civil Rights	14	12	85.7	11	78.6	1	7.1	2	14.3	1	7.1	1	7.1
Immigration	5,564	5,359	96.3	5,303	95.3	56	1.0	205	3.7	37	0.7	168	3.0
Pornography/Prostitution	439	427	97.3	422	96.1	5	1.1	12	2.7	9	2.1	3	0.7
Prison Offenses	111	106	95.5	100	90.1	6	5.4	5	4.5	1	0.9	4	3.6
Administration of Justice Offenses	227	156	68.7	148	65.2	8	3.5	71	31.3	22	9.7	49	21.6
Environmental/Wildlife	27	10	37.0	9	33.3	1	3.7	17	63.0	4	14.8	13	48.1
National Defense	13	11	84.6	11	84.6	0	0.0	2	15.4	0	0.0	2	15.4
Antitrust	4	3	75.0	3	75.0	0	0.0	1	25.0	0	0.0	1	25.0
Food & Drug	17	2	11.8	2	11.8	0	0.0	15	88.2	7	41.2	8	47.1
Other Miscellaneous Offenses	436	157	36.0	145	33.3	12	2.8	279	64.0	43	9.9	236	54.1

¹Of the 17,289 cases, 122 were excluded due to the offender receiving neither imprisonment nor probation. 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
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

PRIMARY OFFENSE	Mean Months	Median Months	N
TOTAL	48.2	24.0	17,288
Murder	342.1	470.0	14
Manslaughter	39.4	30.0	11
Kidnapping/Hostage Taking	202.3	158.0	10
Sexual Abuse	88.2	60.0	98
Assault	43.1	36.0	148
Robbery	84.4	65.0	208
Arson	46.8	60.0	9
Drugs - Trafficking	81.3	60.0	5,173
Drugs - Communication Facility	28.4	24.0	100
Drugs - Simple Possession	7.3	0.0	120
Firearms	79.4	55.0	1,780
Burglary/B&E	28.0	24.0	5
Auto Theft	48.3	35.0	13
Larceny	9.2	3.0	288
Fraud	23.5	12.0	1,537
Embezzlement	10.1	6.0	108
Forgery/Counterfeiting	16.9	12.0	207
Bribery	17.8	12.0	35
Tax	18.5	12.0	141
Money Laundering	29.7	18.0	190
Racketeering/Extortion	75.8	51.0	148
Gambling/Lottery	6.0	6.0	14
Civil Rights	67.8	30.5	14
Immigration	17.4	12.0	5,564
Pornography/Prostitution	125.9	78.0	439
Prison Offenses	17.0	15.0	111
Administration of Justice Offenses	15.1	10.0	231
Environmental/Wildlife	5.1	0.0	29
National Defense	34.9	33.0	13
Antitrust	9.5	7.0	4
Food & Drug	6.7	0.0	19
Other Miscellaneous Offenses	6.5	0.0	507

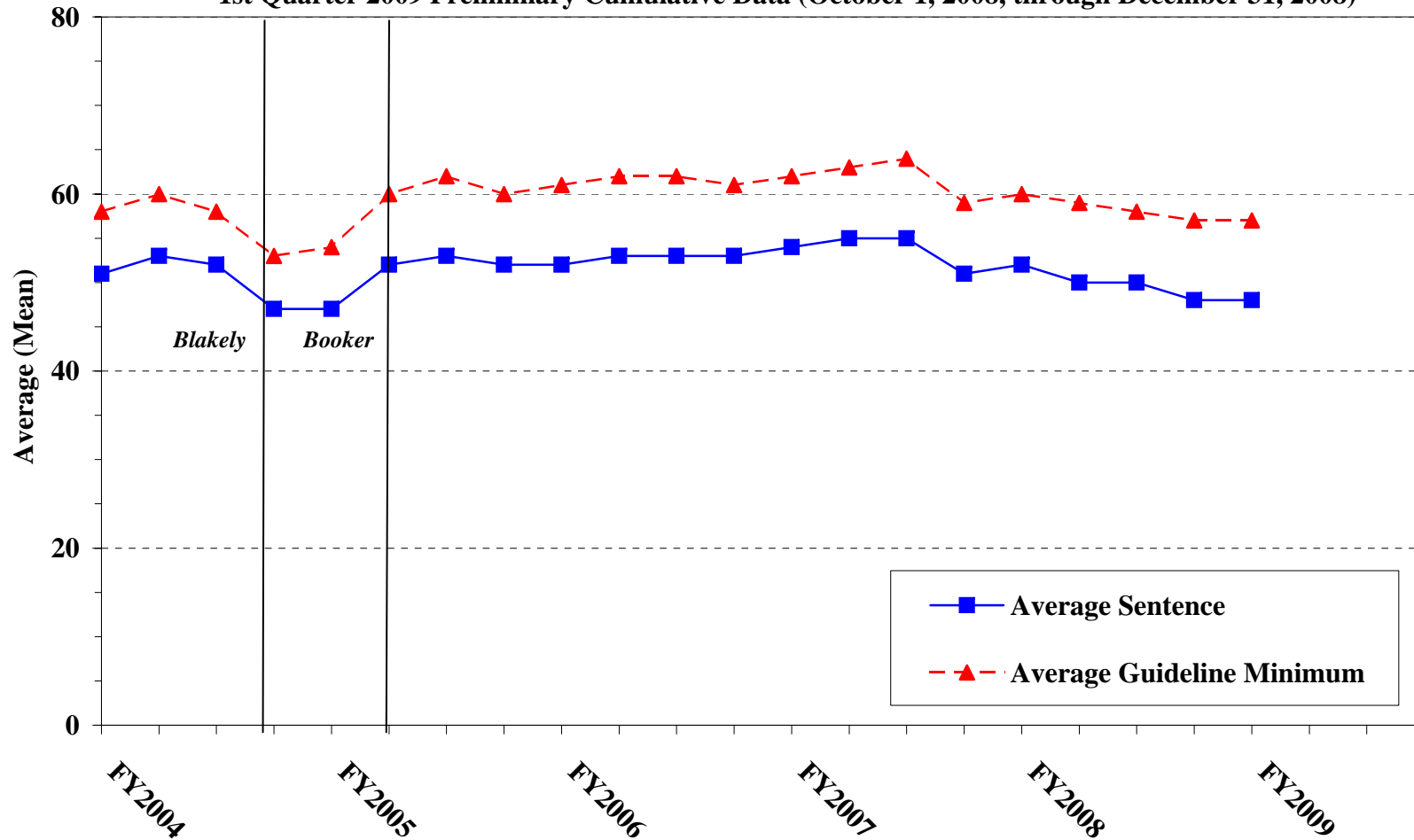
¹Of the 17,289 cases, one was excluded due to missing or indeterminable sentencing information. Sentences of probation only are included in this table as zero months of imprisonment. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

Figure C

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM
QUARTERLY DATA FOR ALL CASES¹**

Fiscal Years 2004 - 2008,

1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)



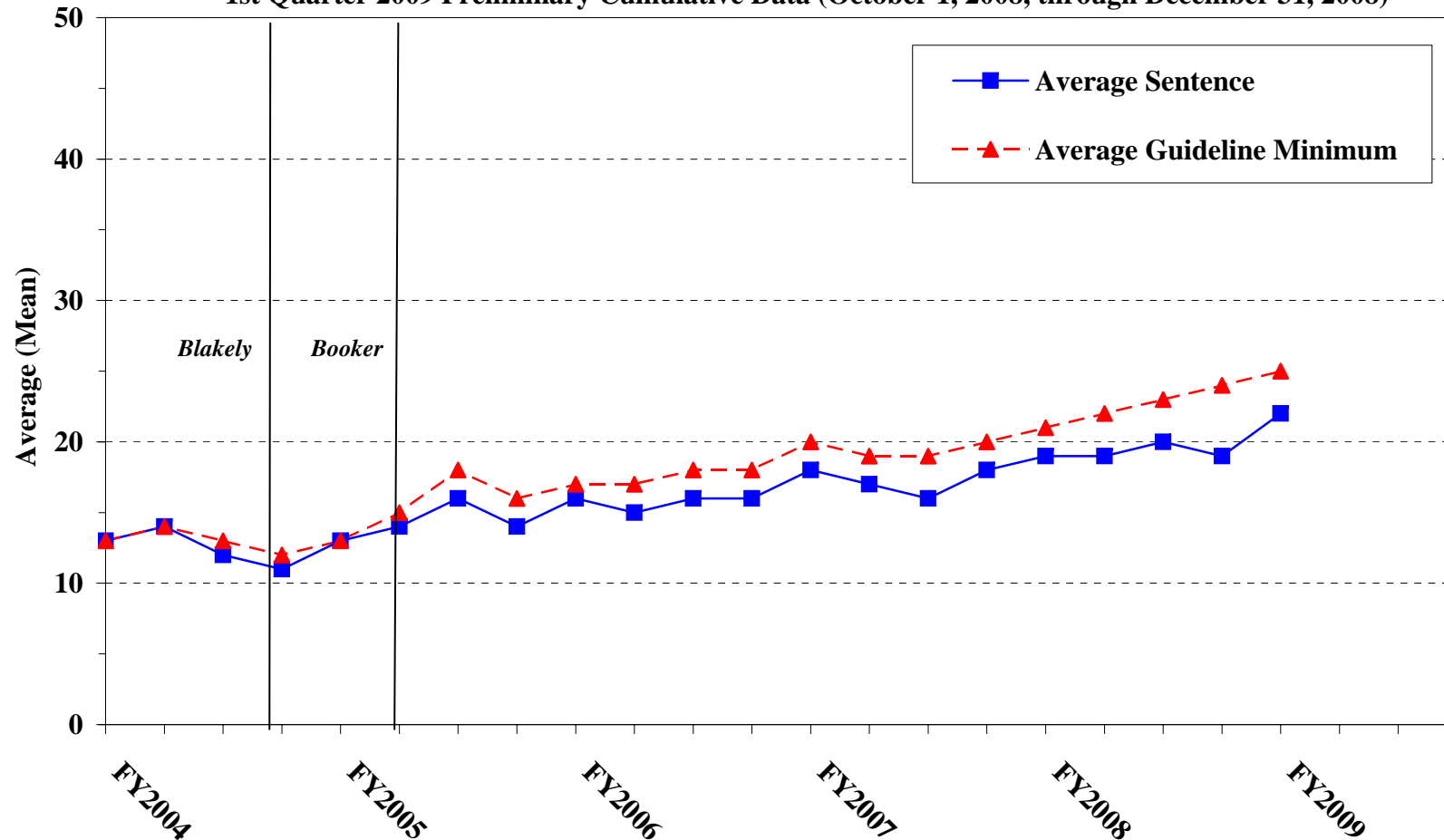
¹Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months 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 2004 - 2008,

1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 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.

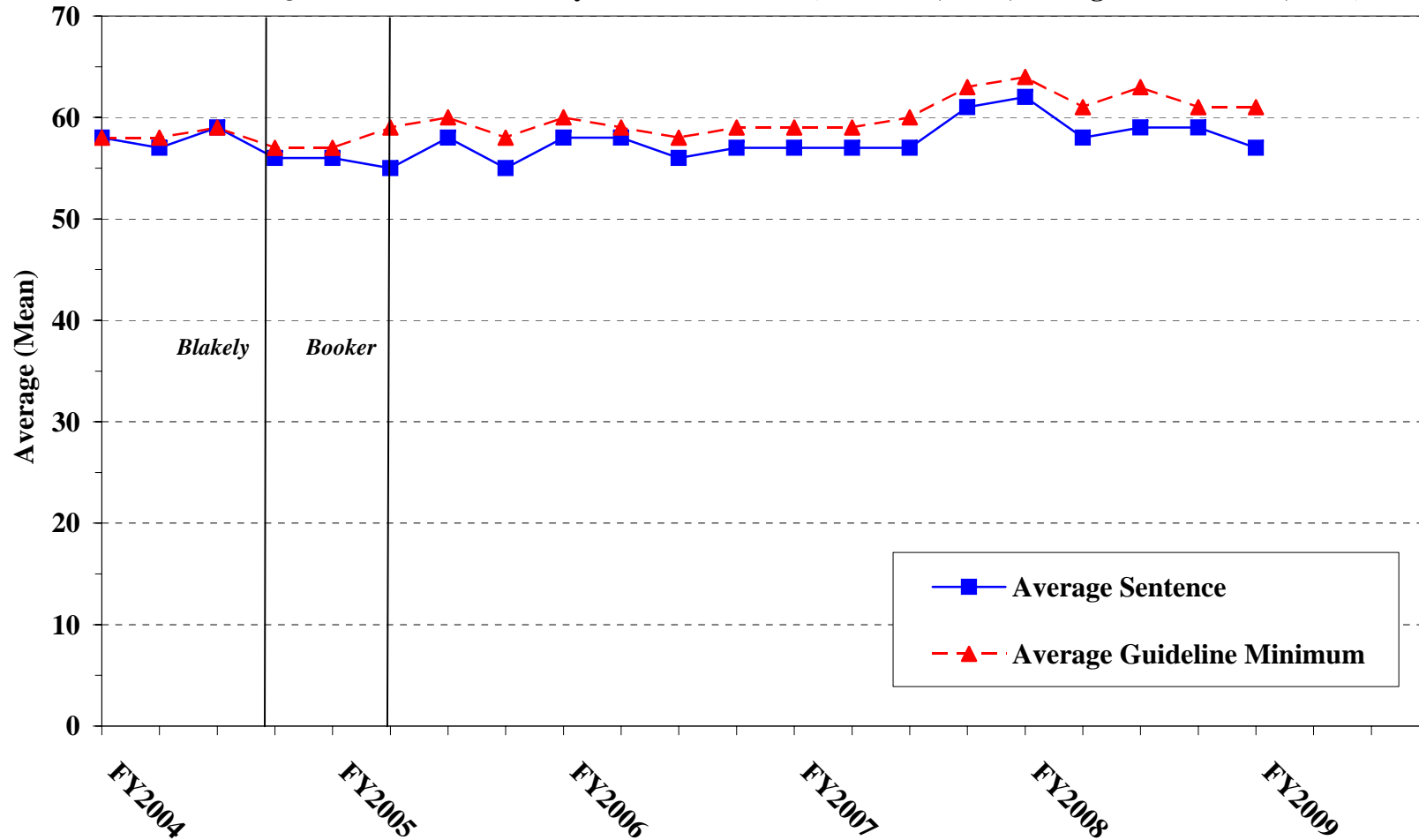
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through December 31, 2008).

Figure E

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

Fiscal Years 2004 - 2008,

1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

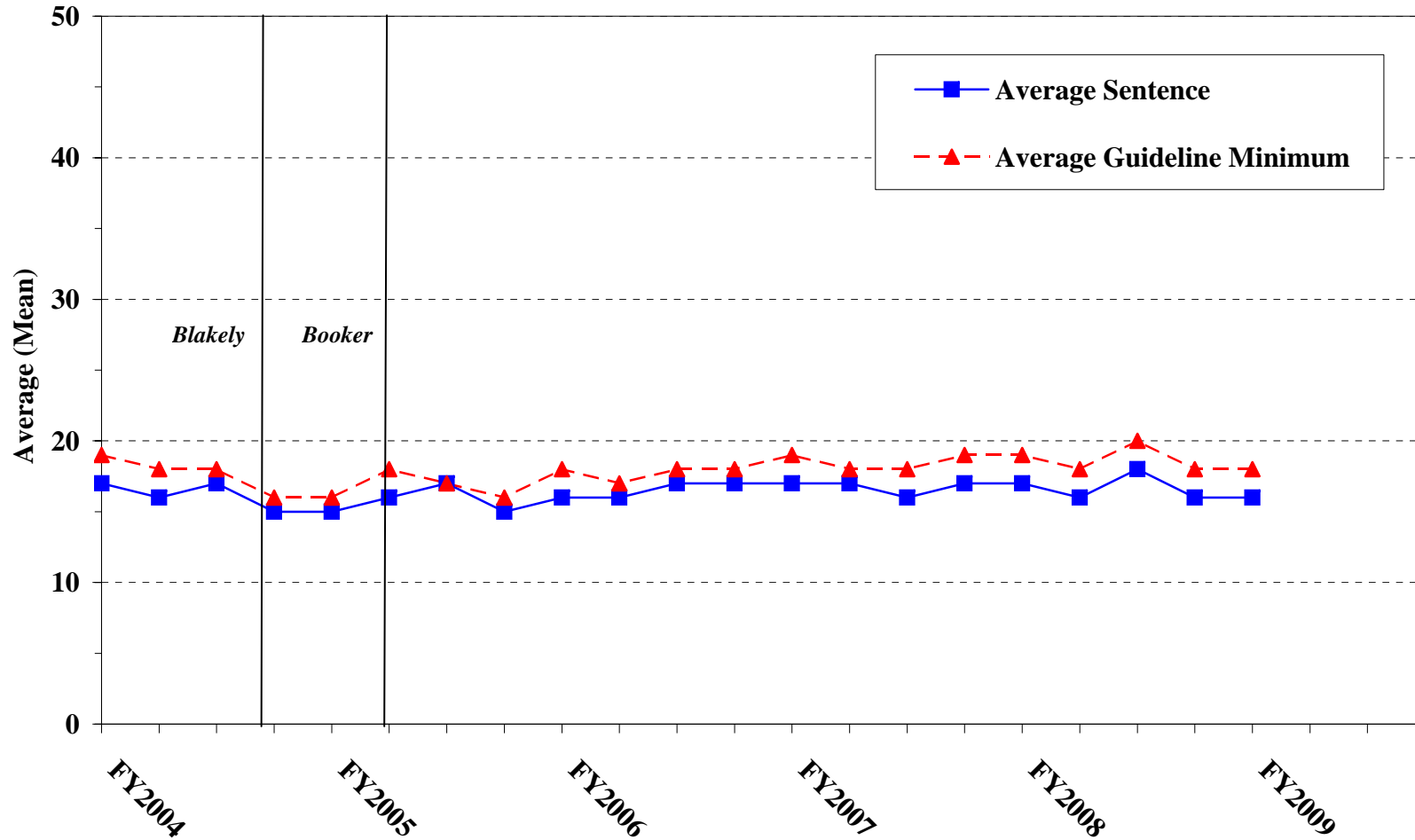


¹Figure includes only cases with a primary sentencing guideline of USSG §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition). Cases with guideline minimums of life or probation were included in the guideline minimum 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 2004 - 2008,
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 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.

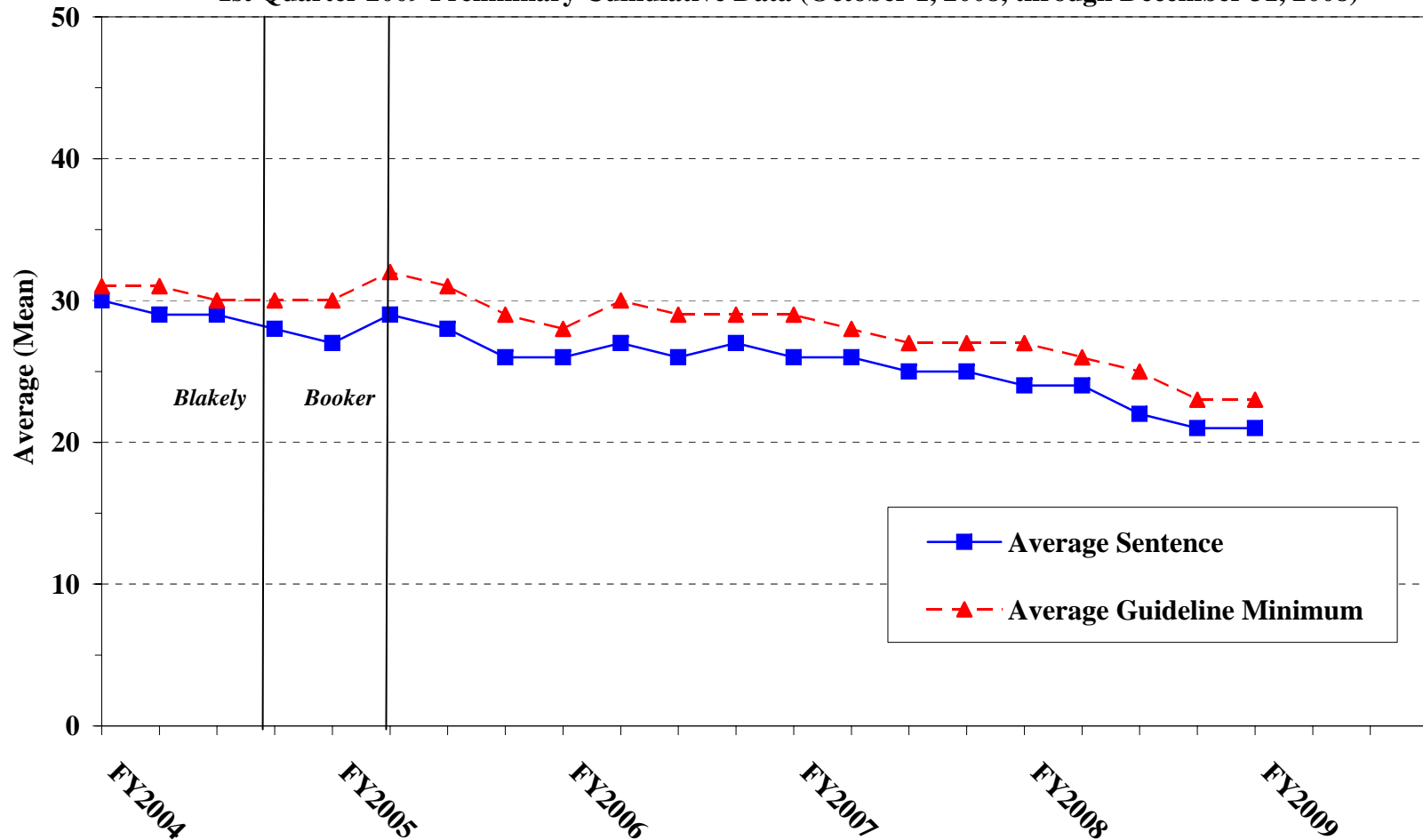
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through December 31, 2008).

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 2004 - 2008,

1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 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.

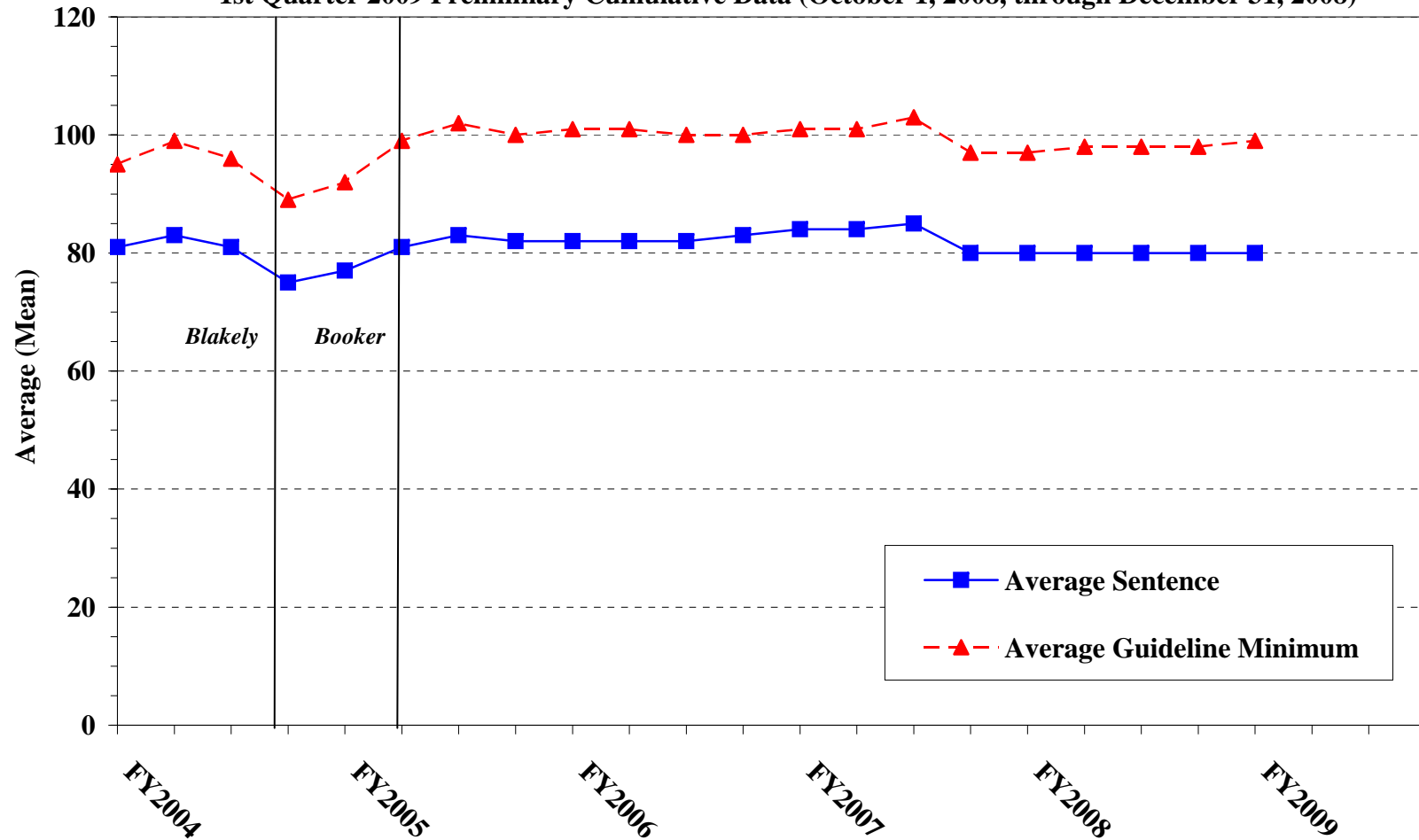
SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through December 31, 2008).

Figure H

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

Fiscal Years 2004 - 2008,

1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)



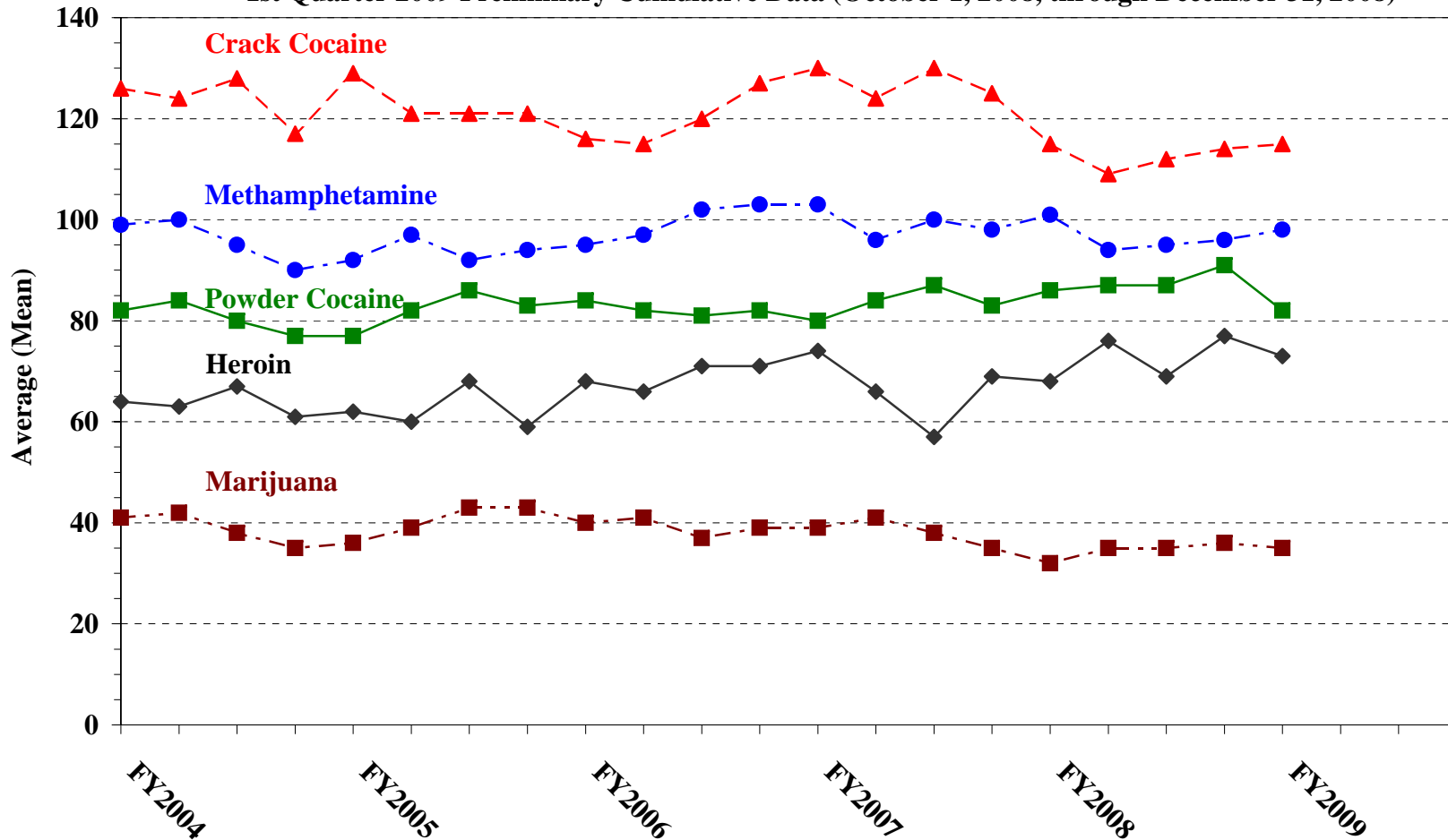
¹Figure includes only cases with a primary sentencing guideline of USSG §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy). Cases with guideline minimums of life or probation were included in the guideline 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.

Figure I

AVERAGE SENTENCE LENGTH FOR EACH DRUG TYPE¹

Fiscal Years 2004 - 2008,

1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 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.

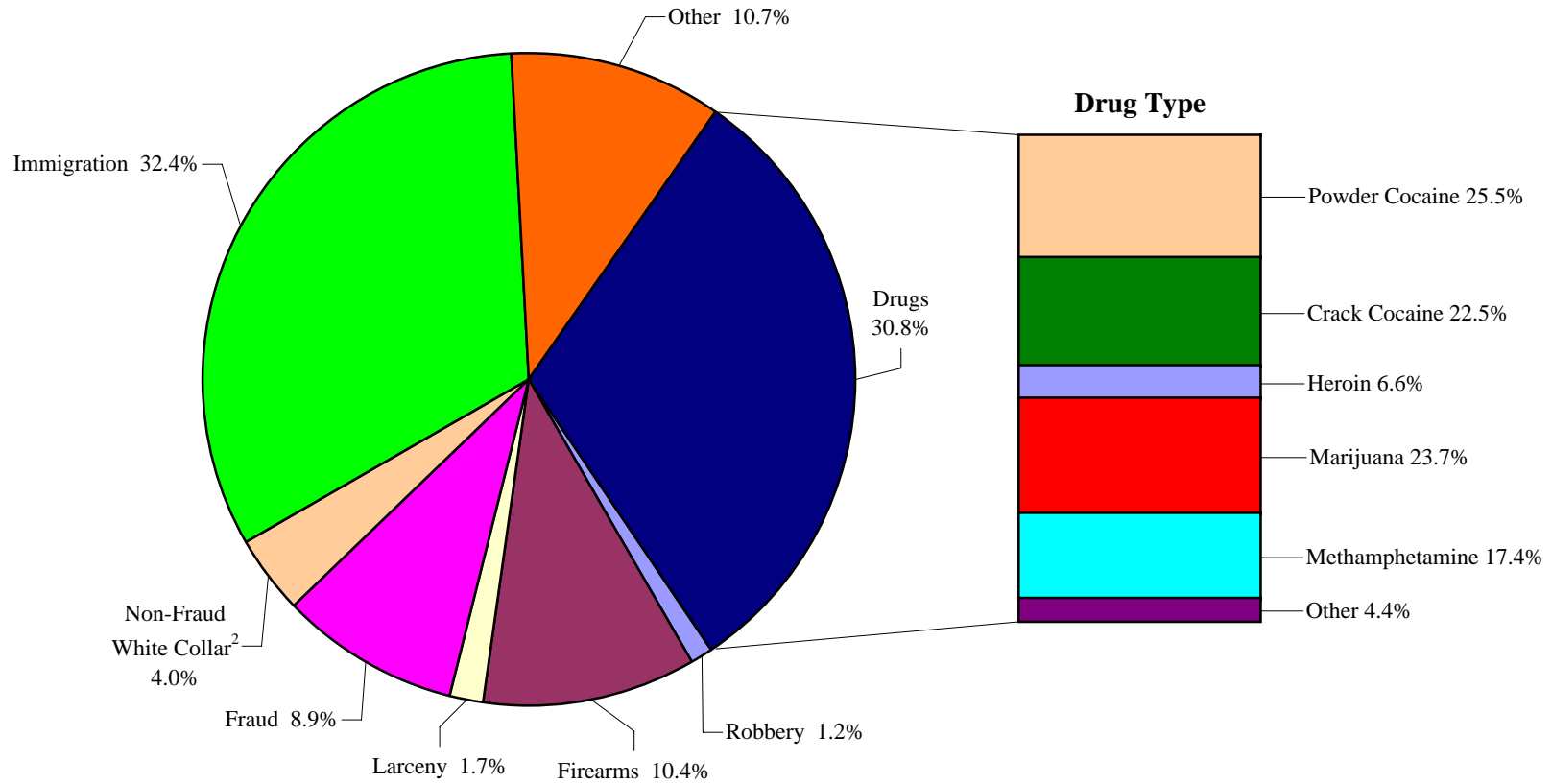
**WITHIN RANGE CASES: POSITION OF SENTENCE FOR OFFENDERS
IN EACH PRIMARY OFFENSE CATEGORY¹**
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

PRIMARY OFFENSE	TOTAL	Guideline Minimum		Lower Half of Range		Midpoint of Range		Upper Half of Range		Guideline Maximum	
		N	%	N	%	N	%	N	%	N	%
TOTAL	7,965	4,252	53.4	1,401	17.6	702	8.8	727	9.1	883	11.1
Murder	2	0	0.0	0	0.0	0	0.0	0	0.0	2	100.0
Manslaughter	8	5	62.5	2	25.0	0	0.0	0	0.0	1	12.5
Kidnapping/Hostage Taking	2	1	50.0	1	50.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	57	25	43.9	13	22.8	2	3.5	7	12.3	10	17.5
Assault	80	32	40.0	15	18.8	8	10.0	5	6.3	20	25.0
Robbery	122	70	57.4	13	10.7	6	4.9	15	12.3	18	14.8
Arson	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	2,197	1,567	71.3	253	11.5	130	5.9	107	4.9	140	6.4
Drugs - Communication Facility	25	20	80.0	1	4.0	1	4.0	0	0.0	3	12.0
Drugs - Simple Possession	54	30	55.6	4	7.4	7	13.0	4	7.4	9	16.7
Firearms	989	566	57.2	128	12.9	97	9.8	68	6.9	130	13.1
Burglary/B&E	5	3	60.0	0	0.0	0	0.0	0	0.0	2	40.0
Auto Theft	5	2	40.0	1	20.0	2	40.0	0	0.0	0	0.0
Larceny	161	109	67.7	17	10.6	15	9.3	8	5.0	12	7.5
Fraud	714	399	55.9	116	16.2	60	8.4	48	6.7	91	12.7
Embezzlement	66	49	74.2	10	15.2	2	3.0	1	1.5	4	6.1
Forgery/Counterfeiting	130	71	54.6	15	11.5	10	7.7	11	8.5	23	17.7
Bribery	14	4	28.6	3	21.4	3	21.4	2	14.3	2	14.3
Tax	59	29	49.2	12	20.3	11	18.6	1	1.7	6	10.2
Money Laundering	75	49	65.3	10	13.3	7	9.3	5	6.7	4	5.3
Racketeering/Extortion	43	26	60.5	9	20.9	3	7.0	3	7.0	2	4.7
Gambling/Lottery	6	4	66.7	0	0.0	0	0.0	1	16.7	1	16.7
Civil Rights	5	2	40.0	1	20.0	0	0.0	1	20.0	1	20.0
Immigration	2,587	830	32.1	709	27.4	302	11.7	409	15.8	337	13.0
Pornography/Prostitution	185	125	67.6	23	12.4	8	4.3	9	4.9	20	10.8
Prison Offenses	74	34	45.9	12	16.2	6	8.1	6	8.1	16	21.6
Administration of Justice Offenses	115	65	56.5	13	11.3	12	10.4	8	7.0	17	14.8
Environmental/Wildlife	12	9	75.0	2	16.7	1	8.3	0	0.0	0	0.0
National Defense	8	6	75.0	1	12.5	1	12.5	0	0.0	0	0.0
Antitrust	0	0	--	0	--	0	--	0	--	0	--
Food & Drug	8	6	75.0	1	12.5	0	0.0	0	0.0	1	12.5
Other Miscellaneous Offenses	155	112	72.3	16	10.3	8	5.2	8	5.2	11	7.1

¹Of the 17,289 cases, 10,123 were sentenced within the applicable guideline range. Of those, 8,864 had complete guideline application information. An additional 618 cases were excluded due to several logical criteria. Of the remaining 8,246 cases, 281 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
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)



¹Of the 17,289 guideline cases, 5,394 were drug cases. Of these 5,394 drug cases, 91 excluded due to missing drug type. The Drug category includes the following offense types: trafficking, use of a communication facility, and simple possession. Descriptions of variables used in this figure are provided in Appendix A.

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

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

Table 21

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

PRIMARY OFFENSE	N	%
TOTAL	17,289	100.0
Murder	14	0.1
Manslaughter	11	0.1
Kidnapping/Hostage Taking	10	0.1
Sexual Abuse	98	0.6
Assault	148	0.9
Robbery	208	1.2
Arson	9	0.1
Drugs - Trafficking	5,174	29.9
Drugs - Communication Facility	100	0.6
Drugs - Simple Possession	120	0.7
Firearms	1,780	10.3
Burglary/B&E	5	0.0
Auto Theft	13	0.1
Larceny	288	1.7
Fraud	1,537	8.9
Embezzlement	108	0.6
Forgery/Counterfeiting	207	1.2
Bribery	35	0.2
Tax	141	0.8
Money Laundering	190	1.1
Racketeering/Extortion	148	0.9
Gambling/Lottery	14	0.1
Civil Rights	14	0.1
Immigration	5,564	32.2
Pornography/Prostitution	439	2.5
Prison Offenses	111	0.6
Administration of Justice Offenses	231	1.3
Environmental/Wildlife	29	0.2
National Defense	13	0.1
Antitrust	4	0.0
Food & Drug	19	0.1
Other Miscellaneous Offenses	507	2.9

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

Table 22

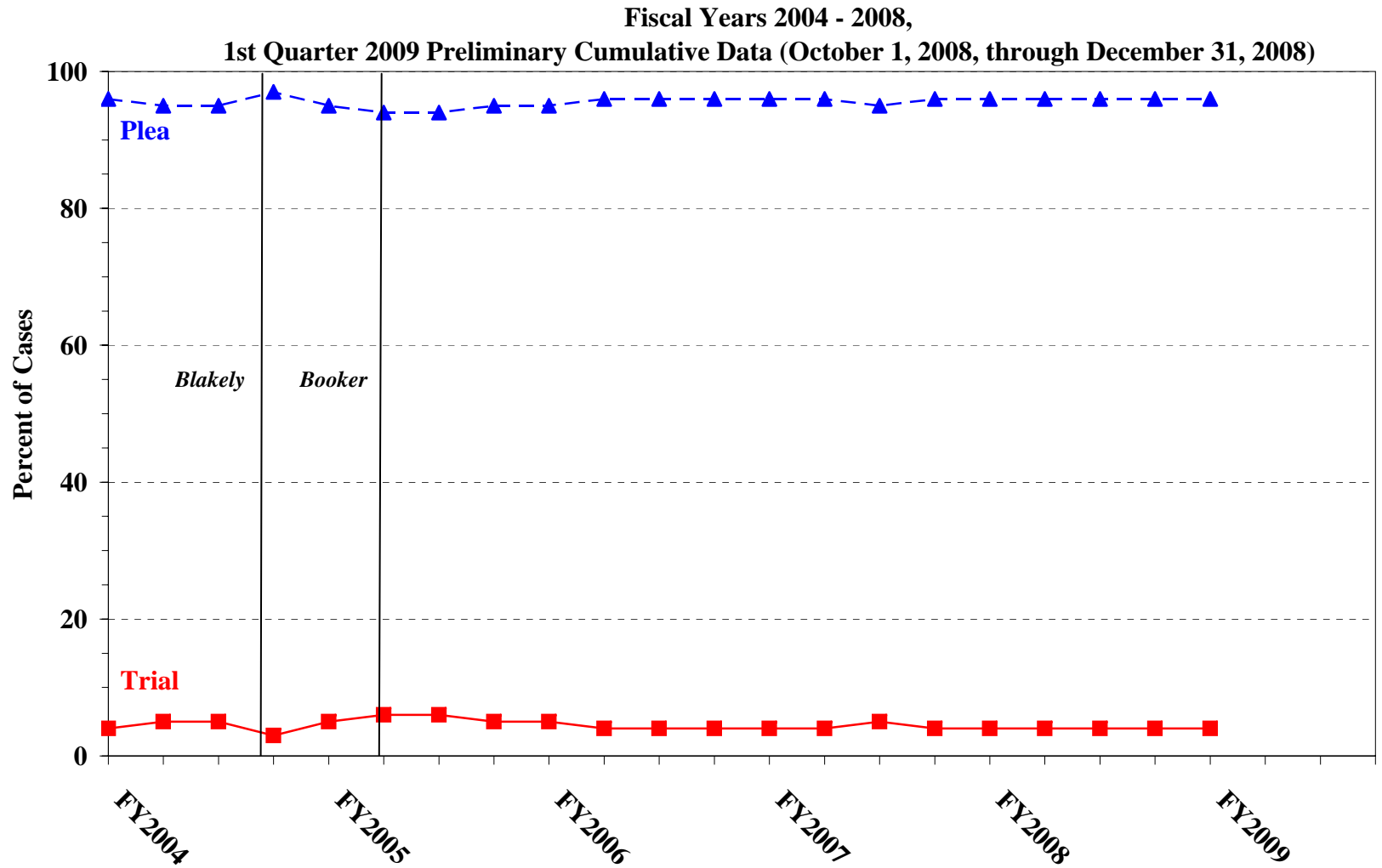
GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY¹
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

PRIMARY OFFENSE	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	17,289	16,646	96.3	643	3.7
Murder	14	7	50.0	7	50.0
Manslaughter	11	10	90.9	1	9.1
Kidnapping/Hostage Taking	10	9	90.0	1	10.0
Sexual Abuse	98	87	88.8	11	11.2
Assault	148	132	89.2	16	10.8
Robbery	208	197	94.7	11	5.3
Arson	9	7	77.8	2	22.2
Drugs - Trafficking	5,174	4,970	96.1	204	3.9
Drugs - Communication Facility	100	100	100.0	0	0.0
Drugs - Simple Possession	120	113	94.2	7	5.8
Firearms	1,780	1,634	91.8	146	8.2
Burglary/B&E	5	5	100.0	0	0.0
Auto Theft	13	13	100.0	0	0.0
Larceny	288	280	97.2	8	2.8
Fraud	1,537	1,461	95.1	76	4.9
Embezzlement	108	105	97.2	3	2.8
Forgery/Counterfeiting	207	204	98.6	3	1.4
Bribery	35	32	91.4	3	8.6
Tax	141	127	90.1	14	9.9
Money Laundering	190	177	93.2	13	6.8
Racketeering/Extortion	148	126	85.1	22	14.9
Gambling/Lottery	14	13	92.9	1	7.1
Civil Rights	14	12	85.7	2	14.3
Immigration	5,564	5,534	99.5	30	0.5
Pornography/Prostitution	439	408	92.9	31	7.1
Prison Offenses	111	108	97.3	3	2.7
Administration of Justice Offenses	231	224	97.0	7	3.0
Environmental/Wildlife	29	24	82.8	5	17.2
National Defense	13	13	100.0	0	0.0
Antitrust	4	4	100.0	0	0.0
Food & Drug	19	19	100.0	0	0.0
Other Miscellaneous Offenses	507	491	96.8	16	3.2

¹Descriptions 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
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

PRIMARY OFFENSE	TOTAL	WHITE		BLACK		HISPANIC		OTHER	
		N	%	N	%	N	%	N	%
TOTAL	15,865	4,561	28.7	3,455	21.8	7,208	45.4	641	4.0
Murder	14	5	35.7	3	21.4	4	28.6	2	14.3
Manslaughter	11	0	0.0	0	0.0	0	0.0	11	100.0
Kidnapping/Hostage Taking	10	2	20.0	2	20.0	6	60.0	0	0.0
Sexual Abuse	97	54	55.7	7	7.2	7	7.2	29	29.9
Assault	139	31	22.3	15	10.8	22	15.8	71	51.1
Robbery	206	104	50.5	79	38.3	19	9.2	4	1.9
Arson	9	8	88.9	1	11.1	0	0.0	0	0.0
Drugs - Trafficking	5,139	1,393	27.1	1,542	30.0	2,024	39.4	180	3.5
Drugs - Communication Facility	100	39	39.0	31	31.0	21	21.0	9	9.0
Drugs - Simple Possession	78	34	43.6	27	34.6	14	17.9	3	3.8
Firearms	1,771	540	30.5	861	48.6	339	19.1	31	1.8
Burglary/B&E	5	1	20.0	0	0.0	0	0.0	4	80.0
Auto Theft	12	6	50.0	4	33.3	2	16.7	0	0.0
Larceny	238	115	48.3	72	30.3	33	13.9	18	7.6
Fraud	1,380	632	45.8	394	28.6	249	18.0	105	7.6
Embezzlement	102	60	58.8	27	26.5	5	4.9	10	9.8
Forgery/Counterfeiting	206	101	49.0	68	33.0	30	14.6	7	3.4
Bribery	33	17	51.5	6	18.2	8	24.2	2	6.1
Tax	138	92	66.7	21	15.2	13	9.4	12	8.7
Money Laundering	188	65	34.6	19	10.1	85	45.2	19	10.1
Racketeering/Extortion	143	59	41.3	37	25.9	40	28.0	7	4.9
Gambling/Lottery	14	9	64.3	0	0.0	0	0.0	5	35.7
Civil Rights	13	9	69.2	1	7.7	3	23.1	0	0.0
Immigration	4,739	502	10.6	72	1.5	4,124	87.0	41	0.9
Pornography/Prostitution	439	364	82.9	26	5.9	28	6.4	21	4.8
Prison Offenses	95	24	25.3	40	42.1	29	30.5	2	2.1
Administration of Justice Offenses	215	89	41.4	55	25.6	58	27.0	13	6.0
Environmental/Wildlife	23	17	73.9	0	0.0	2	8.7	4	17.4
National Defense	12	5	41.7	0	0.0	6	50.0	1	8.3
Antitrust	3	3	100.0	0	0.0	0	0.0	0	0.0
Food & Drug	18	12	66.7	2	11.1	1	5.6	3	16.7
Other Miscellaneous Offenses	275	169	61.5	43	15.6	36	13.1	27	9.8

¹Of the 17,289 cases, 1,424 were excluded due to missing race. Descriptions of variables used in this table are provided in Appendix A.

Table 24

GENDER OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

PRIMARY OFFENSE	TOTAL	MALE		FEMALE	
		N	%	N	%
TOTAL	16,621	14,613	87.9	2,008	12.1
Murder	14	13	92.9	1	7.1
Manslaughter	11	5	45.5	6	54.5
Kidnapping/Hostage Taking	10	10	100.0	0	0.0
Sexual Abuse	98	94	95.9	4	4.1
Assault	144	127	88.2	17	11.8
Robbery	206	189	91.7	17	8.3
Arson	9	9	100.0	0	0.0
Drugs - Trafficking	5,155	4,552	88.3	603	11.7
Drugs - Communication Facility	100	80	80.0	20	20.0
Drugs - Simple Possession	87	73	83.9	14	16.1
Firearms	1,777	1,719	96.7	58	3.3
Burglary/B&E	5	5	100.0	0	0.0
Auto Theft	13	11	84.6	2	15.4
Larceny	259	164	63.3	95	36.7
Fraud	1,476	1,036	70.2	440	29.8
Embezzlement	107	44	41.1	63	58.9
Forgery/Counterfeiting	206	160	77.7	46	22.3
Bribery	34	32	94.1	2	5.9
Tax	140	107	76.4	33	23.6
Money Laundering	189	146	77.2	43	22.8
Racketeering/Extortion	145	137	94.5	8	5.5
Gambling/Lottery	14	14	100.0	0	0.0
Civil Rights	14	13	92.9	1	7.1
Immigration	5,208	4,845	93.0	363	7.0
Pornography/Prostitution	439	430	97.9	9	2.1
Prison Offenses	104	93	89.4	11	10.6
Administration of Justice Offenses	222	158	71.2	64	28.8
Environmental/Wildlife	26	24	92.3	2	7.7
National Defense	12	12	100.0	0	0.0
Antitrust	3	3	100.0	0	0.0
Food & Drug	18	14	77.8	4	22.2
Other Miscellaneous Offenses	376	294	78.2	82	21.8

¹Of the 17,289 cases, 668 were excluded due to missing gender. Descriptions of variables used in this table are provided in Appendix A.

Table 25

AGE, RACE, AND GENDER OF OFFENDERS¹
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

Gender and Age	White		Black		Hispanic		Other	
	N	%	N	%	N	%	N	%
Males	3,808	100.0	3,076	100.0	6,598	100.0	516	100.0
Under 21	105	2.8	115	3.7	299	4.5	16	3.1
21 - 25	430	11.3	564	18.3	1,105	16.7	85	16.5
26 - 30	576	15.1	798	25.9	1,436	21.8	93	18.0
31 - 35	551	14.5	574	18.7	1,430	21.7	68	13.2
36 - 40	541	14.2	420	13.7	982	14.9	82	15.9
41 - 50	883	23.2	430	14.0	994	15.1	107	20.7
Over 50	722	19.0	175	5.7	352	5.3	65	12.6
Females	752	100.0	379	100.0	605	100.0	124	100.0
Under 21	27	3.6	10	2.6	32	5.3	4	3.2
21 - 25	121	16.1	55	14.5	93	15.4	21	16.9
26 - 30	135	18.0	81	21.4	126	20.8	12	9.7
31 - 35	90	12.0	73	19.3	117	19.3	18	14.5
36 - 40	108	14.4	41	10.8	84	13.9	18	14.5
41 - 50	165	21.9	83	21.9	109	18.0	33	26.6
Over 50	106	14.1	36	9.5	44	7.3	18	14.5

¹Of the 17,289 cases, 1,431 were excluded due to one or more of the following reasons: missing race (1,424), missing gender (668), or missing age (67). Descriptions of variables used in this table are provided in Appendix A.

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

Table 26

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

PRIMARY OFFENSE	TOTAL	U.S. CITIZEN		NON-U.S. CITIZEN	
		N	%	N	%
TOTAL	16,767	9,413	56.1	7,354	43.9
Murder	14	10	71.4	4	28.6
Manslaughter	11	10	90.9	1	9.1
Kidnapping/Hostage Taking	10	4	40.0	6	60.0
Sexual Abuse	98	94	95.9	4	4.1
Assault	141	124	87.9	17	12.1
Robbery	206	198	96.1	8	3.9
Arson	9	8	88.9	1	11.1
Drugs - Trafficking	5,149	3,729	72.4	1,420	27.6
Drugs - Communication Facility	100	90	90.0	10	10.0
Drugs - Simple Possession	77	70	90.9	7	9.1
Firearms	1,773	1,623	91.5	150	8.5
Burglary/B&E	5	5	100.0	0	0.0
Auto Theft	12	12	100.0	0	0.0
Larceny	246	227	92.3	19	7.7
Fraud	1,466	1,099	75.0	367	25.0
Embezzlement	104	101	97.1	3	2.9
Forgery/Counterfeiting	206	183	88.8	23	11.2
Bribery	33	28	84.8	5	15.2
Tax	140	130	92.9	10	7.1
Money Laundering	188	125	66.5	63	33.5
Racketeering/Extortion	144	115	79.9	29	20.1
Gambling/Lottery	14	13	92.9	1	7.1
Civil Rights	13	9	69.2	4	30.8
Immigration	5,509	430	7.8	5,079	92.2
Pornography/Prostitution	439	416	94.8	23	5.2
Prison Offenses	97	89	91.8	8	8.2
Administration of Justice Offenses	216	168	77.8	48	22.2
Environmental/Wildlife	23	22	95.7	1	4.3
National Defense	12	7	58.3	5	41.7
Antitrust	3	2	66.7	1	33.3
Food & Drug	18	15	83.3	3	16.7
Other Miscellaneous Offenses	291	257	88.3	34	11.7

¹Of the 17,289 cases, 522 were excluded due to missing citizenship information. Descriptions of variables used in this table are provided in Appendix A.

Table 27

DOCUMENT SUBMISSION BY EACH CIRCUIT AND DISTRICT¹
1st Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through December 31, 2008)

CIRCUIT District	Number of Cases	Total Documents		Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received	J & C Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
TOTAL	17,289	79,877	17,289	16,983	12,345	4,815	17,188	16,072	1,217
D.C. CIRCUIT	91	437	91	90	78	12	91	87	4
District of Columbia	91	437	91	90	78	12	91	87	4
FIRST CIRCUIT	315	1,460	315	315	210	100	314	306	9
Maine	50	229	50	50	29	20	50	50	0
Massachusetts	104	469	104	104	54	49	103	104	0
New Hampshire	50	245	50	50	45	4	50	50	0
Puerto Rico	85	399	85	85	68	17	85	76	9
Rhode Island	26	118	26	26	14	10	26	26	0
SECOND CIRCUIT	1,013	4,717	1,013	997	749	256	1,009	949	64
Connecticut	89	439	89	89	83	6	89	89	0
New York									
Eastern	267	1,310	267	267	242	24	267	267	0
Northern	107	439	107	92	47	55	107	86	21
Southern	353	1,576	353	352	190	161	351	330	23
Western	144	694	144	144	140	4	142	124	20
Vermont	53	259	53	53	47	6	53	53	0
THIRD CIRCUIT	646	3,076	646	644	515	127	631	640	6
Delaware	19	93	19	19	17	2	19	19	0
New Jersey	214	1,036	214	214	194	19	200	214	0
Pennsylvania									
Eastern	160	742	160	158	107	53	160	157	3
Middle	145	717	145	145	137	8	145	145	0
Western	94	425	94	94	53	38	93	91	3
Virgin Islands	14	63	14	14	7	7	14	14	0
FOURTH CIRCUIT	1,328	5,964	1,328	1,208	930	388	1,293	1,205	123
Maryland	177	824	177	164	141	33	175	167	10
North Carolina									
Eastern	28	126	28	26	19	9	28	25	3
Middle	49	242	49	49	46	3	49	49	0
Western	138	646	138	137	96	41	138	137	1
South Carolina	252	1,150	252	252	142	110	252	252	0
Virginia									
Eastern	427	1,718	427	323	254	167	394	320	107
Western	107	519	107	107	91	16	107	107	0
West Virginia									
Northern	100	492	100	100	94	6	100	98	2
Southern	50	247	50	50	47	3	50	50	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	4,453	19,760	4,453	4,443	2,438	1,984	4,433	3,993	460
Louisiana									
Eastern	104	474	104	104	58	41	104	104	0
Middle	42	201	42	42	33	9	42	42	0
Western	97	439	97	95	64	33	96	87	10
Mississippi									
Northern	25	123	25	25	23	1	25	25	0
Southern	70	327	70	66	57	12	69	65	5
Texas									
Eastern	268	1,312	268	267	241	27	268	268	0
Northern	218	1,029	218	218	158	60	217	218	0
Southern	1,633	7,600	1,633	1,633	1,095	533	1,633	1,606	27
Western	1,996	8,255	1,996	1,993	709	1,268	1,979	1,578	418
SIXTH CIRCUIT	1,085	5,160	1,085	1,077	877	187	1,080	1,041	44
Kentucky									
Eastern	168	825	168	168	158	10	167	164	4
Western	85	378	85	85	64	21	85	59	26
Michigan									
Eastern	169	815	169	169	140	25	169	168	1
Western	132	626	132	132	100	32	132	130	2
Ohio									
Northern	79	370	79	78	55	23	79	79	0
Southern	111	543	111	111	101	7	111	109	2
Tennessee									
Eastern	134	628	134	134	95	31	133	132	2
Middle	74	335	74	67	55	14	72	67	7
Western	133	640	133	133	109	24	132	133	0
SEVENTH CIRCUIT	607	2,917	607	603	497	108	607	603	4
Illinois									
Central	83	384	83	83	52	30	83	83	0
Northern	158	755	158	158	123	34	158	158	0
Southern	70	328	70	70	49	21	70	69	1
Indiana									
Northern	101	492	101	97	92	9	101	101	0
Southern	49	239	49	49	43	6	49	49	0
Wisconsin									
Eastern	103	507	103	103	98	5	103	100	3
Western	43	212	43	43	40	3	43	43	0
EIGHTH CIRCUIT	1,310	6,245	1,310	1,306	1,031	275	1,306	1,292	18
Arkansas									
Eastern	109	524	109	109	91	18	108	107	2
Western	62	308	62	61	62	0	62	61	1
Iowa									
Northern	71	330	71	71	46	25	71	71	0
Southern	93	437	93	93	65	26	93	93	0
Minnesota	151	739	151	151	137	14	151	149	2
Missouri									
Eastern	259	1,276	259	259	242	16	257	259	0
Western	201	921	201	198	123	78	200	199	2
Nebraska	157	767	157	157	139	18	157	157	0
North Dakota	76	324	76	76	31	44	76	65	11
South Dakota	131	619	131	131	95	36	131	131	0

Table 27 (cont.)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
NINTH CIRCUIT	3,329	15,814	3,329	3,224	2,923	387	3,320	3,018	311
Alaska	32	150	32	32	23	9	32	31	1
Arizona	850	4,121	850	829	761	87	850	831	19
California									
Central	357	1,693	357	334	299	52	355	348	9
Eastern	230	1,115	230	230	197	32	229	229	1
Northern	133	621	133	129	111	19	132	116	17
Southern	962	4,446	962	907	879	80	960	738	224
Guam	11	52	11	11	8	3	11	11	0
Hawaii	77	356	77	77	50	27	77	75	2
Idaho	67	325	67	65	61	6	67	65	2
Montana	110	526	110	110	87	22	110	109	1
Nevada	85	405	85	85	65	19	85	85	0
Northern Mariana Islands	8	40	8	8	8	0	8	8	0
Oregon	142	690	142	142	127	15	142	137	5
Washington									
Eastern	86	416	86	86	74	10	86	84	2
Western	179	858	179	179	173	6	176	151	28
TENTH CIRCUIT	1,402	6,476	1,402	1,396	954	441	1,399	1,325	77
Colorado	118	585	118	117	116	2	118	116	2
Kansas	143	691	143	139	127	15	143	139	4
New Mexico	696	3,174	696	695	398	297	695	690	6
Oklahoma									
Eastern	13	59	13	13	7	6	13	13	0
Northern	66	286	66	66	24	41	65	65	1
Western	95	388	95	95	47	46	95	56	39
Utah	184	880	184	184	165	17	183	164	20
Wyoming	87	413	87	87	70	17	87	82	5
ELEVENTH CIRCUIT	1,710	7,851	1,710	1,680	1,143	550	1,705	1,613	97
Alabama									
Middle	52	253	52	52	45	7	52	52	0
Northern	101	458	101	98	65	32	101	93	8
Southern	102	494	102	102	88	14	102	100	2
Florida									
Middle	459	2,123	459	458	289	167	458	459	0
Northern	109	503	109	109	68	40	109	108	1
Southern	503	2,281	503	480	316	183	499	483	20
Georgia									
Middle	90	402	90	89	60	29	90	73	17
Northern	174	834	174	172	142	32	174	172	2
Southern	120	503	120	120	70	46	120	73	47

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 37 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 2009 Datafile, USSCFY09 (October 1, 2008, through December 31, 2008).

Table 28

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

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
TOTAL	17,289	15,001	86.8	1,990	11.5	298	1.7
D.C. CIRCUIT	91	89	97.8	2	2.2	0	0.0
District of Columbia	91	89	97.8	2	2.2	0	0.0
FIRST CIRCUIT	315	313	99.4	2	0.6	0	0.0
Maine	50	49	98.0	1	2.0	0	0.0
Massachusetts	104	104	100.0	0	0.0	0	0.0
New Hampshire	50	49	98.0	1	2.0	0	0.0
Puerto Rico	85	85	100.0	0	0.0	0	0.0
Rhode Island	26	26	100.0	0	0.0	0	0.0
SECOND CIRCUIT	1,013	974	96.2	23	2.3	16	1.6
Connecticut	89	89	100.0	0	0.0	0	0.0
New York							
Eastern	267	251	94.0	16	6.0	0	0.0
Northern	107	90	84.1	2	1.9	15	14.0
Southern	353	349	98.9	3	0.8	1	0.3
Western	144	143	99.3	1	0.7	0	0.0
Vermont	53	52	98.1	1	1.9	0	0.0
THIRD CIRCUIT	646	456	70.6	188	29.1	2	0.3
Delaware	19	18	94.7	1	5.3	0	0.0
New Jersey	214	30	14.0	184	86.0	0	0.0
Pennsylvania							
Eastern	160	157	98.1	1	0.6	2	1.3
Middle	145	144	99.3	1	0.7	0	0.0
Western	94	93	98.9	1	1.1	0	0.0
Virgin Islands	14	14	100.0	0	0.0	0	0.0
FOURTH CIRCUIT	1,328	1,196	90.1	16	1.2	116	8.7
Maryland	177	166	93.8	2	1.1	9	5.1
North Carolina							
Eastern	28	26	92.9	0	0.0	2	7.1
Middle	49	49	100.0	0	0.0	0	0.0
Western	138	136	98.6	1	0.7	1	0.7
South Carolina	252	252	100.0	0	0.0	0	0.0
Virginia							
Eastern	427	311	72.8	12	2.8	104	24.4
Western	107	107	100.0	0	0.0	0	0.0
West Virginia							
Northern	100	99	99.0	1	1.0	0	0.0
Southern	50	50	100.0	0	0.0	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
FIFTH CIRCUIT	4,453	2,911	65.4	1,533	34.4	9	0.2
Louisiana							
Eastern	104	102	98.1	2	1.9	0	0.0
Middle	42	41	97.6	1	2.4	0	0.0
Western	97	89	91.8	7	7.2	1	1.0
Mississippi							
Northern	25	25	100.0	0	0.0	0	0.0
Southern	70	66	94.3	0	0.0	4	5.7
Texas							
Eastern	268	266	99.3	1	0.4	1	0.4
Northern	218	218	100.0	0	0.0	0	0.0
Southern	1,633	1,624	99.4	9	0.6	0	0.0
Western	1,996	480	24.0	1,513	75.8	3	0.2
SIXTH CIRCUIT	1,085	1,040	95.9	38	3.5	7	0.6
Kentucky							
Eastern	168	166	98.8	2	1.2	0	0.0
Western	85	85	100.0	0	0.0	0	0.0
Michigan							
Eastern	169	168	99.4	1	0.6	0	0.0
Western	132	132	100.0	0	0.0	0	0.0
Ohio							
Northern	79	79	100.0	0	0.0	0	0.0
Southern	111	100	90.1	11	9.9	0	0.0
Tennessee							
Eastern	134	133	99.3	1	0.7	0	0.0
Middle	74	52	70.3	15	20.3	7	9.5
Western	133	125	94.0	8	6.0	0	0.0
SEVENTH CIRCUIT	607	590	97.2	13	2.1	4	0.7
Illinois							
Central	83	83	100.0	0	0.0	0	0.0
Northern	158	157	99.4	1	0.6	0	0.0
Southern	70	68	97.1	2	2.9	0	0.0
Indiana							
Northern	101	97	96.0	0	0.0	4	4.0
Southern	49	49	100.0	0	0.0	0	0.0
Wisconsin							
Eastern	103	93	90.3	10	9.7	0	0.0
Western	43	43	100.0	0	0.0	0	0.0
EIGHTH CIRCUIT	1,310	1,284	98.0	22	1.7	4	0.3
Arkansas							
Eastern	109	109	100.0	0	0.0	0	0.0
Western	62	61	98.4	0	0.0	1	1.6
Iowa							
Northern	71	70	98.6	1	1.4	0	0.0
Southern	93	91	97.8	2	2.2	0	0.0
Minnesota	151	136	90.1	15	9.9	0	0.0
Missouri							
Eastern	259	256	98.8	3	1.2	0	0.0
Western	201	198	98.5	0	0.0	3	1.5
Nebraska	157	157	100.0	0	0.0	0	0.0
North Dakota	76	76	100.0	0	0.0	0	0.0
South Dakota	131	130	99.2	1	0.8	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
NINTH CIRCUIT	3,329	3,123	93.8	101	3.0	105	3.2
Alaska	32	31	96.9	1	3.1	0	0.0
Arizona	850	824	96.9	5	0.6	21	2.5
California							
Central	357	333	93.3	1	0.3	23	6.4
Eastern	230	229	99.6	1	0.4	0	0.0
Northern	133	125	94.0	4	3.0	4	3.0
Southern	962	905	94.1	2	0.2	55	5.7
Guam	11	11	100.0	0	0.0	0	0.0
Hawaii	77	76	98.7	1	1.3	0	0.0
Idaho	67	65	97.0	0	0.0	2	3.0
Montana	110	109	99.1	1	0.9	0	0.0
Nevada	85	85	100.0	0	0.0	0	0.0
Northern Mariana Islands	8	8	100.0	0	0.0	0	0.0
Oregon	142	60	42.3	82	57.7	0	0.0
Washington							
Eastern	86	85	98.8	1	1.2	0	0.0
Western	179	177	98.9	2	1.1	0	0.0
TENTH CIRCUIT	1,402	1,365	97.4	31	2.2	6	0.4
Colorado	118	111	94.1	6	5.1	1	0.8
Kansas	143	137	95.8	2	1.4	4	2.8
New Mexico	696	688	98.9	7	1.0	1	0.1
Oklahoma							
Eastern	13	13	100.0	0	0.0	0	0.0
Northern	66	66	100.0	0	0.0	0	0.0
Western	95	95	100.0	0	0.0	0	0.0
Utah	184	168	91.3	16	8.7	0	0.0
Wyoming	87	87	100.0	0	0.0	0	0.0
ELEVENTH CIRCUIT	1,710	1,660	97.1	21	1.2	29	1.7
Alabama							
Middle	52	52	100.0	0	0.0	0	0.0
Northern	101	99	98.0	0	0.0	2	2.0
Southern	102	100	98.0	2	2.0	0	0.0
Florida							
Middle	459	455	99.1	3	0.7	1	0.2
Northern	109	108	99.1	1	0.9	0	0.0
Southern	503	479	95.2	1	0.2	23	4.6
Georgia							
Middle	90	86	95.6	3	3.3	1	1.1
Northern	174	162	93.1	10	5.7	2	1.1
Southern	120	119	99.2	1	0.8	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.

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

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