

U.S. Sentencing Commission Special Post-Booker Coding Project



Information for All Cases

Cases Sentenced Subsequent to *U.S. v. Booker*
(Data Extraction as of November 1, 2005)

Prepared: December 1, 2005



U.S. SENTENCING COMMISSION
SPECIAL POST-BOOKER CODING PROJECT
DATA EXTRACTION DATE: NOVEMBER 1, 2005

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**NATIONAL COMPARISON OF SENTENCE IMPOSED AND
POSITION RELATIVE TO THE GUIDELINE RANGE**

Cases Sentenced Subsequent to *U.S. v. Booker* with Data Available to USSC on November 1, 2005

	N	%
TOTAL ¹	46,470	100.0
WITHIN GUIDELINE RANGE	28,665	61.7
DEPARTURE ABOVE GUIDELINE RANGE	122	0.3
Upward Departure from the Guideline Range ²	87	0.2
Upward Departure with <i>Booker</i> /18 U.S.C. § 3553 ³	35	0.1
OTHERWISE ABOVE THE GUIDELINE RANGE	505	1.1
Above the Range with <i>Booker</i> /18 U.S.C. § 3553 ⁴	289	0.6
All Remaining Cases Above the Guideline Range ⁵	216	0.5
GOVERNMENT SPONSORED BELOW RANGE	11,239	24.2
§5K1.1 Substantial Assistance Departure	6,796	14.6
§5K3.1 Early Disposition Program Departure	3,036	6.5
Government-Sponsored Departure ⁶	1,407	3.0
DEPARTURE BELOW GUIDELINE RANGE	1,529	3.3
Downward Departure from the Guideline Range ²	1,085	2.3
Downward Departure with <i>Booker</i> /18 U.S.C. § 3553 ³	444	1.0
OTHERWISE BELOW THE GUIDELINE RANGE	4,410	9.5
Below the Range with <i>Booker</i> /18 U.S.C. § 3553 ⁴	2,814	6.1
All Remaining Cases Below the Guideline Range ⁵	1,596	3.4

¹This table reflects the 48,105 cases sentenced subsequent to the *U.S. v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by November 1, 2005. Of this total, there are 1,635 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

²All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*.

³All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

⁴All cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

⁵Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to *Booker*/18 U.S.C. § 3553. This category includes cases which cite departure reasons that are not affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

⁶Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates 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, Special Post-*Booker* Coding Project, BOOKER05 (data extraction on November 1, 2005; table prepared on November 10, 2005). Summary numbers may add up to their component parts due to rounding.

MOST FREQUENTLY APPLIED GUIDELINES: COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on November 1, 2005

	Four Most Frequently Applied Primary Guidelines									
	All Cases		§2D1.1 Drug Trafficking		§2L1.2 Unlawful Entry		§2K2.1 Firearms		§2B1.1 Theft and Fraud	
	N	%	N	%	N	%	N	%	N	%
TOTAL¹	46,470	100.0	16,144	100.0	7,081	100.0	4,638	100.0	4,670	100.0
WITHIN GUIDELINE RANGE	28,665	61.7	8,642	53.5	3,991	56.4	3,246	70.0	3,314	71.0
DEPARTURE ABOVE GUIDELINE	122	0.3	13	0.1	11	0.2	17	0.4	16	0.3
Upward Departure from the Guideline Range ²	87	0.2	11	0.1	7	0.1	12	0.3	10	0.2
Upward Departure with Booker/18 USC §3553 ³	35	0.1	2	0.0	4	0.1	5	0.1	6	0.1
OTHERWISE ABOVE THE RANGE	505	1.1	68	0.4	59	0.8	79	1.7	105	2.2
Above the Range with Booker/18 USC §3553 ⁴	289	0.6	42	0.3	37	0.5	38	0.8	52	1.1
All Remaining Cases Above the Guideline Range ⁵	216	0.5	26	0.2	22	0.3	41	0.9	53	1.1
GOVERNMENT BELOW GUIDELINE	11,239	24.2	5,332	33.0	2,321	32.8	595	12.8	552	11.8
§5K1.1 Substantial Assistance Departure	6,796	14.6	4,207	26.1	51	0.7	447	9.6	463	9.9
§5K3.1 Early Disposition Program Departure	3,036	6.5	656	4.1	2,027	28.6	18	0.4	7	0.2
Government-Sponsored Departure ⁶	1,407	3.0	469	2.9	243	3.4	130	2.8	82	1.8
DEPARTURE BELOW GUIDELINE	1,529	3.3	505	3.1	238	3.4	189	4.1	162	3.5
Downward Departure from the Guideline Range ²	1,085	2.3	358	2.2	183	2.6	121	2.6	111	2.4
Downward Departure with Booker/18 USC §3553 ³	444	1.0	147	0.9	55	0.8	68	1.5	51	1.1
OTHERWISE BELOW THE RANGE	4,410	9.5	1,584	9.8	461	6.5	512	11.0	521	11.2
Below the Range with Booker/18 USC §3553 ⁴	2,814	6.1	1,060	6.6	282	4.0	340	7.3	294	6.3
All Remaining Cases Below the Guideline Range ⁵	1,596	3.4	524	3.2	179	2.5	172	3.7	227	4.9

¹This table reflects the 48,105 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by November 1, 2005. Of this total, there are 1,635 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

²All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*.

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⁴All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

⁵Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

⁶Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates 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, Special Post-Booker Coding Project, BOOKER05 (data extraction on November 1, 2005; table prepared on November 10, 2005). Cases with multiple guideline calculations are classified by the guideline with the highest offense level. Summary numbers may not add up to their component parts due to rounding.

OFFENDERS SENTENCED FOR EACH CHAPTER TWO GUIDELINE¹
Special Post-Booker Coding Project (Data Extracted November 1, 2005)

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2A1.1	101	0.2	109	0.2	2D1.8	39	0.1	66	0.1
2A1.2	24	0.1	28	0.1	2D1.9	0	0.0	0	0.0
2A1.3	14	0.0	14	0.0	2D1.10	15	0.0	16	0.0
2A1.4	27	0.1	27	0.1	2D1.11	129	0.3	143	0.3
2A1.5	11	0.0	29	0.1	2D1.12	24	0.1	36	0.1
2A2.1	32	0.1	55	0.1	2D1.13	0	0.0	0	0.0
2A2.2	239	0.5	277	0.6	2D2.1	261	0.6	322	0.7
2A2.3	25	0.1	28	0.1	2D2.2	26	0.1	30	0.1
2A2.4	93	0.2	107	0.2	2D2.3	1	0.0	1	0.0
2A3.1	103	0.2	108	0.2	2D3.1	3	0.0	3	0.0
2A3.2	106	0.2	123	0.3	2D3.2	0	0.0	0	0.0
2A3.3	5	0.0	5	0.0	2D3.3	0	0.0	0	0.0
2A3.4	26	0.1	36	0.1	2D3.4	0	0.0	0	0.0
2A4.1	44	0.1	59	0.1	2D3.5	0	0.0	0	0.0
2A4.2	1	0.0	1	0.0	2E1.1	21	0.0	77	0.2
2A5.1	0	0.0	1	0.0	2E1.2	10	0.0	61	0.1
2A5.2	8	0.0	8	0.0	2E1.3	0	0.0	15	0.0
2A5.3	0	0.0	0	0.0	2E1.4	10	0.0	15	0.0
2A6.1	98	0.2	103	0.2	2E1.5	0	0.0	0	0.0
2A6.2	5	0.0	11	0.0	2E2.1	26	0.1	32	0.1
2B1.1	4,796	10.7	5,219	10.7	2E3.1	77	0.2	92	0.2
2B1.2	0	0.0	0	0.0	2E3.2	0	0.0	0	0.0
2B1.3	4	0.0	4	0.0	2E3.3	0	0.0	0	0.0
2B1.4	1	0.0	1	0.0	2E4.1	18	0.0	24	0.0
2B1.5	7	0.0	7	0.0	2E5.1	8	0.0	12	0.0
2B2.1	40	0.1	48	0.1	2E5.2	0	0.0	0	0.0
2B2.2	0	0.0	0	0.0	2E5.3	2	0.0	6	0.0
2B2.3	1	0.0	1	0.0	2E5.4	0	0.0	0	0.0
2B3.1	1,284	2.9	1,365	2.8	2E5.5	0	0.0	0	0.0
2B3.2	33	0.1	55	0.1	2E5.6	0	0.0	0	0.0
2B3.3	10	0.0	14	0.0	2F1.1	882	2.0	938	1.9
2B4.1	42	0.1	44	0.1	2F1.2	2	0.0	3	0.0
2B5.1	355	0.8	379	0.8	2G1.1	49	0.1	83	0.2
2B5.2	0	0.0	0	0.0	2G1.2	1	0.0	1	0.0
2B5.3	95	0.2	105	0.2	2G1.3	27	0.1	28	0.1
2B5.4	0	0.0	0	0.0	2G2.1	69	0.2	81	0.2
2B6.1	11	0.0	11	0.0	2G2.2	317	0.7	330	0.7
2C1.1	169	0.4	186	0.4	2G2.3	0	0.0	0	0.0
2C1.2	16	0.0	16	0.0	2G2.4	303	0.7	336	0.7
2C1.3	5	0.0	5	0.0	2G2.5	1	0.0	1	0.0
2C1.4	2	0.0	2	0.0	2G3.1	9	0.0	12	0.0
2C1.5	0	0.0	0	0.0	2G3.2	0	0.0	0	0.0
2C1.6	0	0.0	0	0.0	2H1.1	41	0.1	46	0.1
2C1.7	29	0.1	32	0.1	2H1.2	0	0.0	0	0.0
2D1.1	16,471	36.9	17,254	35.5	2H1.3	0	0.0	0	0.0
2D1.2	234	0.5	241	0.5	2H1.4	0	0.0	0	0.0
2D1.3	0	0.0	0	0.0	2H1.5	0	0.0	0	0.0
2D1.4	0	0.0	0	0.0	2H2.1	8	0.0	8	0.0
2D1.5	13	0.0	17	0.0	2H3.1	6	0.0	7	0.0
2D1.6	24	0.1	127	0.3	2H3.2	0	0.0	0	0.0
2D1.7	10	0.0	11	0.0	2H3.3	8	0.0	12	0.0

(continued)

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2H4.1	7	0.0	7	0.0	2M4.1	0	0.0	0	0.0
2H4.2	0	0.0	0	0.0	2M5.1	7	0.0	7	0.0
2J1.1	0	0.0	19	0.0	2M5.2	17	0.0	19	0.0
2J1.2	82	0.2	115	0.2	2M5.3	4	0.0	7	0.0
2J1.3	42	0.1	60	0.1	2M6.1	12	0.0	12	0.0
2J1.4	10	0.0	20	0.0	2M6.2	1	0.0	1	0.0
2J1.5	2	0.0	2	0.0	2N1.1	1	0.0	1	0.0
2J1.6	37	0.1	50	0.1	2N1.2	2	0.0	2	0.0
2J1.7	95	0.2	100	0.2	2N1.3	0	0.0	0	0.0
2J1.8	0	0.0	0	0.0	2N2.1	26	0.1	46	0.1
2J1.9	0	0.0	0	0.0	2N3.1	1	0.0	3	0.0
2K1.1	3	0.0	4	0.0	2P1.1	154	0.3	169	0.3
2K1.2	0	0.0	0	0.0	2P1.2	55	0.1	74	0.2
2K1.3	29	0.1	29	0.1	2P1.3	9	0.0	9	0.0
2K1.4	40	0.1	54	0.1	2P1.4	0	0.0	0	0.0
2K1.5	9	0.0	9	0.0	2Q1.1	0	0.0	0	0.0
2K1.6	1	0.0	1	0.0	2Q1.2	32	0.1	34	0.1
2K1.7	0	0.0	0	0.0	2Q1.3	33	0.1	33	0.1
2K2.1	4,697	10.5	4,972	10.2	2Q1.4	0	0.0	0	0.0
2K2.2	0	0.0	0	0.0	2Q1.5	0	0.0	0	0.0
2K2.3	0	0.0	0	0.0	2Q1.6	0	0.0	0	0.0
2K2.4	1	0.0	1	0.0	2Q2.1	75	0.2	78	0.2
2K2.5	10	0.0	11	0.0	2Q2.2	0	0.0	0	0.0
2K2.6	2	0.0	3	0.0	2R1.1	12	0.0	13	0.0
2K3.1	0	0.0	0	0.0	2S1.1	672	1.5	741	1.5
2L1.1	2,200	4.9	2,257	4.6	2S1.2	15	0.0	21	0.0
2L1.2	7,175	16.1	7,268	15.0	2S1.3	183	0.4	209	0.4
2L1.3	0	0.0	0	0.0	2S1.4	0	0.0	0	0.0
2L2.1	279	0.6	299	0.6	2T1.1	361	0.8	439	0.9
2L2.2	665	1.5	710	1.5	2T1.2	0	0.0	0	0.0
2L2.3	0	0.0	0	0.0	2T1.3	1	0.0	1	0.0
2L2.4	0	0.0	0	0.0	2T1.4	77	0.2	83	0.2
2L2.5	0	0.0	0	0.0	2T1.5	0	0.0	0	0.0
2M1.1	1	0.0	1	0.0	2T1.6	9	0.0	10	0.0
2M2.1	0	0.0	0	0.0	2T1.7	0	0.0	0	0.0
2M2.2	0	0.0	0	0.0	2T1.8	0	0.0	0	0.0
2M2.3	0	0.0	0	0.0	2T1.9	11	0.0	22	0.0
2M2.4	0	0.0	0	0.0	2T2.1	0	0.0	1	0.0
2M3.1	0	0.0	0	0.0	2T2.2	0	0.0	0	0.0
2M3.2	0	0.0	0	0.0	2T3.1	21	0.0	26	0.1
2M3.3	1	0.0	1	0.0	2T3.2	0	0.0	0	0.0
2M3.4	0	0.0	0	0.0	2T4.1	0	0.0	0	0.0
2M3.5	0	0.0	0	0.0	2X1.1	91	0.2	963	2.0
2M3.6	0	0.0	0	0.0	2X2.1	0	0.0	35	0.1
2M3.7	0	0.0	0	0.0	2X3.1	81	0.2	95	0.2
2M3.8	0	0.0	0	0.0	2X4.1	302	0.7	314	0.6
2M3.9	0	0.0	0	0.0	2X5.1	0	0.0	38	0.1
Total number of guidelines applied:						48,609			
Number of cases with at least one guideline applied:						44,660			

¹Of the 48,105 cases, 3,445 were excluded due to missing guideline applied. The total for any guideline can exceed that for primary guideline because a case can have several guidelines applied, but only one primary guideline.

GUIDELINE OFFENDERS IN EACH CIRCUIT AND DISTRICT¹
Special Post-Booker Coding Project (Data Extracted November 1, 2005)

CIRCUIT			CIRCUIT		
District	Number	Percent	District	Number	Percent
TOTAL	48,105	100.0			
D.C. CIRCUIT	375	0.8	FIFTH CIRCUIT	10,637	22.1
District of Columbia	375	0.8	Louisiana		
			Eastern	226	0.5
FIRST CIRCUIT	1,088	2.3	Middle	131	0.3
Maine	158	0.3	Western	291	0.6
Massachusetts	337	0.7	Mississippi		
New Hampshire	133	0.3	Northern	146	0.3
Puerto Rico	363	0.8	Southern	244	0.5
Rhode Island	97	0.2	Texas		
			Eastern	531	1.1
SECOND CIRCUIT	2,847	5.9	Northern	623	1.3
Connecticut	281	0.6	Southern	4,672	9.7
New York			Western	3,773	7.8
Eastern	848	1.8	SIXTH CIRCUIT	3,721	7.7
Northern	250	0.5	Kentucky		
Southern	851	1.8	Eastern	355	0.7
Western	468	1.0	Western	275	0.6
Vermont	149	0.3	Michigan		
			Eastern	476	1.0
THIRD CIRCUIT	2,378	4.9	Western	274	0.6
Delaware	117	0.2	Ohio		
New Jersey	718	1.5	Northern	719	1.5
Pennsylvania			Southern	431	0.9
Eastern	722	1.5	Tennessee		
Middle	457	1.0	Eastern	481	1.0
Western	292	0.6	Middle	259	0.5
Virgin Islands	72	0.1	Western	451	0.9
			SEVENTH CIRCUIT	2,118	4.4
FOURTH CIRCUIT	4,462	9.3	Illinois		
Maryland	513	1.1	Central	266	0.6
North Carolina			Northern	769	1.6
Eastern	459	1.0	Southern	195	0.4
Middle	334	0.7	Indiana		
Western	381	0.8	Northern	272	0.6
South Carolina	745	1.5	Southern	209	0.4
Virginia			Wisconsin		
Eastern	1,119	2.3	Eastern	273	0.6
Western	454	0.9	Western	134	0.3
West Virginia					
Northern	208	0.4			
Southern	249	0.5			

(continued)

CIRCUIT			CIRCUIT		
District	Number	Percent	District	Number	Percent
EIGHTH CIRCUIT	3,402	7.1	TENTH CIRCUIT	3,763	7.8
Arkansas			Colorado	429	0.9
Eastern	181	0.4	Kansas	464	1.0
Western	137	0.3	New Mexico	1,691	3.5
Iowa			Oklahoma		
Northern	240	0.5	Eastern	69	0.1
Southern	195	0.4	Northern	145	0.3
Minnesota	351	0.7	Western	174	0.4
Missouri			Utah	627	1.3
Eastern	717	1.5	Wyoming	164	0.3
Western	542	1.1			
Nebraska	584	1.2	ELEVENTH CIRCUIT	4,530	9.4
North Dakota	150	0.3	Alabama		
South Dakota	305	0.6	Middle	122	0.3
			Northern	302	0.6
NINTH CIRCUIT	8,784	18.3	Southern	211	0.4
Alaska	168	0.3	Florida		
Arizona	2,690	5.6	Middle	1,098	2.3
California			Northern	235	0.5
Central	788	1.6	Southern	1,494	3.1
Eastern	630	1.3	Georgia		
Northern	491	1.0	Middle	307	0.6
Southern	1,609	3.3	Northern	520	1.1
Guam	73	0.2	Southern	241	0.5
Hawaii	343	0.7			
Idaho	136	0.3			
Montana	268	0.6			
Nevada	308	0.6			
Northern Mariana Islands	21	0.0			
Oregon	408	0.8			
Washington					
Eastern	296	0.6			
Western	555	1.2			

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted November 1, 2005; table prepared November 10, 2005). Percents may not sum to 100 percent due to rounding.

Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005¹
(Post-Booker data extracted November 1, 2005)

NATIONAL

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	64.0%	65.0%	69.4%	72.2%	61.7%
Upward Departures	0.6%	0.8%	0.8%	0.8%	0.3% ²
Otherwise Above Range	—	—	—	—	1.1% ³
Substantial Assistance Departures	17.1%	17.4%	15.9%	15.5%	14.6%
Other Gov't Sponsored Departures	—	—	6.3% ⁴	6.4%	9.5% ⁴
Other Downward Departures	18.3% ⁵	16.8% ⁵	7.5%	5.2%	3.3% ²
Otherwise Below Range	—	—	—	—	9.5% ³

DC CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	74.6%	59.9%	64.6%	59.2%	53.7%
Upward Departures	0.4%	0.5%	0.2%	1.0%	0.0% ²
Otherwise Above Range	—	—	—	—	1.4% ³
Substantial Assistance Departures	13.8%	31.1%	26.4%	31.3%	27.0%
Other Gov't Sponsored Departures	—	—	4.4% ⁴	3.9%	6.3% ⁴
Other Downward Departures	11.2% ⁵	8.5% ⁵	4.4%	4.7%	2.5% ²
Otherwise Below Range	—	—	—	—	9.3% ³

FIRST CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	73.3%	75.7%	77.3%	79.6%	64.0%
Upward Departures	0.4%	0.6%	0.7%	0.9%	0.3% ²
Otherwise Above Range	—	—	—	—	2.2% ³
Substantial Assistance Departures	14.6%	14.4%	13.5%	13.8%	11.7%
Other Gov't Sponsored Departures	—	—	0.7% ⁴	0.5%	2.8% ⁴
Other Downward Departures	11.7% ⁵	9.3% ⁵	7.8%	5.2%	4.2% ²
Otherwise Below Range	—	—	—	—	15.1% ³

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Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005¹

SECOND CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	57.5%	61.3%	63.2%	63.8%	49.3%
Upward Departures	0.4%	0.6%	0.5%	0.9%	0.1% ²
Otherwise Above Range	—	—	—	—	0.8% ³
Substantial Assistance Departures	21.7%	19.0%	17.5%	19.2%	22.6%
Other Gov't Sponsored Departures	—	—	2.8% ⁴	2.5%	2.7% ⁴
Other Downward Departures	20.4% ⁵	19.1% ⁵	16.0%	13.6%	7.2% ²
Otherwise Below Range	—	—	—	—	17.4% ³

THIRD CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	60.2%	58.9%	62.3%	62.6%	51.5%
Upward Departures	0.5%	0.9%	0.9%	0.6%	0.3% ²
Otherwise Above Range	—	—	—	—	1.1% ³
Substantial Assistance Departures	30.6%	32.3%	28.8%	30.3%	27.5%
Other Gov't Sponsored Departures	—	—	0.6% ⁴	0.8%	1.7% ⁴
Other Downward Departures	8.8% ⁵	7.9% ⁵	7.4%	5.8%	3.7% ²
Otherwise Below Range	—	—	—	—	14.3% ³

FOURTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	73.7%	76.6%	77.0%	79.0%	66.6%
Upward Departures	0.9%	0.7%	0.6%	1.0%	0.3% ²
Otherwise Above Range	—	—	—	—	0.9% ³
Substantial Assistance Departures	20.2%	18.6%	18.3%	16.7%	18.3%
Other Gov't Sponsored Departures	—	—	0.3% ⁴	0.3%	1.7% ⁴
Other Downward Departures	5.2% ⁵	4.2% ⁵	3.8%	3.0%	2.5% ²
Otherwise Below Range	—	—	—	—	9.8% ³

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Guideline Application, National and CircuitFiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005¹**FIFTH CIRCUIT**

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	69.1%	71.0%	73.7%	80.2%	71.3%
Upward Departures	0.5%	0.9%	0.9%	0.8%	0.3% ²
Otherwise Above Range	—	—	—	—	1.5% ³
Substantial Assistance Departures	12.3%	13.4%	12.5%	10.3%	7.9%
Other Gov't Sponsored Departures	—	—	5.4% ⁴	5.2%	10.1% ⁴
Other Downward Departures	18.1% ⁵	14.7% ⁵	7.5%	3.5%	2.6% ²
Otherwise Below Range	—	—	—	—	6.3% ³

SIXTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	65.1%	66.9%	69.1%	69.7%	58.5%
Upward Departures	0.5%	0.8%	0.4%	0.5%	0.2% ²
Otherwise Above Range	—	—	—	—	1.1% ³
Substantial Assistance Departures	27.2%	26.0%	24.6%	24.3%	24.7%
Other Gov't Sponsored Departures	—	—	0.5% ⁴	0.4%	1.9% ⁴
Other Downward Departures	7.3% ⁵	6.3% ⁵	5.3%	5.1%	2.7% ²
Otherwise Below Range	—	—	—	—	11.0% ³

SEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	71.0%	69.3%	72.5%	75.4%	63.0%
Upward Departures	1.0%	0.8%	1.0%	1.3%	0.3% ²
Otherwise Above Range	—	—	—	—	0.8% ³
Substantial Assistance Departures	21.2%	21.8%	21.2%	19.0%	17.2%
Other Gov't Sponsored Departures	—	—	0.8% ⁴	0.8%	3.0% ⁴
Other Downward Departures	6.9% ⁵	8.1% ⁵	4.5%	3.6%	3.7% ²
Otherwise Below Range	—	—	—	—	12.0% ³

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Guideline Application Trends By CircuitFiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005¹**EIGHTH CIRCUIT**

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	66.8%	69.3%	72.2%	77.0%	64.7%
Upward Departures	0.7%	1.2%	1.1%	0.9%	0.2% ²
Otherwise Above Range	—	—	—	—	1.3% ³
Substantial Assistance Departures	22.0%	18.9%	17.6%	15.3%	14.0%
Other Gov't Sponsored Departures	—	—	2.0% ⁴	2.1%	4.7% ⁴
Other Downward Departures	10.5% ⁵	10.7% ⁵	7.1%	4.7%	3.5% ²
Otherwise Below Range	—	—	—	—	11.6% ³

NINTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	50.1%	48.8%	59.6%	61.8%	48.2%
Upward Departures	0.4%	0.7%	1.1%	0.8%	0.3% ²
Otherwise Above Range	—	—	—	—	0.7% ³
Substantial Assistance Departures	10.7%	11.8%	10.2%	10.6%	10.6%
Other Gov't Sponsored Departures	—	—	19.2% ⁴	20.4%	28.3% ⁴
Other Downward Departures	38.7% ⁵	38.7% ⁵	9.9%	6.5%	3.6% ²
Otherwise Below Range	—	—	—	—	8.3% ³

TENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	65.0%	66.6%	73.1%	73.9%	66.1%
Upward Departures	0.7%	0.6%	0.6%	0.7%	0.1% ²
Otherwise Above Range	—	—	—	—	0.7% ³
Substantial Assistance Departures	11.0%	11.0%	9.4%	10.3%	9.7%
Other Gov't Sponsored Departures	—	—	11.4% ⁴	10.7%	13.7% ⁴
Other Downward Departures	23.3% ⁵	21.9% ⁵	5.5%	4.5%	2.9% ²
Otherwise Below Range	—	—	—	—	6.7% ³

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Guideline Application Trends By Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005¹

ELEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005 (Booker)
Within Range	72.1%	70.2%	74.5%	74.7%	68.3%
Upward Departures	0.6%	0.7%	0.8%	0.8%	0.4% ²
Otherwise Above Range	—	—	—	—	1.3% ³
Substantial Assistance Departures	19.9%	22.4%	19.9%	21.0%	17.5%
Other Gov't Sponsored Departures	—	—	0.3% ⁴	0.2%	1.4% ⁴
Other Downward Departures	7.5% ⁵	6.7% ⁵	4.5%	3.3%	2.8% ²
Otherwise Below Range	—	—	—	—	8.4% ³

¹In 2003, the Commission augmented its data coding procedures to determine the proportion of non-substantial assistance downward departures that were initiated by the government. Data prior to 2003 does not distinguish non-substantial assistance government initiated downward departures from other downward departures. In this table, data from FY2001 and 2002 on “Other Downward Departures” combines both government initiated and non-government initiated downward departures. For FY2003 and FY2004, the “Other Downward Departures” data distinguishes departures that were initiated or supported by the government from those not initiated/supported by the government. For example, using the national data, 6.3% of downward departures were government initiated and 7.5% were other downward departures; the combination of these values (13.8%) is directly comparable to the data for “Other Downward Departures” from the preceding years. For FY2004, this table reflects only cases sentenced prior to the *Blakely v Washington* decision on June 24, 2004. For FY2005, this table reflects cases sentenced subsequent to the *U.S. v Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by November 1, 2005. In these cases, a further distinction is made among below guideline range sentences. The data report three categories of below range sentences: those initiated/supported by the government; those not initiated by the government and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*; and those mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range. Cases citing both reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and mentioning *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors are included in the “Other Downward Departures” category.

²Includes cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and all cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

³Includes cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range and all cases with imposed sentences outside of the guideline range that do not fall into the previous category. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

⁴Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates 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. Note that §5K3.1 (Early Disposition Program) cases are included in this category.

⁵Includes cases in which the below range sentence was initiated/supported by the government and those not initiated/supported by the government. Prior to FY2003, the Commission did not code this distinction.

SOURCE: U.S. Sentencing Commission *Sourcebook of Federal Sentencing*, FY2001 through FY2003, Table 26; U.S. Sentencing Commission 2004 Fiscal Year Data File, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project, BOOKER05 (data extracted November 1, 2005; table prepared December 1, 2005). Percents may not sum to 100 percent due to rounding.

Distribution of Offenders Receiving Sentencing Options for the Most Frequently Applied Guidelines
 Fiscal Years 2000-2003, Pre-Blakely Fiscal Year 2004, and Post-Booker Fiscal Year 2005 (data extracted November 1,

	FY 2000		FY 2001		FY 2002		FY 2003		Pre-Blakely FY 2004		Post-Booker FY2005	
	N	%	N	%	N	%	N	%	N	%	N	%
Drug Trafficking §2D1.1¹	21,715	100.0	22,608	100.0	24,013	100.0	23,833	100.0	16,955	100.0	16,101	100.0
Prison only ²	20,422	94.0	21,143	93.5	22,407	93.3	22,455	94.2	16,081	94.9	15,196	94.4
Prison plus confinement conditions ³	430	2.0	469	2.1	515	2.1	402	1.7	337	2.0	361	2.2
Probation plus confinement conditions ⁴	379	1.7	488	2.2	465	1.9	469	2.0	227	1.3	242	1.5
Probation only ⁵	484	2.2	508	2.2	626	2.6	507	2.1	310	1.8	302	1.9
Immigration Unlawful Entry §2L1.2¹	6,341	100.0	5,946	100.0	6,993	100.0	9,167	100.0	7,058	100.0	7,110	100.0
Prison only ²	6,291	99.2	5,901	99.2	6,952	99.4	9,132	99.6	7,032	99.6	7,053	99.2
Prison plus confinement conditions ³	10	0.2	14	0.2	7	0.1	11	0.1	10	0.1	15	0.2
Probation plus confinement conditions ⁴	1	0.0	1	0.0	0	0.0	2	0.0	0	0.0	1	0.0
Probation only ⁵	39	0.6	30	0.5	34	0.5	22	0.2	16	0.2	41	0.6
Firearms §2K2.1¹	2,997	100.0	3,629	100.0	4,173	100.0	5,425	100.0	4,782	100.0	4,541	100.0
Prison only ²	2,604	86.9	3,177	87.5	3,680	88.2	4,779	88.1	4,292	89.8	4,063	89.5
Prison plus confinement conditions ³	104	3.5	141	3.9	158	3.8	174	3.2	128	2.7	142	3.1
Probation plus confinement conditions ⁴	147	4.9	155	4.3	139	3.3	224	4.1	160	3.4	169	3.7
Probation only ⁵	142	4.7	156	4.3	196	4.7	248	4.6	202	4.2	167	3.7
Theft/Fraud §2B1.1 or §2F1.1¹	9,015	100.0	8,768	100.0	9,243	100.0	9,606	100.0	6,909	100.0	5,483	100.0
Prison only ²	4,253	47.2	4,339	49.5	4,531	49.0	4,803	50.0	3,574	51.7	2,929	53.4
Prison plus confinement conditions ³	1,077	11.9	1,053	12.0	959	10.4	840	8.7	629	9.1	509	9.3
Probation plus confinement conditions ⁴	1,540	17.1	1,481	16.9	1,421	15.4	1,463	15.2	997	14.4	701	12.8
Probation only ⁵	2,145	23.8	1,895	21.6	2,332	25.2	2,500	26.0	1,709	24.7	1,344	24.5

¹Sections report only cases with one single guideline application using the indicated guideline. Cases receiving only monetary sentences are excluded.

²Prison only cases receive straight prison time.

³Prison plus confinement cases receive a combination of prison time and alternative confinement time as defined in USSG §5C1.1.

⁴Probation plus confinement cases receive, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁵Probation only cases receive straight probation time.

SOURCE: U.S. Sentencing Commission, 2000-2003 Fiscal Year Datafiles, USSCFY00-USSCFY03; 2004 Fiscal Year Datafile, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project BOOKER05 (data extraction on November 1, 2005; table prepared December 1, 2005). Numbers may not sum to 100 percent due to rounding.

Average and Median Sentence Imposed¹ for the Most Frequently Applied Guidelines

Fiscal Year 2000 and Fiscal Year 2001

	Fiscal Year 2000				Fiscal Year 2001			
	Average Months	Median Months	GL Median ²	N	Average Months	Median Months	GL Median ²	N
All Cases (one guideline computation)³	50	30		51,342	50	30		51,809
Drug Trafficking §2D1.1⁴	72	50	60	21,715	70	48	60	22,608
Prison only ⁵	74	57	63	20,422	72	51	60	21,143
Prison plus confinement conditions ⁶	21	10	21	430	29	10	18	469
Probation plus confinement conditions ⁷	6	6	12	379	6	6	12	488
Probation only ⁸	0	0	—	484	0	0	—	508
Immigration Unlawful Entry §2L1.2⁴	36	33	46	6,341	35	30	46	5,946
Prison only ⁵	36	33	33	6,291	35	30	46	5,901
Prison plus confinement conditions ⁶	21	10	10	10	20	10	12	14
Probation plus confinement conditions ⁷	—	—	—	1	—	—	—	1
Probation only ⁸	0	0	—	39	0	0	—	30
Firearms §2K2.1⁴	53	37	37	2,997	52	37	37	3,629
Prison only ⁵	57	37	41	2,604	56	40	41	3,177
Prison plus confinement conditions ⁶	23	10	12	104	22	10	15	141
Probation plus confinement conditions ⁷	7	6	12	147	6	6	12	155
Probation only ⁸	0	0	—	142	0	0	—	156
Theft/Fraud §2B1.1 or §2F1.1⁴	14	10	10	9,015	15	10	12	8,768
Prison only ⁵	19	15	15	4,253	20	15	15	4,339
Prison plus confinement conditions ⁶	9	8	8	1,077	9	8	8	1,053
Probation plus confinement conditions ⁷	5	6	6	1,540	5	6	6	1,481
Probation only ⁸	0	0	—	2,145	0	0	—	1,895

¹Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

²For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

³All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

⁴Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

⁵Prison only sentence categories report straight prison time.

⁶Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

⁷Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁸Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2000 and 2001 Fiscal Year Datafiles, USSCFY00 and USSCFY01.

Average and Median Sentence Imposed¹ for the Most Frequently Applied Guidelines

Fiscal Year 2002 and Fiscal Year 2003

	Fiscal Year 2002				Fiscal Year 2003			
	Average Months	Median Months	GL Median ²	N	Average Months	Median Months	GL Median ²	N
All Cases (one guideline computation)³	51	30		55,856	52	30		60,786
Drug Trafficking §2D1.1⁴	71	51	60	24,013	77	57	63	23,833
Prison only ⁵	74	57	57	22,407	79	60	70	22,455
Prison plus confinement conditions ⁶	22	10	10	515	20	10	15	402
Probation plus confinement conditions ⁷	6	6	6	465	6	6	12	469
Probation only ⁸	0	0	—	626	0	0	—	507
Immigration Unlawful Entry §2L1.2⁴	30	27	30	6,993	28	24	27	9,167
Prison only ⁵	30	27	30	6,952	28	24	27	9,132
Prison plus confinement conditions ⁶	20	10	10	7	22	10	10	11
Probation plus confinement conditions ⁷	—	—	—	0	—	—	—	2
Probation only ⁸	0	0	—	34	0	0	—	22
Firearms §2K2.1⁴	53	37	37	4,173	56	37	37	5,425
Prison only ⁵	57	37	37	3,680	59	41	41	4,779
Prison plus confinement conditions ⁶	18	10	12	158	21	10	12	174
Probation plus confinement conditions ⁷	6	6	12	139	6	6	12	224
Probation only ⁸	0	0	—	196	0	0	—	248
Theft/Fraud §2B1.1 or §2F1.1⁴	16	10	12	9,243	16	12	12	9,606
Prison only ⁵	20	15	15	4,531	21	16	18	4,803
Prison plus confinement conditions ⁶	9	10	10	959	9	10	10	840
Probation plus confinement conditions ⁷	6	6	6	1,421	6	6	6	1,463
Probation only ⁸	0	0	—	2,332	0	0	—	2,500

¹Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

²For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

³All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The "All Cases" row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

⁴Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

⁵Prison only sentence categories report straight prison time.

⁶Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

⁷Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁸Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2002 and 2003 Fiscal Year Datafiles, USSCFY02 and USSCFY03.

Average and Median Sentence Imposed¹ for the Most Frequently Applied Guidelines

Pre-Blakely Fiscal Year 2004 and Post-Booker Fiscal Year 2005 (data extracted November 1, 2005)

	Pre-Blakely FY 2004				Post-Booker FY2005			
	Average Months	Median Months	GL Median ²	N	Average Months	Median Months	GL Median ²	N
All Cases (one guideline computation)³	56	33		44,895	56	33		42,818
Drug Trafficking §2D1.1⁴	83	60	70	16,955	83	60	70	16,101
Prison only ⁵	86	60	70	16,081	86	63	78	15,196
Prison plus confinement conditions ⁶	22	10	12	337	20	10	18	361
Probation plus confinement conditions ⁷	6	6	12	227	6	6	15	242
Probation only ⁸	0	0	—	310	0	0	—	302
Immigration Unlawful Entry §2L1.2⁴	29	24	24	7,058	27	24	27	7,110
Prison only ⁵	29	24	24	7,032	28	24	27	7,053
Prison plus confinement conditions ⁶	40	34	29	10	15	10	15	15
Probation plus confinement conditions ⁷	—	—	—	0	—	—	—	1
Probation only ⁸	0	0	—	16	0	0	—	41
Firearms §2K2.1⁴	59	40	41	4,782	59	37	37	4,541
Prison only ⁵	63	42	46	4,292	62	41	41	4,063
Prison plus confinement conditions ⁶	21	10	10	128	28	10	12	142
Probation plus confinement conditions ⁷	6	6	10	160	6	6	12	169
Probation only ⁸	0	0	—	202	0	0	—	167
Theft/Fraud §2B1.1 or §2F1.1⁴	19	12	12	6,909	21	12	15	5,483
Prison only ⁵	25	18	18	3,574	26	18	18	2,929
Prison plus confinement conditions ⁶	9	10	10	629	10	10	10	509
Probation plus confinement conditions ⁷	6	6	6	997	6	6	6	701
Probation only ⁸	0	0	—	1,709	0	0	—	1,344

¹Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

²For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

³All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The "All Cases" row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

⁴Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

⁵Prison only sentence categories report straight prison time.

⁶Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

⁷Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁸Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2004 Fiscal Year Datafile, USSCFY04 Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project BOOKER05 (data extraction on November 1, 2005; table prepared December 1, 2005).

POST-BOOKER DEPARTURE/VARIANCE RATE BY CIRCUIT AND DISTRICT¹
Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on November 1, 2005

CIRCUIT	TOTAL	GOVERNMENT											
		SENTENCED WITHIN GUIDELINE RANGE		SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
District			%		%		%		%		%		%
TOTAL	46,470	28,665	61.7	11,239	24.2	1,529	3.3	4,410	9.5	122	0.3	505	1.1
D.C. CIRCUIT	367	197	53.7	122	33.2	9	2.5	34	9.3	0	0.0	5	1.4
District of Columbia	367	197	53.7	122	33.2	9	2.5	34	9.3	0	0.0	5	1.4
FIRST CIRCUIT	1,056	675	63.9	152	14.4	44	4.2	159	15.1	3	0.3	23	2.2
Maine	158	116	73.4	32	20.3	3	1.9	6	3.8	0	0.0	1	0.6
Massachusetts	318	162	50.9	38	11.9	27	8.5	86	27.0	2	0.6	3	0.9
New Hampshire	133	74	55.6	44	33.1	4	3.0	8	6.0	0	0.0	3	2.3
Puerto Rico	351	258	73.5	32	9.1	7	2.0	41	11.7	0	0.0	13	3.7
Rhode Island	96	65	67.7	6	6.3	3	3.1	18	18.8	1	1.0	3	3.1
SECOND CIRCUIT	2,779	1,369	49.3	703	25.3	200	7.2	483	17.4	3	0.1	21	0.8
Connecticut	276	124	44.9	76	27.5	38	13.8	35	12.7	1	0.4	2	0.7
New York													
Eastern	845	293	34.7	227	26.9	94	11.1	217	25.7	1	0.1	13	1.5
Northern	248	141	56.9	70	28.2	14	5.6	22	8.9	0	0.0	1	0.4
Southern	823	486	59.1	132	16.0	42	5.1	157	19.1	1	0.1	5	0.6
Western	438	250	57.1	146	33.3	3	0.7	39	8.9	0	0.0	0	0.0
Vermont	149	75	50.3	52	34.9	9	6.0	13	8.7	0	0.0	0	0.0
THIRD CIRCUIT	2,335	1,202	51.5	682	29.2	86	3.7	334	14.3	6	0.3	25	1.1
Delaware	117	77	65.8	10	8.5	10	8.5	20	17.1	0	0.0	0	0.0
New Jersey	687	349	50.8	216	31.4	27	3.9	85	12.4	1	0.1	9	1.3
Pennsylvania													
Eastern	714	297	41.6	241	33.8	22	3.1	142	19.9	3	0.4	9	1.3
Middle	456	209	45.8	180	39.5	16	3.5	45	9.9	2	0.4	4	0.9
Western	290	208	71.7	33	11.4	11	3.8	35	12.1	0	0.0	3	1.0
Virgin Islands	71	62	87.3	2	2.8	0	0.0	7	9.9	0	0.0	0	0.0
FOURTH CIRCUIT	4,242	2,824	66.6	847	20.0	104	2.5	414	9.8	14	0.3	39	0.9
Maryland	493	238	48.3	156	31.6	26	5.3	67	13.6	1	0.2	5	1.0
North Carolina													
Eastern	456	250	54.8	164	36.0	9	2.0	29	6.4	1	0.2	3	0.7
Middle	332	256	77.1	38	11.4	7	2.1	28	8.4	0	0.0	3	0.9
Western	379	226	59.6	114	30.1	9	2.4	28	7.4	0	0.0	2	0.5
South Carolina	714	506	70.9	129	18.1	15	2.1	60	8.4	3	0.4	1	0.1
Virginia													
Eastern	969	743	76.7	63	6.5	14	1.4	128	13.2	3	0.3	18	1.9
Western	454	266	58.6	129	28.4	9	2.0	43	9.5	4	0.9	3	0.7
West Virginia													
Northern	204	158	77.5	22	10.8	7	3.4	15	7.4	0	0.0	2	1.0
Southern	241	181	75.1	32	13.3	8	3.3	16	6.6	2	0.8	2	0.8

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
		%	%	%	%	%	%	%	%	%	%		
FIFTH CIRCUIT	10,564	7,532	71.3	1,908	18.1	273	2.6	670	6.3	27	0.3	154	1.5
Louisiana													
Eastern	224	166	74.1	35	15.6	4	1.8	12	5.4	2	0.9	5	2.2
Middle	131	78	59.5	35	26.7	1	0.8	8	6.1	1	0.8	8	6.1
Western	289	199	68.9	30	10.4	6	2.1	36	12.5	1	0.3	17	5.9
Mississippi													
Northern	145	90	62.1	46	31.7	0	0.0	4	2.8	1	0.7	4	2.8
Southern	238	188	79.0	27	11.3	6	2.5	13	5.5	0	0.0	4	1.7
Texas													
Eastern	531	417	78.5	69	13.0	12	2.3	24	4.5	1	0.2	8	1.5
Northern	621	461	74.2	68	11.0	12	1.9	47	7.6	3	0.5	30	4.8
Southern	4,655	3,006	64.6	1,136	24.4	165	3.5	304	6.5	11	0.2	33	0.7
Western	3,730	2,927	78.5	462	12.4	67	1.8	222	6.0	7	0.2	45	1.2
SIXTH CIRCUIT	3,605	2,107	58.4	959	26.6	98	2.7	396	11.0	6	0.2	39	1.1
Kentucky													
Eastern	345	180	52.2	133	38.6	1	0.3	24	7.0	0	0.0	7	2.0
Western	256	182	71.1	56	21.9	4	1.6	14	5.5	0	0.0	0	0.0
Michigan													
Eastern	472	267	56.6	128	27.1	19	4.0	55	11.7	1	0.2	2	0.4
Western	272	187	68.8	47	17.3	7	2.6	25	9.2	1	0.4	5	1.8
Ohio													
Northern	713	408	57.2	170	23.8	36	5.0	94	13.2	1	0.1	4	0.6
Southern	411	196	47.7	135	32.8	11	2.7	63	15.3	0	0.0	6	1.5
Tennessee													
Eastern	465	299	64.3	115	24.7	2	0.4	42	9.0	0	0.0	7	1.5
Middle	232	139	59.9	53	22.8	8	3.4	30	12.9	0	0.0	2	0.9
Western	439	249	56.7	122	27.8	10	2.3	49	11.2	3	0.7	6	1.4
SEVENTH CIRCUIT	2,080	1,310	63.0	419	20.1	77	3.7	250	12.0	7	0.3	17	0.8
Illinois													
Central	258	140	54.3	59	22.9	11	4.3	45	17.4	1	0.4	2	0.8
Northern	751	451	60.1	171	22.8	36	4.8	87	11.6	1	0.1	5	0.7
Southern	194	159	82.0	13	6.7	5	2.6	14	7.2	2	1.0	1	0.5
Indiana													
Northern	267	175	65.5	72	27.0	8	3.0	12	4.5	0	0.0	0	0.0
Southern	205	130	63.4	55	26.8	4	2.0	12	5.9	1	0.5	3	1.5
Wisconsin													
Eastern	273	145	53.1	43	15.8	10	3.7	69	25.3	2	0.7	4	1.5
Western	132	110	83.3	6	4.5	3	2.3	11	8.3	0	0.0	2	1.5
EIGHTH CIRCUIT	3,366	2,177	64.7	631	18.7	119	3.5	390	11.6	5	0.1	44	1.3
Arkansas													
Eastern	170	113	66.5	27	15.9	5	2.9	24	14.1	1	0.6	0	0.0
Western	136	95	69.9	27	19.9	2	1.5	12	8.8	0	0.0	0	0.0
Iowa													
Northern	240	170	70.8	36	15.0	1	0.4	24	10.0	0	0.0	9	3.8
Southern	195	91	46.7	40	20.5	6	3.1	54	27.7	0	0.0	4	2.1
Minnesota	344	185	53.8	73	21.2	23	6.7	61	17.7	0	0.0	2	0.6
Missouri													
Eastern	706	464	65.7	145	20.5	28	4.0	62	8.8	1	0.1	6	0.8
Western	541	357	66.0	102	18.9	5	0.9	66	12.2	0	0.0	11	2.0
Nebraska	581	369	63.5	131	22.5	35	6.0	44	7.6	0	0.0	2	0.3
North Dakota	149	105	70.5	30	20.1	4	2.7	10	6.7	0	0.0	0	0.0
South Dakota	304	228	75.0	20	6.6	10	3.3	33	10.9	3	1.0	10	3.3

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
			%	%	%	%	%	%	%	%	%		
NINTH CIRCUIT	8,090	3,899	48.2	3,144	38.9	290	3.6	672	8.3	27	0.3	58	0.7
Alaska	164	95	57.9	31	18.9	2	1.2	33	20.1	0	0.0	3	1.8
Arizona	2,644	755	28.6	1,685	63.7	85	3.2	90	3.4	21	0.8	8	0.3
California													
Central	379	348	91.8	16	4.2	3	0.8	12	3.2	0	0.0	0	0.0
Eastern	626	330	52.7	226	36.1	17	2.7	49	7.8	1	0.2	3	0.5
Northern	479	296	61.8	103	21.5	16	3.3	60	12.5	0	0.0	4	0.8
Southern	1,482	822	55.5	466	31.4	83	5.6	103	7.0	1	0.1	7	0.5
Guam	71	33	46.5	31	43.7	4	5.6	3	4.2	0	0.0	0	0.0
Hawaii	339	161	47.5	105	31.0	15	4.4	52	15.3	0	0.0	6	1.8
Idaho	134	53	39.6	57	42.5	5	3.7	17	12.7	0	0.0	2	1.5
Montana	264	202	76.5	28	10.6	10	3.8	13	4.9	2	0.8	9	3.4
Nevada	299	215	71.9	34	11.4	9	3.0	35	11.7	0	0.0	6	2.0
Northern Mariana Islands	20	17	85.0	3	15.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	391	208	53.2	83	21.2	15	3.8	79	20.2	1	0.3	5	1.3
Washington													
Eastern	286	175	61.2	61	21.3	7	2.4	37	12.9	1	0.3	5	1.7
Western	512	189	36.9	215	42.0	19	3.7	89	17.4	0	0.0	0	0.0
TENTH CIRCUIT	3,675	2,429	66.1	860	23.4	108	2.9	247	6.7	5	0.1	26	0.7
Colorado	407	206	50.6	118	29.0	21	5.2	55	13.5	2	0.5	5	1.2
Kansas	461	306	66.4	96	20.8	10	2.2	46	10.0	2	0.4	1	0.2
New Mexico	1,668	1,090	65.3	483	29.0	37	2.2	50	3.0	1	0.1	7	0.4
Oklahoma													
Eastern	69	63	91.3	5	7.2	1	1.4	0	0.0	0	0.0	0	0.0
Northern	145	116	80.0	19	13.1	0	0.0	6	4.1	0	0.0	4	2.8
Western	159	116	73.0	18	11.3	6	3.8	13	8.2	0	0.0	6	3.8
Utah	604	433	71.7	76	12.6	28	4.6	64	10.6	0	0.0	3	0.5
Wyoming	162	99	61.1	45	27.8	5	3.1	13	8.0	0	0.0	0	0.0
ELEVENTH CIRCUIT	4,311	2,944	68.3	812	18.8	121	2.8	361	8.4	19	0.4	54	1.3
Alabama													
Middle	120	71	59.2	43	35.8	2	1.7	4	3.3	0	0.0	0	0.0
Northern	296	181	61.1	75	25.3	4	1.4	26	8.8	2	0.7	8	2.7
Southern	210	135	64.3	55	26.2	7	3.3	8	3.8	1	0.5	4	1.9
Florida													
Middle	1,091	696	63.8	260	23.8	38	3.5	85	7.8	2	0.2	10	0.9
Northern	230	161	70.0	43	18.7	4	1.7	13	5.7	5	2.2	4	1.7
Southern	1,404	1,063	75.7	144	10.3	29	2.1	149	10.6	4	0.3	15	1.1
Georgia													
Middle	265	180	67.9	62	23.4	0	0.0	17	6.4	1	0.4	5	1.9
Northern	500	324	64.8	95	19.0	27	5.4	51	10.2	1	0.2	2	0.4
Southern	195	133	68.2	35	17.9	10	5.1	8	4.1	3	1.5	6	3.1

¹Of the 48,105 cases, 69 cases with no analogous guidelines were excluded from the table. Of the remaining 48,036 cases, 1,635 were excluded due to missing departure information.

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

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted November 1, 2005 table prepared November 8, 2005). Summary numbers may add up to their component parts due to rounding

**SUBSTANTIAL ASSISTANCE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on November 1, 2005

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR SUBSTANTIAL ASSISTANCE	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	6,496	36.0	28.0	49.9
Murder	5	180.0	240.0	69.3
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	3	108.0	115.5	47.1
Sexual Abuse	3	28.0	18.0	39.1
Assault	10	45.0	17.0	27.1
Robbery	113	60.0	33.0	34.8
Arson	6	35.5	22.5	40.8
Drugs - Trafficking	4,160	48.0	39.0	46.3
Drugs - Communication Facility	41	6.0	12.2	70.7
Drugs - Simple Possession	9	2.6	10.0	56.3
Firearms	571	37.0	24.0	46.8
Burglary/B&E	1	--	--	--
Auto Theft	7	19.0	20.0	50.4
Larceny	88	6.0	10.0	63.8
Fraud	615	1.8	12.0	90.9
Embezzlement	10	6.0	13.5	79.5
Forgery/Counterfeiting	58	2.0	11.5	87.1
Bribery	40	6.0	16.5	83.5
Tax	60	0.0	10.0	100.0
Money Laundering	154	12.0	20.5	62.3
Racketeering/Extortion	122	26.0	30.0	52.6
Gambling/Lottery	13	0.0	8.0	100.0
Civil Rights	8	14.0	11.5	40.4
Immigration	210	8.8	9.0	47.8
Pornography/Prostitution	33	37.0	19.0	30.2
Prison Offenses	7	2.0	6.0	66.7
Administration of Justice Offenses	89	0.0	12.0	100.0
Environmental/Wildlife	12	0.0	10.0	100.0
National Defense	5	0.4	18.0	98.0
Antitrust	4	4.5	5.5	62.5
Food & Drug	4	0.0	12.0	99.9
Other Miscellaneous Offenses	35	1.0	14.0	90.5

¹Of the 48,105 cases, 6,796 received a substantial assistance departure. Of these, 6,543 had complete guideline application information. An additional 30 cases were excluded due to several logical criteria. Of the remaining 6,513 cases, 17 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (17).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted November 1, 2005; table prepared November 8, 2005). Summary numbers may add up to their component parts due to rounding.

**GOVERNMENT INITIATED DOWNWARD DEPARTURE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on November 1, 2005

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR GOVERNMENT INITIATED DOWNWARD DEPARTURE ³	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	4,120	24.0	9.0	27.3
Murder	1	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	17	50.0	26.4	39.4
Assault	24	23.0	11.5	39.3
Robbery	20	74.0	28.5	29.9
Arson	1	--	--	--
Drugs - Trafficking	1,057	27.0	10.0	33.3
Drugs - Communication Facility	8	11.6	29.4	71.7
Drugs - Simple Possession	0	--	--	--
Firearms	153	31.0	12.0	26.7
Burglary/B&E	1	--	--	--
Auto Theft	2	--	--	--
Larceny	18	2.5	10.0	83.2
Fraud	76	8.6	10.0	50.6
Embezzlement	6	0.0	7.0	99.4
Forgery/Counterfeiting	10	7.0	11.0	73.9
Bribery	6	2.5	10.0	86.7
Tax	11	6.0	10.0	50.0
Money Laundering	21	16.0	8.5	44.4
Racketeering/Extortion	17	27.0	11.0	20.0
Gambling/Lottery	4	3.0	10.0	87.5
Civil Rights	0	--	--	--
Immigration	2,590	24.0	7.0	25.0
Pornography/Prostitution	20	37.0	19.0	26.6
Prison Offenses	4	8.0	13.5	50.6
Administration of Justice Offenses	25	12.0	9.0	42.7
Environmental/Wildlife	4	5.0	7.5	58.3
National Defense	1	--	--	--
Antitrust	1	--	--	--
Food & Drug	2	--	--	--
Other Miscellaneous Offenses	19	5.0	10.0	66.7

¹Of the 48,105 cases, 4,443 received a government initiated downward departure. Of these, 4,277 had complete guideline application information. An additional 145 cases were excluded due to several logical criteria. Of the remaining 4,132 cases, 12 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (12).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHER DOWNWARD DEPARTURE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on November 1, 2005

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR OTHER DOWNWARD DEPARTURE ³	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,433	24.0	12.0	34.8
Murder	3	70.0	27.0	27.8
Manslaughter	4	24.0	11.0	26.8
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	8	16.5	7.5	18.1
Assault	21	12.0	12.0	42.4
Robbery	43	58.0	21.0	22.4
Arson	1	--	--	--
Drugs - Trafficking	483	60.0	17.0	27.7
Drugs - Communication Facility	5	0.0	24.0	99.9
Drugs - Simple Possession	2	--	--	--
Firearms	197	21.0	12.0	35.0
Burglary/B&E	1	--	--	--
Auto Theft	1	--	--	--
Larceny	26	0.0	7.0	100.0
Fraud	135	1.0	10.0	93.9
Embezzlement	10	3.0	9.5	77.2
Forgery/Counterfeiting	14	0.0	12.0	100.0
Bribery	4	0.0	7.0	100.0
Tax	27	0.0	10.0	100.0
Money Laundering	22	19.5	9.5	39.9
Racketeering/Extortion	18	25.5	12.5	28.6
Gambling/Lottery	2	--	--	--
Civil Rights	1	--	--	--
Immigration	308	24.0	9.0	27.1
Pornography/Prostitution	33	12.0	17.0	65.7
Prison Offenses	5	18.0	6.0	25.0
Administration of Justice Offenses	37	5.0	10.0	66.7
Environmental/Wildlife	2	--	--	--
National Defense	2	--	--	--
Antitrust	1	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	17	0.0	10.0	99.7

¹Of the 48,105 cases, 1,529 received an other downward departure. Of these, 1,438 had complete guideline application information. An additional one cases were excluded due to several logical criteria. Of the remaining 1,437 cases, four were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (4).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**CASES OTHERWISE BELOW GUIDELINE RANGE: DEGREE OF VARIANCE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on November 1, 2005

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR OTHERWISE BELOW GUIDELINE RANGE ³	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	4,073	27.0	12.0	33.3
Murder	8	108.5	24.0	19.8
Manslaughter	2	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	21	16.0	21.0	44.8
Assault	29	8.0	9.0	50.0
Robbery	97	50.0	18.0	20.5
Arson	2	--	--	--
Drugs - Trafficking	1,484	60.0	19.0	26.3
Drugs - Communication Facility	45	12.0	9.0	35.1
Drugs - Simple Possession	13	15.0	10.0	46.8
Firearms	582	35.0	12.0	28.1
Burglary/B&E	6	4.7	6.0	56.2
Auto Theft	5	24.0	9.0	36.5
Larceny	110	0.0	6.0	100.0
Fraud	464	5.1	10.0	66.7
Embezzlement	40	0.5	8.0	96.3
Forgery/Counterfeiting	55	5.4	8.0	62.5
Bribery	16	0.0	10.0	100.0
Tax	77	1.0	10.0	90.0
Money Laundering	88	12.0	11.0	52.8
Racketeering/Extortion	38	38.5	12.0	35.1
Gambling/Lottery	8	0.0	6.0	100.0
Civil Rights	6	36.5	6.0	22.2
Immigration	612	18.0	9.0	33.3
Pornography/Prostitution	106	24.0	15.0	35.0
Prison Offenses	17	12.0	6.0	41.2
Administration of Justice Offenses	69	6.0	9.0	60.0
Environmental/Wildlife	10	0.0	6.0	100.0
National Defense	2	--	--	--
Antitrust	0	--	--	--
Food & Drug	3	5.0	7.0	58.3
Other Miscellaneous Offenses	57	0.0	9.0	100.0

¹Of the 48,105 cases, 4,410 were otherwise below the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 4,089 had complete guideline application information. An additional six cases were excluded due to several logical criteria. Of the remaining 4,083 cases, 10 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (10).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**UPWARD DEPARTURE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on November 1, 2005

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF INCREASE FOR UPWARD DEPARTURE ³	
			Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	118	60.0	14.0	30.4
Murder	3	228.0	105.0	77.8
Manslaughter	3	96.0	18.0	23.1
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	3	97.0	40.0	70.2
Assault	4	110.0	18.5	67.8
Robbery	3	144.0	27.0	30.4
Arson	0	--	--	--
Drugs - Trafficking	15	48.0	11.0	22.2
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	22	93.0	22.0	29.7
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	1	--	--	--
Fraud	20	54.0	14.0	53.7
Embezzlement	0	--	--	--
Forgery/Counterfeiting	3	48.0	14.0	75.0
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	0	--	--	--
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	28	21.0	6.0	26.8
Pornography/Prostitution	7	120.0	33.0	37.4
Prison Offenses	0	--	--	--
Administration of Justice Offenses	3	12.0	6.0	66.7
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	2	--	--	--

¹Of the 48,105 cases, 122 received an upward departure. Of these, 119 had complete guideline application information. An additional one cases were excluded due to several logical criteria. Of the remaining 118 cases, zero were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (0).

²Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**CASES OTHERWISE ABOVE GUIDELINE RANGE: DEGREE OF VARIANCE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on November 1, 2005

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF INCREASE OTHERWISE ABOVE GUIDELINE RANGE ³	
			Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	445	57.0	12.0	33.3
Murder	3	228.0	40.0	21.3
Manslaughter	3	41.0	8.0	24.2
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	12	234.0	37.5	18.7
Assault	17	60.0	18.0	37.9
Robbery	14	180.0	34.5	36.2
Arson	0	--	--	--
Drugs - Trafficking	56	80.0	16.5	27.7
Drugs - Communication Facility	1	--	--	--
Drugs - Simple Possession	8	24.0	9.0	83.3
Firearms	77	72.0	15.0	30.4
Burglary/B&E	0	--	--	--
Auto Theft	3	36.0	18.0	100.0
Larceny	20	24.0	8.0	46.4
Fraud	82	45.0	11.0	33.3
Embezzlement	1	--	--	--
Forgery/Counterfeiting	9	60.0	19.0	73.2
Bribery	0	--	--	--
Tax	5	36.0	9.0	33.3
Money Laundering	7	108.0	14.0	66.7
Racketeering/Extortion	10	65.5	15.0	24.5
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	79	39.0	9.0	30.0
Pornography/Prostitution	18	132.0	34.5	41.4
Prison Offenses	6	41.5	6.5	31.3
Administration of Justice Offenses	7	30.0	10.0	50.0
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	7	24.0	12.0	50.0

¹Of the 48,105 cases, 505 were otherwise above the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 463 had complete guideline application information. An additional 16 cases were excluded due to several logical criteria. Of the remaining 447 cases, two were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (2).

²Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.