

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



Information for All Cases

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Cases Sentenced Subsequent to *U.S. v Booker*  
(Data Extraction as of July 12, 2005)

Prepared: August 3, 2005



U.S. SENTENCING COMMISSION  
SPECIAL POST-BOOKER CODING PROJECT  
DATA EXTRACTION DATE: JULY 12, 2005

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

**Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on July 12, 2005**

	N	%
<b>TOTAL<sup>1</sup></b>	<b>26,647</b>	<b>100.0</b>
<b>WITHIN GUIDELINE RANGE</b>	<b>16,345</b>	<b>61.3</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>89</b>	<b>0.3</b>
Upward Departure from the Guideline Range <sup>2</sup>	59	0.2
Upward Departure with Booker/18 USC §3553 <sup>3</sup>	30	0.1
<b>OTHERWISE ABOVE THE GUIDELINE RANGE</b>	<b>306</b>	<b>1.1</b>
Above the Range with Booker/18 USC §3553 <sup>4</sup>	172	0.6
All Remaining Cases Above the Guideline Range <sup>5</sup>	134	0.5
<b>GOVERNMENT-SPONSORED BELOW RANGE</b>	<b>6,410</b>	<b>24.1</b>
§5K1.1 Substantial Assistance Departure	3,964	14.9
§5K3.1 Early Disposition Program Departure	1,709	6.4
Government-Sponsored Departure <sup>6</sup>	737	2.8
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>900</b>	<b>3.4</b>
Downward Departure from the Guideline Range <sup>2</sup>	637	2.4
Downward Departure with Booker/18 USC §3553 <sup>3</sup>	263	1.0
<b>OTHERWISE BELOW THE GUIDELINE RANGE</b>	<b>2,597</b>	<b>9.7</b>
Below the Range with Booker/18 USC §3553 <sup>4</sup>	1,624	6.1
All Remaining Cases Below the Guideline Range <sup>5</sup>	973	3.7

<sup>1</sup>This table reflects the 27,613 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 July 12, 2005. Of this total, there are 966 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.

<sup>2</sup>All 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.

<sup>3</sup>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 *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>4</sup>All 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.

<sup>5</sup>Cases 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.

<sup>6</sup>Cases 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 July 12, 2005; table prepared on August 3, 2005). Numbers may not sum to 100 percent 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 July 12, 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	%
<b>TOTAL<sup>1</sup></b>	<b>26,647</b>	<b>100.0</b>	<b>9,267</b>	<b>100.0</b>	<b>4,094</b>	<b>100.1</b>	<b>2,703</b>	<b>100.0</b>	<b>2,614</b>	<b>100.0</b>
<b>WITHIN GUIDELINE RANGE</b>	<b>16,345</b>	<b>61.3</b>	<b>4,970</b>	<b>53.6</b>	<b>2,278</b>	<b>55.6</b>	<b>1,882</b>	<b>69.6</b>	<b>1,837</b>	<b>70.3</b>
<b>DEPARTURE ABOVE GUIDELINE</b>	<b>89</b>	<b>0.3</b>	<b>4</b>	<b>0.0</b>	<b>10</b>	<b>0.2</b>	<b>13</b>	<b>0.5</b>	<b>15</b>	<b>0.6</b>
Upward Departure from the Guideline Range <sup>2</sup>	59	0.2	4	0.0	6	0.1	10	0.4	9	0.3
Upward Departure with Booker/18 USC §3553 <sup>3</sup>	30	0.1	0	0.0	4	0.1	3	0.1	6	0.2
<b>OTHERWISE ABOVE THE RANGE</b>	<b>306</b>	<b>1.1</b>	<b>42</b>	<b>0.5</b>	<b>39</b>	<b>1.0</b>	<b>43</b>	<b>1.6</b>	<b>61</b>	<b>2.3</b>
Above the Range with Booker/18 USC §3553 <sup>4</sup>	172	0.6	26	0.3	26	0.6	20	0.7	31	1.2
All Remaining Cases Above the Guideline Range <sup>5</sup>	134	0.5	16	0.2	13	0.3	23	0.9	30	1.1
<b>GOVERNMENT BELOW GUIDELINE</b>	<b>6,410</b>	<b>24.1</b>	<b>3,029</b>	<b>32.7</b>	<b>1,328</b>	<b>32.4</b>	<b>360</b>	<b>13.4</b>	<b>310</b>	<b>11.9</b>
§5K1.1 Substantial Assistance Departure	3,964	14.9	2,455	26.5	25	0.6	277	10.3	257	9.8
§5K3.1 Early Disposition Program Departure	1,709	6.4	347	3.7	1,178	28.8	10	0.4	5	0.2
Government-Sponsored Departure <sup>6</sup>	737	2.8	227	2.5	125	3.0	73	2.7	48	1.8
<b>DEPARTURE BELOW GUIDELINE</b>	<b>900</b>	<b>3.4</b>	<b>280</b>	<b>3.0</b>	<b>151</b>	<b>3.3</b>	<b>119</b>	<b>4.4</b>	<b>91</b>	<b>3.5</b>
Downward Departure from the Guideline Range <sup>2</sup>	637	2.4	208	2.2	110	2.7	71	2.6	59	2.3
Downward Departure with Booker/18 USC §3553 <sup>3</sup>	263	1.0	72	0.8	41	1.0	48	1.8	32	1.2
<b>OTHERWISE BELOW THE RANGE</b>	<b>2,597</b>	<b>9.7</b>	<b>942</b>	<b>10.2</b>	<b>288</b>	<b>7.5</b>	<b>286</b>	<b>10.5</b>	<b>300</b>	<b>11.5</b>
Below the Range with Booker/18 USC §3553 <sup>4</sup>	1,624	6.1	625	6.7	182	4.4	182	6.7	164	6.3
All Remaining Cases Below the Guideline Range <sup>5</sup>	973	3.7	317	3.4	106	2.6	104	3.8	136	5.2

<sup>1</sup>This table reflects the 27,613 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 July 12, 2005. Of this total, there are 966 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.

<sup>2</sup>All 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.

<sup>3</sup>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 *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>4</sup>All 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.

<sup>5</sup>Cases 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.

<sup>6</sup>Cases 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 July 12, 2005; table prepared on August 3, 2005). Cases with multiple guideline calculations are classified by the guideline with the highest offense level. Numbers may not sum to 100 percent due to rounding.

**OFFENDERS SENTENCED FOR EACH CHAPTER TWO GUIDELINE<sup>1</sup>**  
**Special Post-Booker Coding Project (Data Extracted 07/12/05)**

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2A1.1	61	0.2	67	0.2	2D1.8	25	0.1	49	0.2
2A1.2	13	0.1	17	0.1	2D1.9	0	0.0	0	0.0
2A1.3	4	0.0	4	0.0	2D1.10	12	0.0	13	0.0
2A1.4	18	0.1	18	0.1	2D1.11	75	0.3	88	0.3
2A1.5	4	0.0	12	0.0	2D1.12	18	0.1	33	0.1
2A2.1	9	0.0	19	0.1	2D1.13	0	0.0	0	0.0
2A2.2	145	0.6	165	0.6	2D2.1	158	0.6	198	0.7
2A2.3	14	0.1	16	0.1	2D2.2	11	0.0	14	0.0
2A2.4	46	0.2	56	0.2	2D2.3	1	0.0	1	0.0
2A3.1	64	0.2	68	0.2	2D3.1	3	0.0	3	0.0
2A3.2	72	0.3	85	0.3	2D3.2	0	0.0	0	0.0
2A3.3	3	0.0	4	0.0	2D3.3	0	0.0	0	0.0
2A3.4	15	0.1	20	0.1	2D3.4	0	0.0	0	0.0
2A4.1	25	0.1	32	0.1	2D3.5	0	0.0	0	0.0
2A4.2	1	0.0	1	0.0	2E1.1	14	0.1	48	0.2
2A5.1	0	0.0	0	0.0	2E1.2	7	0.0	45	0.2
2A5.2	0	0.0	0	0.0	2E1.3	0	0.0	7	0.0
2A5.3	0	0.0	0	0.0	2E1.4	6	0.0	7	0.0
2A6.1	64	0.2	68	0.2	2E1.5	0	0.0	0	0.0
2A6.2	3	0.0	7	0.0	2E2.1	16	0.1	20	0.1
2B1.1	2,711	10.6	2,963	10.5	2E3.1	50	0.2	61	0.2
2B1.2	0	0.0	0	0.0	2E3.2	0	0.0	0	0.0
2B1.3	2	0.0	2	0.0	2E3.3	0	0.0	0	0.0
2B1.4	0	0.0	0	0.0	2E4.1	14	0.1	23	0.1
2B1.5	4	0.0	4	0.0	2E5.1	9	0.0	12	0.0
2B2.1	23	0.1	25	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	752	2.9	798	2.8	2E5.5	0	0.0	0	0.0
2B3.2	19	0.1	31	0.1	2E5.6	0	0.0	0	0.0
2B3.3	7	0.0	12	0.0	2F1.1	533	2.1	572	2.0
2B4.1	25	0.1	25	0.1	2F1.2	2	0.0	2	0.0
2B5.1	166	0.6	179	0.6	2G1.1	36	0.1	65	0.2
2B5.2	0	0.0	0	0.0	2G1.2	0	0.0	0	0.0
2B5.3	57	0.2	66	0.2	2G1.3	9	0.0	9	0.0
2B5.4	0	0.0	0	0.0	2G2.1	38	0.1	46	0.2
2B6.1	7	0.0	7	0.0	2G2.2	187	0.7	197	0.7
2C1.1	88	0.3	99	0.4	2G2.3	0	0.0	0	0.0
2C1.2	10	0.0	10	0.0	2G2.4	179	0.7	204	0.7
2C1.3	2	0.0	2	0.0	2G2.5	1	0.0	1	0.0
2C1.4	1	0.0	1	0.0	2G3.1	8	0.0	9	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	18	0.1	18	0.1
2C1.7	11	0.0	14	0.0	2H1.2	0	0.0	0	0.0
2D1.1	9,468	36.9	9,931	35.2	2H1.3	0	0.0	0	0.0
2D1.2	129	0.5	136	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	5	0.0	6	0.0
2D1.5	10	0.0	10	0.0	2H3.1	3	0.0	4	0.0
2D1.6	12	0.0	72	0.3	2H3.2	0	0.0	0	0.0
2D1.7	6	0.0	7	0.0	2H3.3	4	0.0	7	0.0

(continued)

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Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2H4.1	4	0.0	4	0.0	2M3.9	0	0.0	0	0.0
2H4.2	0	0.0	0	0.0	2M4.1	0	0.0	0	0.0
2J1.1	0	0.0	10	0.0	2M5.1	2	0.0	2	0.0
2J1.2	53	0.2	74	0.3	2M5.2	11	0.0	12	0.0
2J1.3	26	0.1	39	0.1	2M6.1	5	0.0	5	0.0
2J1.4	6	0.0	12	0.0	2M6.2	1	0.0	1	0.0
2J1.5	1	0.0	1	0.0	2N1.1	0	0.0	0	0.0
2J1.6	20	0.1	31	0.1	2N1.2	1	0.0	1	0.0
2J1.7	58	0.2	61	0.2	2N1.3	0	0.0	0	0.0
2J1.8	0	0.0	0	0.0	2N2.1	15	0.1	29	0.1
2J1.9	0	0.0	0	0.0	2N3.1	1	0.0	3	0.0
2K1.1	3	0.0	3	0.0	2P1.1	90	0.4	103	0.4
2K1.2	0	0.0	0	0.0	2P1.2	38	0.1	48	0.2
2K1.3	18	0.1	19	0.1	2P1.3	7	0.0	7	0.0
2K1.4	15	0.1	20	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	14	0.1	16	0.1
2K1.7	0	0.0	0	0.0	2Q1.3	26	0.1	26	0.1
2K2.1	2,760	10.8	2,999	10.6	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	2	0.0	2Q2.1	44	0.2	46	0.2
2K2.5	5	0.0	6	0.0	2Q2.2	0	0.0	0	0.0
2K2.6	1	0.0	1	0.0	2R1.1	8	0.0	9	0.0
2K3.1	0	0.0	0	0.0	2S1.1	360	1.4	437	1.6
2K3.2	0	0.0	0	0.0	2S1.2	9	0.0	17	0.1
2L1.1	1,184	4.6	1,218	4.3	2S1.3	102	0.4	126	0.4
2L1.2	4,149	16.2	4,200	14.9	2S1.4	0	0.0	0	0.0
2L1.3	0	0.0	0	0.0	2T1.1	214	0.8	268	1.0
2L2.1	186	0.7	200	0.7	2T1.2	0	0.0	0	0.0
2L2.2	360	1.4	391	1.4	2T1.3	1	0.0	1	0.0
2L2.3	0	0.0	0	0.0	2T1.4	48	0.2	51	0.2
2L2.4	0	0.0	0	0.0	2T1.5	0	0.0	0	0.0
2L2.5	0	0.0	0	0.0	2T1.6	4	0.0	5	0.0
2M1.1	0	0.0	0	0.0	2T1.7	0	0.0	0	0.0
2M2.1	0	0.0	0	0.0	2T1.8	0	0.0	0	0.0
2M2.2	0	0.0	0	0.0	2T1.9	2	0.0	5	0.0
2M2.3	0	0.0	0	0.0	2T2.1	0	0.0	0	0.0
2M2.4	0	0.0	0	0.0	2T2.2	0	0.0	0	0.0
2M3.1	0	0.0	0	0.0	2T3.1	15	0.1	19	0.1
2M3.2	0	0.0	0	0.0	2T3.2	0	0.0	0	0.0
2M3.3	1	0.0	1	0.0	2T4.1	0	0.0	0	0.0
2M3.4	0	0.0	0	0.0	2X1.1	45	0.2	555	2.0
2M3.5	0	0.0	0	0.0	2X2.1	0	0.0	24	0.1
2M3.6	0	0.0	0	0.0	2X3.1	49	0.2	55	0.2
2M3.7	0	0.0	0	0.0	2X4.1	170	0.7	178	0.6
2M3.8	0	0.0	0	0.0	2X5.1	0	0.0	20	0.1
<b>Total number of guidelines applied:</b>						<b>28,193</b>			
<b>Number of cases with at least one guideline applied:</b>						<b>25,659</b>			

10 of the 27,613 cases, 1,954 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.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted July 12, 2005; table prepared August 3, 2005). Percents may not sum to 100 percent due to rounding.

**GUIDELINE OFFENDERS IN EACH CIRCUIT AND DISTRICT**  
**Special Post-Booker Coding Project (Data Extracted 07/12/05)**

<b>CIRCUIT</b>			<b>CIRCUIT</b>		
District	Number	Percent	District	Number	Percent
<b>TOTAL</b>	<b>27,613</b>	<b>100.0</b>			
<b>D.C. CIRCUIT</b>	<b>231</b>	<b>0.8</b>	<b>FIFTH CIRCUIT</b>	<b>6,170</b>	<b>22.3</b>
District of Columbia	231	0.8	Louisiana		
			Eastern	125	0.5
			Middle	80	0.3
<b>FIRST CIRCUIT</b>	<b>657</b>	<b>2.4</b>	Western	193	0.7
Maine	107	0.4	Mississippi		
Massachusetts	212	0.8	Northern	87	0.3
New Hampshire	83	0.3	Southern	184	0.7
Puerto Rico	205	0.7	Texas		
Rhode Island	50	0.2	Eastern	353	1.3
			Northern	395	1.4
<b>SECOND CIRCUIT</b>	<b>1,318</b>	<b>4.8</b>	Southern	2,723	9.9
Connecticut	152	0.6	Western	2,030	7.4
New York					
Eastern	521	1.9	<b>SIXTH CIRCUIT</b>	<b>2,081</b>	<b>7.5</b>
Northern	153	0.6	Kentucky		
Southern	134	0.5	Eastern	182	0.7
Western	272	1.0	Western	165	0.6
Vermont	86	0.3	Michigan		
			Eastern	281	1.0
<b>THIRD CIRCUIT</b>	<b>1,429</b>	<b>5.2</b>	Western	161	0.6
Delaware	80	0.3	Ohio		
New Jersey	434	1.6	Northern	356	1.3
Pennsylvania			Southern	258	0.9
Eastern	435	1.6	Tennessee		
Middle	276	1.0	Eastern	283	1.0
Western	166	0.6	Middle	125	0.5
Virgin Islands	38	0.1	Western	270	1.0
<b>FOURTH CIRCUIT</b>	<b>2,543</b>	<b>9.2</b>	<b>SEVENTH CIRCUIT</b>	<b>1,250</b>	<b>4.5</b>
Maryland	301	1.1	Illinois		
North Carolina			Central	181	0.7
Eastern	255	0.9	Northern	435	1.6
Middle	188	0.7	Southern	106	0.4
Western	190	0.7	Indiana		
South Carolina	462	1.7	Northern	186	0.7
Virginia			Southern	111	0.4
Eastern	597	2.2	Wisconsin		
Western	276	1.0	Eastern	151	0.5
West Virginia			Western	80	0.3
Northern	120	0.4			
Southern	154	0.6			

(continued)

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<b>CIRCUIT</b>			<b>CIRCUIT</b>		
District	Number	Percent	District	Number	Percent
<b>EIGHTH CIRCUIT</b>	<b>2,057</b>	<b>7.4</b>	<b>TENTH CIRCUIT</b>	<b>2,143</b>	<b>7.8</b>
Arkansas			Colorado	258	0.9
Eastern	110	0.4	Kansas	283	1.0
Western	77	0.3	New Mexico	937	3.4
Iowa			Oklahoma		
Northern	154	0.6	Eastern	48	0.2
Southern	160	0.6	Northern	72	0.3
Minnesota	208	0.8	Western	98	0.4
Missouri			Utah	363	1.3
Eastern	421	1.5	Wyoming	84	0.3
Western	267	1.0			
Nebraska	389	1.4	<b>ELEVENTH CIRCUIT</b>	<b>2,538</b>	<b>9.2</b>
North Dakota	84	0.3	Alabama		
South Dakota	187	0.7	Middle	74	0.3
			Northern	157	0.6
<b>NINTH CIRCUIT</b>	<b>5,196</b>	<b>18.8</b>	Southern	105	0.4
Alaska	97	0.4	Florida		
Arizona	1,676	6.1	Middle	737	2.7
California			Northern	138	0.5
Central	404	1.5	Southern	750	2.7
Eastern	361	1.3	Georgia		
Northern	270	1.0	Middle	157	0.6
Southern	991	3.6	Northern	257	0.9
Guam	24	0.1	Southern	163	0.6
Hawaii	201	0.7			
Idaho	93	0.3			
Montana	170	0.6			
Nevada	184	0.7			
Northern Mariana Islands	13	0.0			
Oregon	220	0.8			
Washington					
Eastern	176	0.6			
Western	316	1.1			

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted July 12, 2005; table prepared August 3, 2005). Percents may not sum to 100 percent due to rounding.

## Guideline Application Trends, National and Circuit

Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>

(Post-Booker data extracted July 12, 2005)

### NATIONAL

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	64.5%	64.0%	65.0%	69.4%	61.3%
Upward Departures	0.7%	0.6%	0.8%	0.8%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.1% <sup>3</sup>
Substantial Assistance Departures	17.9%	17.1%	17.4%	15.9%	14.9%
Other Gov't Sponsored Departures	—	—	—	6.3% <sup>4</sup>	9.2% <sup>4</sup>
Other Downward Departures	17.0% <sup>5</sup>	18.3% <sup>5</sup>	16.8% <sup>5</sup>	7.5%	3.4% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.7% <sup>3</sup>

### DC CIRCUIT

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	69.4%	74.6%	59.9%	64.6%	55.3%
Upward Departures	0.3%	0.4%	0.5%	0.2%	0.0% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.9% <sup>3</sup>
Substantial Assistance Departures	19.3%	13.8%	31.1%	26.4%	23.2%
Other Gov't Sponsored Departures	—	—	—	4.4% <sup>4</sup>	7.9% <sup>4</sup>
Other Downward Departures	11.0% <sup>5</sup>	11.2% <sup>5</sup>	8.5% <sup>5</sup>	4.4%	3.1% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.6% <sup>3</sup>

### FIRST CIRCUIT

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	69.9%	73.3%	75.7%	77.3%	62.1%
Upward Departures	0.8%	0.4%	0.6%	0.7%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	2.4% <sup>3</sup>
Substantial Assistance Departures	15.9%	14.6%	14.4%	13.5%	11.8%
Other Gov't Sponsored Departures	—	—	—	0.7% <sup>4</sup>	2.9% <sup>4</sup>
Other Downward Departures	13.4% <sup>5</sup>	11.7% <sup>5</sup>	9.3% <sup>5</sup>	7.8%	4.1% <sup>2</sup>
Otherwise Below Range	—	—	—	—	16.5% <sup>3</sup>

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**Guideline Application Trends, National and Circuit**Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>**SECOND CIRCUIT**

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	55.9%	57.5%	61.3%	63.2%	47.0%
Upward Departures	0.7%	0.4%	0.6%	0.5%	0.1% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.8% <sup>3</sup>
Substantial Assistance Departures	23.9%	21.7%	19.0%	17.5%	23.2%
Other Gov't Sponsored Departures	—	—	—	2.8% <sup>4</sup>	3.1% <sup>4</sup>
Other Downward Departures	19.6% <sup>5</sup>	20.4% <sup>5</sup>	19.1% <sup>5</sup>	16.0%	7.9% <sup>2</sup>
Otherwise Below Range	—	—	—	—	17.9% <sup>3</sup>

**THIRD CIRCUIT**

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	59.7%	60.2%	58.9%	62.3%	50.7%
Upward Departures	0.7%	0.5%	0.9%	0.9%	2.9% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.4% <sup>3</sup>
Substantial Assistance Departures	30.5%	30.6%	32.3%	28.8%	28.0%
Other Gov't Sponsored Departures	—	—	—	0.6% <sup>4</sup>	1.5% <sup>4</sup>
Other Downward Departures	9.1% <sup>5</sup>	8.8% <sup>5</sup>	7.9% <sup>5</sup>	7.4%	4.0% <sup>2</sup>
Otherwise Below Range	—	—	—	—	14.2% <sup>3</sup>

**FOURTH CIRCUIT**

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	73.4%	73.7%	76.6%	77.0%	65.7%
Upward Departures	0.8%	0.9%	0.7%	0.6%	0.4% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.7% <sup>3</sup>
Substantial Assistance Departures	20.9%	20.2%	18.6%	18.3%	19.1%
Other Gov't Sponsored Departures	—	—	—	0.3% <sup>4</sup>	1.5% <sup>4</sup>
Other Downward Departures	5.0% <sup>5</sup>	5.2% <sup>5</sup>	4.2% <sup>5</sup>	3.8%	2.5% <sup>2</sup>
Otherwise Below Range	—	—	—	—	10.0% <sup>3</sup>

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**Guideline Application, National and Circuit**  
Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>

**FIFTH CIRCUIT**

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	72.3%	69.1%	71.0%	73.7%	71.0%
Upward Departures	0.5%	0.5%	0.9%	0.9%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.5% <sup>3</sup>
Substantial Assistance Departures	13.6%	12.3%	13.4%	12.5%	8.3%
Other Gov't Sponsored Departures	—	—	—	5.4% <sup>4</sup>	8.9% <sup>4</sup>
Other Downward Departures	13.6% <sup>5</sup>	18.1% <sup>5</sup>	14.7% <sup>5</sup>	7.5%	2.7% <sup>2</sup>
Otherwise Below Range	—	—	—	—	7.2% <sup>3</sup>

**SIXTH CIRCUIT**

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	67.2%	65.1%	66.9%	69.1%	59.7%
Upward Departures	0.6%	0.5%	0.8%	0.4%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.1% <sup>3</sup>
Substantial Assistance Departures	24.4%	27.2%	26.0%	24.6%	24.0%
Other Gov't Sponsored Departures	—	—	—	0.5% <sup>4</sup>	1.9% <sup>4</sup>
Other Downward Departures	7.7% <sup>5</sup>	7.3% <sup>5</sup>	6.3% <sup>5</sup>	5.3%	2.3% <sup>2</sup>
Otherwise Below Range	—	—	—	—	10.7% <sup>3</sup>

**SEVENTH CIRCUIT**

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	69.5%	71.0%	69.3%	72.5%	61.6%
Upward Departures	1.1%	1.0%	0.8%	1.0%	0.6% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.0% <sup>3</sup>
Substantial Assistance Departures	21.7%	21.2%	21.8%	21.2%	18.2%
Other Gov't Sponsored Departures	—	—	—	0.8% <sup>4</sup>	2.2% <sup>4</sup>
Other Downward Departures	7.7% <sup>5</sup>	6.9% <sup>5</sup>	8.1% <sup>5</sup>	4.5%	3.6% <sup>2</sup>
Otherwise Below Range	—	—	—	—	12.8% <sup>3</sup>

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## Guideline Application Trends By Circuit

Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>

### EIGHTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	65.4%	66.8%	69.3%	72.2%	63.3%
Upward Departures	1.2%	0.7%	1.2%	1.1%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.5% <sup>3</sup>
Substantial Assistance Departures	23.1%	22.0%	18.9%	17.6%	15.3%
Other Gov't Sponsored Departures	—	—	—	2.0% <sup>4</sup>	4.5% <sup>4</sup>
Other Downward Departures	10.3% <sup>5</sup>	10.5% <sup>5</sup>	10.7% <sup>5</sup>	7.1%	3.6% <sup>2</sup>
Otherwise Below Range	—	—	—	—	11.6% <sup>3</sup>

### NINTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	49.9%	50.1%	48.8%	59.6%	49.1%
Upward Departures	0.6%	0.4%	0.7%	1.1%	0.4% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.7% <sup>3</sup>
Substantial Assistance Departures	11.6%	10.7%	11.8%	10.2%	10.5%
Other Gov't Sponsored Departures	—	—	—	19.2% <sup>4</sup>	27.4% <sup>4</sup>
Other Downward Departures	37.9% <sup>5</sup>	38.7% <sup>5</sup>	38.7% <sup>5</sup>	9.9%	3.7% <sup>2</sup>
Otherwise Below Range	—	—	—	—	8.2% <sup>3</sup>

### TENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	69.9%	65.0%	66.6%	73.1%	66.2%
Upward Departures	0.4%	0.7%	0.6%	0.6%	0.1% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.6% <sup>3</sup>
Substantial Assistance Departures	10.9%	11.0%	11.0%	9.4%	10.6%
Other Gov't Sponsored Departures	—	—	—	11.4% <sup>4</sup>	12.5% <sup>4</sup>
Other Downward Departures	18.8% <sup>5</sup>	23.3% <sup>5</sup>	21.9% <sup>5</sup>	5.5%	3.1% <sup>2</sup>
Otherwise Below Range	—	—	—	—	6.8% <sup>3</sup>

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## Guideline Application Trends By Circuit

Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>

### ELEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	71.0%	72.1	70.2%	74.5%	66.5%
Upward Departures	0.7%	0.6%	0.7%	0.8%	0.7% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.5% <sup>3</sup>
Substantial Assistance Departures	21.4%	19.9%	22.4%	19.9%	18.1%
Other Gov't Sponsored Departures	—	—	—	0.3% <sup>4</sup>	1.1% <sup>4</sup>
Other Downward Departures	6.9% <sup>5</sup>	7.5% <sup>5</sup>	6.7% <sup>5</sup>	4.5%	3.0% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.1% <sup>3</sup>

<sup>1</sup>In 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 FY2000, 2001, and 2002 on “Other Downward Departures” includes both government initiated and non-government initiated downward departures. For FY2003, 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 FY2005, this table reflects 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 July 12, 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.

<sup>2</sup>Includes 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.

<sup>3</sup>Includes 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.

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<sup>4</sup>Cases 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.

<sup>5</sup>Includes 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, FY2000 through FY2003, Table 26; Special Post-Booker Coding Project, BOOKER05 (data extracted July 12, 2005; table prepared August 3, 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 1999-2003 and Post-Booker Fiscal Year 2005 (data extracted July 12, 2005)

	FY 1999		FY 2000		FY 2001		FY 2002		FY 2003		Post-Booker	
	N	%	N	%	N	%	N	%	N	%	N	%
<b>Drug Trafficking §2D1.1<sup>1</sup></b>	20,763	100.0	21,715	100.0	22,608	100.0	24,013	100.0	23,833	100.0	9,164	100.0
Prison only <sup>2</sup>	19,406	93.5	20,422	94.0	21,143	93.5	22,407	93.3	22,455	94.2	8,672	94.6
Prison plus confinement conditions <sup>3</sup>	481	2.3	430	2.0	469	2.1	515	2.1	402	1.7	191	2.1
Probation plus confinement conditions <sup>4</sup>	400	1.9	379	1.7	488	2.2	465	1.9	469	2.0	129	1.4
Probation only <sup>5</sup>	476	2.3	484	2.2	508	2.2	626	2.6	507	2.1	172	1.9
<b>Immigration Unlawful Entry §2L1.2<sup>1</sup></b>	5,547	100.0	6,341	100.0	5,946	100.0	6,993	100.0	9,167	100.0	4,107	100.0
Prison only <sup>2</sup>	5,495	99.1	6,291	99.2	5,901	99.2	6,952	99.4	9,132	99.6	4,065	99.0
Prison plus confinement conditions <sup>3</sup>	13	0.2	10	0.2	14	0.2	7	0.1	11	0.1	8	0.2
Probation plus confinement conditions <sup>4</sup>	2	0.0	1	0.0	1	0.0	0	0.0	2	0.0	1	0.0
Probation only <sup>5</sup>	37	0.7	39	0.6	30	0.5	34	0.5	22	0.2	33	0.8
<b>Firearms §2K2.1<sup>1</sup></b>	2,218	100.0	2,997	100.0	3,629	100.0	4,173	100.0	5,425	100.0	2,623	100.0
Prison only <sup>2</sup>	1,976	89.1	2,604	86.9	3,177	87.5	3,680	88.2	4,779	88.1	2,336	89.1
Prison plus confinement conditions <sup>3</sup>	82	3.7	104	3.5	141	3.9	158	3.8	174	3.2	83	3.2
Probation plus confinement conditions <sup>4</sup>	87	3.9	147	4.9	155	4.3	139	3.3	224	4.1	99	3.8
Probation only <sup>5</sup>	73	3.3	142	4.7	156	4.3	196	4.7	248	4.6	105	4.0
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>1</sup></b>	8,979	100.0	9,015	100.0	8,768	100.0	9,243	100.0	9,606	100.0	3,086	100.0
Prison only <sup>2</sup>	4,101	45.7	4,253	47.2	4,339	49.5	4,531	49.0	4,803	50.0	1,668	54.1
Prison plus confinement conditions <sup>3</sup>	1,069	11.9	1,077	11.9	1,053	12.0	959	10.4	840	8.7	284	9.2
Probation plus confinement conditions <sup>4</sup>	1,543	17.2	1,540	17.1	1,481	16.9	1,421	15.4	1,463	15.2	385	12.5
Probation only <sup>5</sup>	2,266	25.2	2,145	23.8	1,895	21.6	2,332	25.2	2,500	26.0	749	24.3

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

<sup>2</sup>Prison only cases receive straight prison time.

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

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

<sup>5</sup>Probation only cases receive straight probation time.

SOURCE: U.S. Sentencing Commission, 1999-2003 Fiscal Year Datafiles, USSCFY99-USSCFY03; Special Post-Booker Coding Project BOOKER05 (data extraction on July 12, 2005; table prepared August 3, 2005).

## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 1999 and Fiscal Year 2000

	Fiscal Year 1999				Fiscal Year 2000			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>51</b>	<b>30</b>		<b>48,611</b>	<b>50</b>	<b>30</b>		<b>51,342</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>71</b>	<b>48</b>	<b>60</b>	<b>20,763</b>	<b>72</b>	<b>50</b>	<b>60</b>	<b>21,715</b>
Prison only <sup>5</sup>	74	51	60	19,406	74	57	63	20,422
Prison plus confinement conditions <sup>6</sup>	26	10	18	481	21	10	21	430
Probation plus confinement conditions <sup>7</sup>	6	6	12	400	6	6	12	379
Probation only <sup>8</sup>	0	0	—	476	0	0	—	484
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>35</b>	<b>30</b>	<b>46</b>	<b>5,547</b>	<b>36</b>	<b>33</b>	<b>46</b>	<b>6,341</b>
Prison only <sup>5</sup>	35	30	46	5,495	36	33	33	6,291
Prison plus confinement conditions <sup>6</sup>	33	33	70	13	21	10	10	10
Probation plus confinement conditions <sup>7</sup>	—	—	—	2	—	—	—	1
Probation only <sup>8</sup>	0	0	—	37	0	0	—	39
<b>Firearms §2K2.1<sup>4</sup></b>	<b>58</b>	<b>37</b>	<b>37</b>	<b>2,218</b>	<b>53</b>	<b>37</b>	<b>37</b>	<b>2,997</b>
Prison only <sup>5</sup>	62	41	41	1,976	57	37	41	2,604
Prison plus confinement conditions <sup>6</sup>	21	10	12	82	23	10	12	104
Probation plus confinement conditions <sup>7</sup>	6	6	12	87	7	6	12	147
Probation only <sup>8</sup>	0	0	—	73	0	0	—	142
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>14</b>	<b>10</b>	<b>10</b>	<b>8,979</b>	<b>14</b>	<b>10</b>	<b>10</b>	<b>9,015</b>
Prison only <sup>5</sup>	18	14	15	4,101	19	15	15	4,253
Prison plus confinement conditions <sup>6</sup>	9	8	8	1,069	9	8	8	1,077
Probation plus confinement conditions <sup>7</sup>	5	6	6	1,543	5	6	6	1,540
Probation only <sup>8</sup>	0	0	—	2,266	0	0	—	2,145

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

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All 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.

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

<sup>5</sup>Prison only sentence categories report straight prison time.

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

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

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

## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 2001 and Fiscal Year 2002

	Fiscal Year 2001				Fiscal Year 2002			
	Average Months	Median Months	Lower GL <sup>2</sup>	N	Average Months	Median Months	Lower GL <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>50</b>	<b>30</b>		<b>51,809</b>	<b>51</b>	<b>30</b>		<b>55,856</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>70</b>	<b>48</b>	<b>60</b>	<b>22,608</b>	<b>71</b>	<b>51</b>	<b>60</b>	<b>24,013</b>
Prison only <sup>5</sup>	72	51	60	21,143	74	57	57	22,407
Prison plus confinement conditions <sup>6</sup>	29	10	18	469	22	10	10	515
Probation plus confinement conditions <sup>7</sup>	6	6	12	488	6	6	6	465
Probation only <sup>8</sup>	0	0	—	508	0	0	—	626
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>35</b>	<b>30</b>	<b>46</b>	<b>5,946</b>	<b>30</b>	<b>27</b>	<b>30</b>	<b>6,993</b>
Prison only <sup>5</sup>	35	30	46	5,901	30	27	30	6,952
Prison plus confinement conditions <sup>6</sup>	20	10	12	14	20	10	10	7
Probation plus confinement conditions <sup>7</sup>	—	—	—	1	—	—	—	0
Probation only <sup>8</sup>	0	0	—	30	0	0	—	34
<b>Firearms §2K2.1<sup>4</sup></b>	<b>52</b>	<b>37</b>	<b>37</b>	<b>3,629</b>	<b>53</b>	<b>37</b>	<b>37</b>	<b>4,173</b>
Prison only <sup>5</sup>	56	40	41	3,177	57	37	37	3,680
Prison plus confinement conditions <sup>6</sup>	22	10	15	141	18	10	12	158
Probation plus confinement conditions <sup>7</sup>	6	6	12	155	6	6	12	139
Probation only <sup>8</sup>	0	0	—	156	0	0	—	196
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>15</b>	<b>10</b>	<b>12</b>	<b>8,768</b>	<b>16</b>	<b>10</b>	<b>12</b>	<b>9,243</b>
Prison only <sup>5</sup>	20	15	15	4,339	20	15	15	4,531
Prison plus confinement conditions <sup>6</sup>	9	8	8	1,053	9	10	10	959
Probation plus confinement conditions <sup>7</sup>	5	6	6	1,481	6	6	6	1,421
Probation only <sup>8</sup>	0	0	—	1,895	0	0	—	2,332

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

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All 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.

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

<sup>5</sup>Prison only sentence categories report straight prison time.

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

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

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

SOURCE: U.S. Sentencing Commission, 2001 and 2002 Fiscal Year Datafiles, USSCFY01 and USSCFY02.

## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 2003 and Post-Booker Fiscal Year 2005 (data extracted July 12, 2005)

	Fiscal Year 2003				Post-Booker FY2005			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>52</b>	<b>30</b>		<b>60,786</b>	<b>55</b>	<b>33</b>		<b>24,241</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>77</b>	<b>57</b>	<b>63</b>	<b>23,833</b>	<b>82</b>	<b>60</b>	<b>70</b>	<b>9,164</b>
Prison only <sup>5</sup>	79	60	70	22,455	84	60	70	8,672
Prison plus confinement conditions <sup>6</sup>	20	10	15	402	19	10	21	191
Probation plus confinement conditions <sup>7</sup>	6	6	12	469	6	6	15	129
Probation only <sup>8</sup>	0	0	—	507	0	0	—	172
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>28</b>	<b>24</b>	<b>27</b>	<b>9,167</b>	<b>28</b>	<b>24</b>	<b>30</b>	<b>4,107</b>
Prison only <sup>5</sup>	28	24	27	9,132	29	24	30	4,065
Prison plus confinement conditions <sup>6</sup>	22	10	10	11	10	10	13	8
Probation plus confinement conditions <sup>7</sup>	—	—	—	2	—	—	—	1
Probation only <sup>8</sup>	0	0	—	22	0	0	—	33
<b>Firearms §2K2.1<sup>4</sup></b>	<b>56</b>	<b>37</b>	<b>37</b>	<b>5,425</b>	<b>58</b>	<b>37</b>	<b>37</b>	<b>2,623</b>
Prison only <sup>5</sup>	59	41	41	4,779	61	41	41	2,336
Prison plus confinement conditions <sup>6</sup>	21	10	12	174	30	12	12	83
Probation plus confinement conditions <sup>7</sup>	6	6	12	224	6	6	10	99
Probation only <sup>8</sup>	0	0	—	248	0	0	—	105
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>16</b>	<b>12</b>	<b>12</b>	<b>9,606</b>	<b>20</b>	<b>12</b>	<b>15</b>	<b>3,086</b>
Prison only <sup>5</sup>	21	16	18	4,803	25	18	18	1,668
Prison plus confinement conditions <sup>6</sup>	9	10	10	840	10	10	10	284
Probation plus confinement conditions <sup>7</sup>	6	6	6	1,463	6	6	6	385
Probation only <sup>8</sup>	0	0	—	2,500	0	0	—	749

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

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All 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.

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

<sup>5</sup>Prison only sentence categories report straight prison time.

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

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

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

SOURCE: U.S. Sentencing Commission, 2003 Fiscal Year Datafile, USSCFY03; Special Post-Booker Coding Project BOOKER05 (data extraction on July 12, 2005; table prepared August 3, 2005).