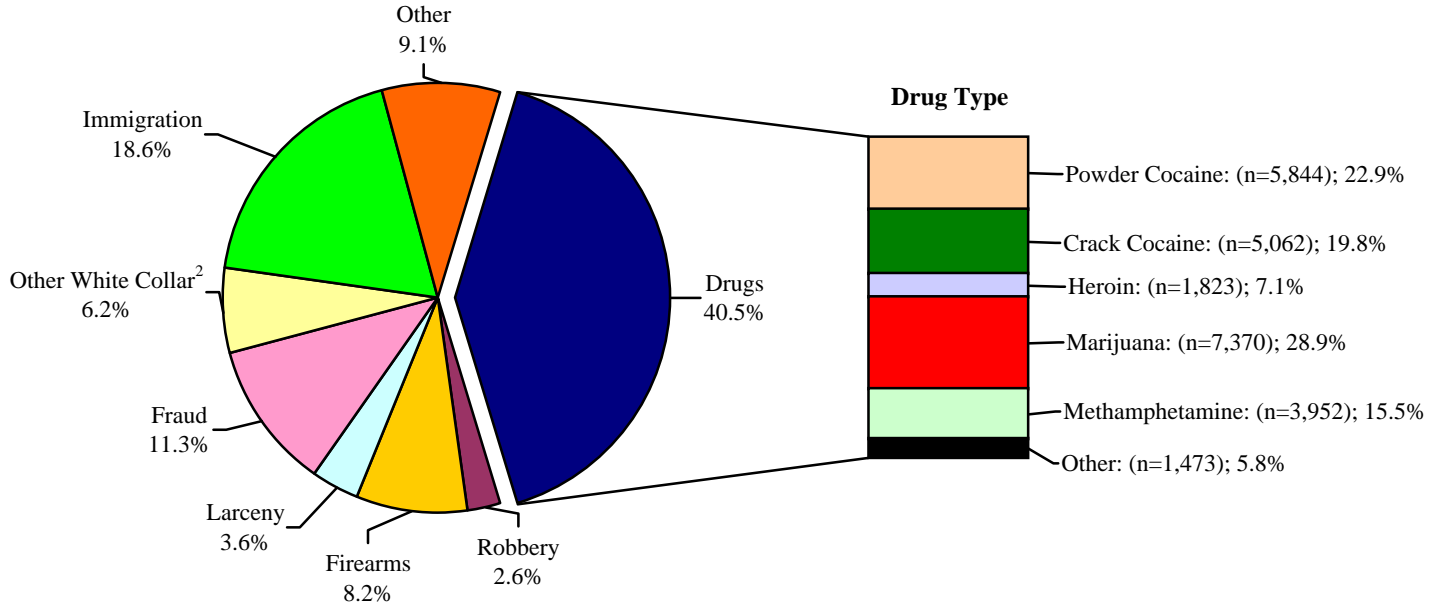


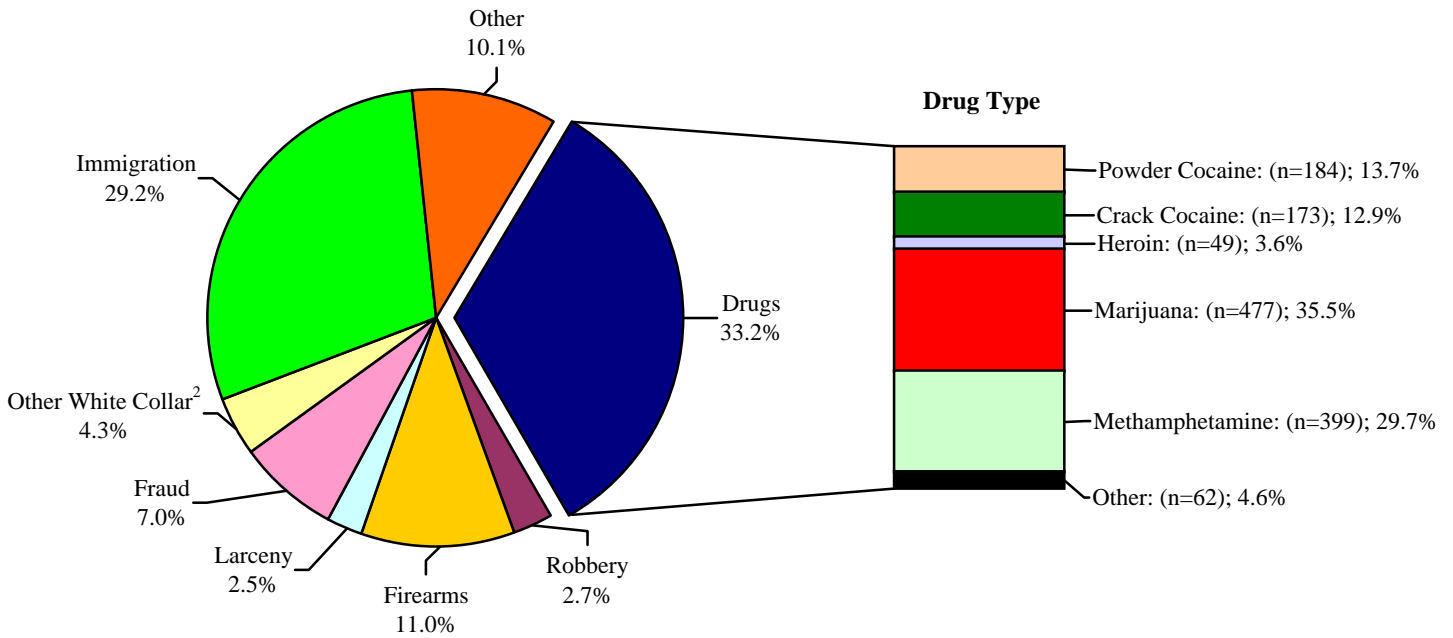
**Figure A**

**DISTRIBUTION OF SENTENCED GUIDELINE OFFENDERS BY SELECT PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Fiscal Year 2002**

**National**



**Tenth Circuit**



<sup>1</sup>Of the 64,366 guideline cases, 1,296 cases were excluded due to one of the following reasons: missing primary offense category (393) or missing drug type (903). Of the 4,122 guideline cases from the Tenth Circuit, 72 cases were excluded due to one of the following reasons: missing primary offense category (12) or missing drug type (60).

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

**Table 1**

**DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2002**

| PRIMARY OFFENSE                    | National      |              | Tenth Circuit |              |
|------------------------------------|---------------|--------------|---------------|--------------|
|                                    | Number        | Percent      | Number        | Percent      |
| <b>TOTAL</b>                       | <b>63,973</b> | <b>100.0</b> | <b>4,110</b>  | <b>100.0</b> |
| Murder                             | 84            | 0.1          | 9             | 0.2          |
| Manslaughter                       | 59            | 0.1          | 8             | 0.2          |
| Kidnapping/Hostage Taking          | 66            | 0.1          | 1             | 0.0          |
| Sexual Abuse                       | 212           | 0.3          | 41            | 1.0          |
| Assault                            | 492           | 0.8          | 63            | 1.5          |
| Robbery                            | 1,632         | 2.6          | 108           | 2.6          |
| Arson                              | 65            | 0.1          | 2             | 0.0          |
| Drugs - Trafficking                | 25,376        | 39.7         | 1,287         | 31.3         |
| Drugs - Communication Facility     | 459           | 0.7          | 42            | 1.0          |
| Drugs - Simple Possession          | 592           | 0.9          | 75            | 1.8          |
| Firearms                           | 5,180         | 8.1          | 447           | 10.9         |
| Burglary/B&E                       | 43            | 0.1          | 1             | 0.0          |
| Auto Theft                         | 162           | 0.3          | 3             | 0.1          |
| Larceny                            | 2,251         | 3.5          | 103           | 2.5          |
| Fraud                              | 7,108         | 11.1         | 284           | 6.9          |
| Embezzlement                       | 734           | 1.1          | 45            | 1.1          |
| Forgery/Counterfeiting             | 1,466         | 2.3          | 87            | 2.1          |
| Bribery                            | 168           | 0.3          | 3             | 0.1          |
| Tax                                | 622           | 1.0          | 23            | 0.6          |
| Money Laundering                   | 940           | 1.5          | 15            | 0.4          |
| Racketeering/Extortion             | 828           | 1.3          | 33            | 0.8          |
| Gambling/Lottery                   | 104           | 0.2          | 3             | 0.1          |
| Civil Rights                       | 93            | 0.1          | 2             | 0.0          |
| Immigration                        | 11,736        | 18.3         | 1,183         | 28.8         |
| Pornography/Prostitution           | 665           | 1.0          | 50            | 1.2          |
| Prison Offenses                    | 320           | 0.5          | 28            | 0.7          |
| Administration of Justice Offenses | 1,107         | 1.7          | 79            | 1.9          |
| Environmental/Wildlife             | 140           | 0.2          | 12            | 0.3          |
| National Defense                   | 10            | 0.0          | 0             | 0.0          |
| Antitrust                          | 17            | 0.0          | 0             | 0.0          |
| Food & Drug                        | 91            | 0.1          | 2             | 0.0          |
| Other Miscellaneous Offenses       | 1,151         | 1.8          | 71            | 1.7          |

Of the 64,366 guideline cases, 393 cases were excluded due to missing information on primary offense category.

Of the 4,122 guideline cases from the Tenth Circuit, 12 cases were excluded due to missing information on primary offense category.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2002 Datafile, OPAFY02.

Table 2

**MODE OF CONVICTION BY CIRCUIT AND DISTRICT  
Fiscal Year 2002**

| CIRCUIT<br>District   | TOTAL         | PLEA          |             | TRIAL        |            |
|-----------------------|---------------|---------------|-------------|--------------|------------|
|                       |               | Number        | Percent     | Number       | Percent    |
| <b>TOTAL</b>          | <b>63,996</b> | <b>62,145</b> | <b>97.1</b> | <b>1,851</b> | <b>2.9</b> |
| <b>D.C. CIRCUIT</b>   | <b>420</b>    | <b>398</b>    | <b>94.8</b> | <b>22</b>    | <b>5.2</b> |
| District of Columbia  | 420           | 398           | 94.8        | 22           | 5.2        |
| <b>FIRST CIRCUIT</b>  | <b>2,013</b>  | <b>1,945</b>  | <b>96.6</b> | <b>68</b>    | <b>3.4</b> |
| Maine                 | 218           | 210           | 96.3        | 8            | 3.7        |
| Massachusetts         | 619           | 603           | 97.4        | 16           | 2.6        |
| New Hampshire         | 130           | 123           | 94.6        | 7            | 5.4        |
| Puerto Rico           | 897           | 867           | 96.7        | 30           | 3.3        |
| Rhode Island          | 149           | 142           | 95.3        | 7            | 4.7        |
| <b>SECOND CIRCUIT</b> | <b>4,658</b>  | <b>4,511</b>  | <b>96.8</b> | <b>147</b>   | <b>3.2</b> |
| Connecticut           | 332           | 324           | 97.6        | 8            | 2.4        |
| New York              |               |               |             |              |            |
| Eastern               | 1,711         | 1,674         | 97.8        | 37           | 2.2        |
| Northern              | 391           | 380           | 97.2        | 11           | 2.8        |
| Southern              | 1,596         | 1,523         | 95.4        | 73           | 4.6        |
| Western               | 451           | 433           | 96.0        | 18           | 4.0        |
| Vermont               | 177           | 177           | 100.0       | 0            | 0.0        |
| <b>THIRD CIRCUIT</b>  | <b>2,761</b>  | <b>2,656</b>  | <b>96.2</b> | <b>105</b>   | <b>3.8</b> |
| Delaware              | 85            | 84            | 98.8        | 1            | 1.2        |
| New Jersey            | 831           | 817           | 98.3        | 14           | 1.7        |
| Pennsylvania          |               |               |             |              |            |
| Eastern               | 976           | 915           | 93.8        | 61           | 6.3        |
| Middle                | 440           | 432           | 98.2        | 8            | 1.8        |
| Western               | 342           | 332           | 97.1        | 10           | 2.9        |
| Virgin Islands        | 87            | 76            | 87.4        | 11           | 12.6       |
| <b>FOURTH CIRCUIT</b> | <b>5,726</b>  | <b>5,491</b>  | <b>95.9</b> | <b>235</b>   | <b>4.1</b> |
| Maryland              | 524           | 487           | 92.9        | 37           | 7.1        |
| North Carolina        |               |               |             |              |            |
| Eastern               | 603           | 586           | 97.2        | 17           | 2.8        |
| Middle                | 445           | 425           | 95.5        | 20           | 4.5        |
| Western               | 591           | 572           | 96.8        | 19           | 3.2        |
| South Carolina        | 1,018         | 989           | 97.2        | 29           | 2.8        |
| Virginia              |               |               |             |              |            |
| Eastern               | 1,615         | 1,545         | 95.7        | 70           | 4.3        |
| Western               | 400           | 378           | 94.5        | 22           | 5.5        |
| West Virginia         |               |               |             |              |            |
| Northern              | 268           | 260           | 97.0        | 8            | 3.0        |
| Southern              | 262           | 249           | 95.0        | 13           | 5.0        |

| CIRCUIT<br>District    | TOTAL         | PLEA          |             | TRIAL      |            |
|------------------------|---------------|---------------|-------------|------------|------------|
|                        |               | Number        | Percent     | Number     | Percent    |
| <b>FIFTH CIRCUIT</b>   | <b>12,603</b> | <b>12,340</b> | <b>97.9</b> | <b>263</b> | <b>2.1</b> |
| Louisiana              |               |               |             |            |            |
| Eastern                | 375           | 366           | 97.6        | 9          | 2.4        |
| Middle                 | 114           | 109           | 95.6        | 5          | 4.4        |
| Western                | 360           | 347           | 96.4        | 13         | 3.6        |
| Mississippi            |               |               |             |            |            |
| Northern               | 165           | 161           | 97.6        | 4          | 2.4        |
| Southern               | 363           | 351           | 96.7        | 12         | 3.3        |
| Texas                  |               |               |             |            |            |
| Eastern                | 628           | 616           | 98.1        | 12         | 1.9        |
| Northern               | 1,038         | 1,012         | 97.5        | 26         | 2.5        |
| Southern               | 4,582         | 4,488         | 97.9        | 94         | 2.1        |
| Western                | 4,978         | 4,890         | 98.2        | 88         | 1.8        |
| <b>SIXTH CIRCUIT</b>   | <b>4,731</b>  | <b>4,572</b>  | <b>96.6</b> | <b>159</b> | <b>3.4</b> |
| Kentucky               |               |               |             |            |            |
| Eastern                | 472           | 460           | 97.5        | 12         | 2.5        |
| Western                | 437           | 422           | 96.6        | 15         | 3.4        |
| Michigan               |               |               |             |            |            |
| Eastern                | 768           | 733           | 95.4        | 35         | 4.6        |
| Western                | 390           | 372           | 95.4        | 18         | 4.6        |
| Ohio                   |               |               |             |            |            |
| Northern               | 868           | 842           | 97.0        | 26         | 3.0        |
| Southern               | 392           | 387           | 98.7        | 5          | 1.3        |
| Tennessee              |               |               |             |            |            |
| Eastern                | 622           | 601           | 96.6        | 21         | 3.4        |
| Middle                 | 322           | 313           | 97.2        | 9          | 2.8        |
| Western                | 460           | 442           | 96.1        | 18         | 3.9        |
| <b>SEVENTH CIRCUIT</b> | <b>2,806</b>  | <b>2,667</b>  | <b>95.0</b> | <b>139</b> | <b>5.0</b> |
| Illinois               |               |               |             |            |            |
| Central                | 347           | 338           | 97.4        | 9          | 2.6        |
| Northern               | 1,116         | 1,040         | 93.2        | 76         | 6.8        |
| Southern               | 293           | 283           | 96.6        | 10         | 3.4        |
| Indiana                |               |               |             |            |            |
| Northern               | 404           | 380           | 94.1        | 24         | 5.9        |
| Southern               | 239           | 230           | 96.2        | 9          | 3.8        |
| Wisconsin              |               |               |             |            |            |
| Eastern                | 283           | 274           | 96.8        | 9          | 3.2        |
| Western                | 124           | 122           | 98.4        | 2          | 1.6        |
| <b>EIGHTH CIRCUIT</b>  | <b>3,685</b>  | <b>3,541</b>  | <b>96.1</b> | <b>144</b> | <b>3.9</b> |
| Arkansas               |               |               |             |            |            |
| Eastern                | 245           | 234           | 95.5        | 11         | 4.5        |
| Western                | 143           | 138           | 96.5        | 5          | 3.5        |
| Iowa                   |               |               |             |            |            |
| Northern               | 356           | 343           | 96.3        | 13         | 3.7        |
| Southern               | 291           | 274           | 94.2        | 17         | 5.8        |
| Minnesota              | 391           | 371           | 94.9        | 20         | 5.1        |
| Missouri               |               |               |             |            |            |
| Eastern                | 628           | 619           | 98.6        | 9          | 1.4        |
| Western                | 654           | 622           | 95.1        | 32         | 4.9        |
| Nebraska               | 528           | 518           | 98.1        | 10         | 1.9        |
| North Dakota           | 147           | 139           | 94.6        | 8          | 5.4        |
| South Dakota           | 302           | 283           | 93.7        | 19         | 6.3        |

| CIRCUIT<br>District      | TOTAL         | PLEA          |             | TRIAL      |            |
|--------------------------|---------------|---------------|-------------|------------|------------|
|                          |               | Number        | Percent     | Number     | Percent    |
| <b>NINTH CIRCUIT</b>     | <b>13,852</b> | <b>13,618</b> | <b>98.3</b> | <b>234</b> | <b>1.7</b> |
| Alaska                   | 165           | 154           | 93.3        | 11         | 6.7        |
| Arizona                  | 3,473         | 3,448         | 99.3        | 25         | 0.7        |
| California               |               |               |             |            |            |
| Central                  | 1,718         | 1,689         | 98.3        | 29         | 1.7        |
| Eastern                  | 768           | 748           | 97.4        | 20         | 2.6        |
| Northern                 | 730           | 715           | 97.9        | 15         | 2.1        |
| Southern                 | 3,878         | 3,824         | 98.6        | 54         | 1.4        |
| Guam                     | 138           | 134           | 97.1        | 4          | 2.9        |
| Hawaii                   | 374           | 361           | 96.5        | 13         | 3.5        |
| Idaho                    | 200           | 192           | 96.0        | 8          | 4.0        |
| Montana                  | 348           | 330           | 94.8        | 18         | 5.2        |
| Nevada                   | 606           | 591           | 97.5        | 15         | 2.5        |
| Northern Mariana Islands | 6             | 6             | 100.0       | 0          | 0.0        |
| Oregon                   | 549           | 542           | 98.7        | 7          | 1.3        |
| Washington               |               |               |             |            |            |
| Eastern                  | 304           | 298           | 98.0        | 6          | 2.0        |
| Western                  | 595           | 586           | 98.5        | 9          | 1.5        |
| <b>TENTH CIRCUIT</b>     | <b>4,109</b>  | <b>4,028</b>  | <b>98.0</b> | <b>81</b>  | <b>2.0</b> |
| Colorado                 | 570           | 557           | 97.7        | 13         | 2.3        |
| Kansas                   | 514           | 502           | 97.7        | 12         | 2.3        |
| New Mexico               | 1,807         | 1,788         | 98.9        | 19         | 1.1        |
| Oklahoma                 |               |               |             |            |            |
| Eastern                  | 83            | 81            | 97.6        | 2          | 2.4        |
| Northern                 | 153           | 145           | 94.8        | 8          | 5.2        |
| Western                  | 179           | 170           | 95.0        | 9          | 5.0        |
| Utah                     | 669           | 658           | 98.4        | 11         | 1.6        |
| Wyoming                  | 134           | 127           | 94.8        | 7          | 5.2        |
| <b>ELEVENTH CIRCUIT</b>  | <b>6,632</b>  | <b>6,378</b>  | <b>96.2</b> | <b>254</b> | <b>3.8</b> |
| Alabama                  |               |               |             |            |            |
| Middle                   | 158           | 147           | 93.0        | 11         | 7.0        |
| Northern                 | 512           | 504           | 98.4        | 8          | 1.6        |
| Southern                 | 311           | 302           | 97.1        | 9          | 2.9        |
| Florida                  |               |               |             |            |            |
| Middle                   | 1,457         | 1,391         | 95.5        | 66         | 4.5        |
| Northern                 | 334           | 315           | 94.3        | 19         | 5.7        |
| Southern                 | 2,434         | 2,334         | 95.9        | 100        | 4.1        |
| Georgia                  |               |               |             |            |            |
| Middle                   | 352           | 340           | 96.6        | 12         | 3.4        |
| Northern                 | 784           | 760           | 96.9        | 24         | 3.1        |
| Southern                 | 290           | 285           | 98.3        | 5          | 1.7        |

Of the 64,366 guideline cases, 370 cases were excluded due to missing information on mode of conviction.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2002 Datafile, OPAFY02.

**Table 3**

**MODE OF CONVICTION BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2002**

| PRIMARY OFFENSE                           | TOTAL         | National      |             |              |            | Tenth Circuit |             |           |            |
|---|---------------|---------------|-------------|--------------|------------|---------------|-------------|-----------|------------|
|   |               | PLEA          |             | TRIAL        |            | PLEA          |             | TRIAL     |            |
|   |               | n             | %           | n            | %          | n             | %           | n         | %          |
| <b>TOTAL</b>                              | <b>63,935</b> | <b>62,084</b> | <b>97.1</b> | <b>1,851</b> | <b>2.9</b> | <b>4,026</b>  | <b>98.0</b> | <b>81</b> | <b>2.0</b> |
| <b>Murder</b>                             | <b>84</b>     | 67            | 79.8        | 17           | 20.2       | 8             | 88.9        | 1         | 11.1       |
| <b>Manslaughter</b>                       | <b>59</b>     | 56            | 94.9        | 3            | 5.1        | 8             | 100.0       | 0         | 0.0        |
| <b>Kidnapping/Hostage Taking</b>          | <b>64</b>     | 57            | 89.1        | 7            | 10.9       | 1             | 100.0       | 0         | 0.0        |
| <b>Sexual Abuse</b>                       | <b>212</b>    | 202           | 95.3        | 10           | 4.7        | 41            | 100.0       | 0         | 0.0        |
| <b>Assault</b>                            | <b>492</b>    | 450           | 91.5        | 42           | 8.5        | 56            | 88.9        | 7         | 11.1       |
| <b>Robbery</b>                            | <b>1,631</b>  | 1,579         | 96.8        | 52           | 3.2        | 105           | 97.2        | 3         | 2.8        |
| <b>Arson</b>                              | <b>64</b>     | 53            | 82.8        | 11           | 17.2       | 1             | 50.0        | 1         | 50.0       |
| <b>Drugs - Trafficking</b>                | <b>25,361</b> | 24,595        | 97.0        | 766          | 3.0        | 1,256         | 97.7        | 30        | 2.3        |
| <b>Drugs - Communication Facility</b>     | <b>459</b>    | 458           | 99.8        | 1            | 0.2        | 42            | 100.0       | 0         | 0.0        |
| <b>Drugs - Simple Possession</b>          | <b>592</b>    | 583           | 98.5        | 9            | 1.5        | 73            | 97.3        | 2         | 2.7        |
| <b>Firearms</b>                           | <b>5,173</b>  | 4,923         | 95.2        | 250          | 4.8        | 433           | 96.9        | 14        | 3.1        |
| <b>Burglary/B&amp;E</b>                   | <b>43</b>     | 41            | 95.3        | 2            | 4.7        | 1             | 100.0       | 0         | 0.0        |
| <b>Auto Theft</b>                         | <b>162</b>    | 153           | 94.4        | 9            | 5.6        | 3             | 100.0       | 0         | 0.0        |
| <b>Larceny</b>                            | <b>2,250</b>  | 2,220         | 98.7        | 30           | 1.3        | 103           | 100.0       | 0         | 0.0        |
| <b>Fraud</b>                              | <b>7,107</b>  | 6,880         | 96.8        | 227          | 3.2        | 277           | 97.5        | 7         | 2.5        |
| <b>Embezzlement</b>                       | <b>734</b>    | 729           | 99.3        | 5            | 0.7        | 44            | 97.8        | 1         | 2.2        |
| <b>Forgery/Counterfeiting</b>             | <b>1,466</b>  | 1,449         | 98.8        | 17           | 1.2        | 86            | 98.9        | 1         | 1.1        |
| <b>Bribery</b>                            | <b>168</b>    | 159           | 94.6        | 9            | 5.4        | 3             | 100.0       | 0         | 0.0        |
| <b>Tax</b>                                | <b>622</b>    | 600           | 96.5        | 22           | 3.5        | 23            | 100.0       | 0         | 0.0        |
| <b>Money Laundering</b>                   | <b>939</b>    | 870           | 92.7        | 69           | 7.3        | 12            | 80.0        | 3         | 20.0       |
| <b>Racketeering/Extortion</b>             | <b>828</b>    | 769           | 92.9        | 59           | 7.1        | 33            | 100.0       | 0         | 0.0        |
| <b>Gambling/Lottery</b>                   | <b>104</b>    | 104           | 100.0       | 0            | 0.0        | 3             | 100.0       | 0         | 0.0        |
| <b>Civil Rights</b>                       | <b>93</b>     | 82            | 88.2        | 11           | 11.8       | 2             | 100.0       | 0         | 0.0        |
| <b>Immigration</b>                        | <b>11,730</b> | 11,612        | 99.0        | 118          | 1.0        | 1,177         | 99.6        | 5         | 0.4        |
| <b>Pornography/Prostitution</b>           | <b>664</b>    | 643           | 96.8        | 21           | 3.2        | 48            | 96.0        | 2         | 4.0        |
| <b>Prison Offenses</b>                    | <b>318</b>    | 313           | 98.4        | 5            | 1.6        | 26            | 96.3        | 1         | 3.7        |
| <b>Administration of Justice Offenses</b> | <b>1,107</b>  | 1,076         | 97.2        | 31           | 2.8        | 78            | 98.7        | 1         | 1.3        |
| <b>Environmental/Wildlife</b>             | <b>140</b>    | 131           | 93.6        | 9            | 6.4        | 12            | 100.0       | 0         | 0.0        |
| <b>National Defense</b>                   | <b>10</b>     | 8             | 80.0        | 2            | 20.0       | 0             | --          | 0         | --         |
| <b>Antitrust</b>                          | <b>17</b>     | 15            | 88.2        | 2            | 11.8       | 0             | --          | 0         | --         |
| <b>Food &amp; Drug</b>                    | <b>91</b>     | 91            | 100.0       | 0            | 0.0        | 2             | 100.0       | 0         | 0.0        |
| <b>Other Miscellaneous Offenses</b>       | <b>1,151</b>  | 1,116         | 97.0        | 35           | 3.0        | 69            | 97.2        | 2         | 2.8        |

Of the 64,366 guideline cases, 431 cases were excluded due to one or both of the following reasons: missing primary offense category (393) or missing mode of conviction (370).

Of the 4,122 guideline cases from the Tenth Circuit, 15 cases were excluded due to one or both of the following reasons: missing primary offense category (12) or missing mode of conviction (13).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2002 Datafile, OPAFY02.

**Table 4**  
**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2002**

**National**

| PRIMARY OFFENSE                    | TOTAL         | Prison        |             | Prison/Community Split Sentence |            | Probation and Confinement |            | Probation Only |            |
|------------------------------------|---------------|---------------|-------------|---------------------------------|------------|---------------------------|------------|----------------|------------|
|                                    |               | Number        | Percent     | Number                          | Percent    | Number                    | Percent    | Number         | Percent    |
| <b>TOTAL</b>                       | <b>63,292</b> | <b>52,117</b> | <b>82.3</b> | <b>2,253</b>                    | <b>3.6</b> | <b>3,151</b>              | <b>5.0</b> | <b>5,771</b>   | <b>9.1</b> |
| Murder                             | 84            | 82            | 97.6        | 1                               | 1.2        | 0                         | 0.0        | 1              | 1.2        |
| Manslaughter                       | 58            | 50            | 86.2        | 6                               | 10.3       | 1                         | 1.7        | 1              | 1.7        |
| Kidnapping/Hostage Taking          | 65            | 63            | 96.9        | 1                               | 1.5        | 1                         | 1.5        | 0              | 0.0        |
| Sexual Abuse                       | 206           | 179           | 86.9        | 6                               | 2.9        | 10                        | 4.9        | 11             | 5.3        |
| Assault                            | 483           | 370           | 76.6        | 18                              | 3.7        | 34                        | 7.0        | 61             | 12.6       |
| Robbery                            | 1,620         | 1,580         | 97.5        | 16                              | 1.0        | 16                        | 1.0        | 8              | 0.5        |
| Arson                              | 64            | 58            | 90.6        | 2                               | 3.1        | 1                         | 1.6        | 3              | 4.7        |
| Drugs - Trafficking                | 25,209        | 23,568        | 93.5        | 560                             | 2.2        | 455                       | 1.8        | 626            | 2.5        |
| Drugs - Communication Facility     | 456           | 379           | 83.1        | 8                               | 1.8        | 33                        | 7.2        | 36             | 7.9        |
| Drugs - Simple Possession          | 572           | 187           | 32.7        | 6                               | 1.0        | 26                        | 4.5        | 353            | 61.7       |
| Firearms                           | 5,132         | 4,575         | 89.1        | 166                             | 3.2        | 152                       | 3.0        | 239            | 4.7        |
| Burglary/B&E                       | 43            | 31            | 72.1        | 6                               | 14.0       | 2                         | 4.7        | 4              | 9.3        |
| Auto Theft                         | 161           | 119           | 73.9        | 7                               | 4.3        | 16                        | 9.9        | 19             | 11.8       |
| Larceny                            | 2,206         | 805           | 36.5        | 141                             | 6.4        | 399                       | 18.1       | 861            | 39.0       |
| Fraud                              | 7,012         | 4,073         | 58.1        | 706                             | 10.1       | 912                       | 13.0       | 1,321          | 18.8       |
| Embezzlement                       | 721           | 274           | 38.0        | 120                             | 16.6       | 98                        | 13.6       | 229            | 31.8       |
| Forgery/Counterfeiting             | 1,446         | 790           | 54.6        | 94                              | 6.5        | 247                       | 17.1       | 315            | 21.8       |
| Bribery                            | 165           | 65            | 39.4        | 17                              | 10.3       | 25                        | 15.2       | 58             | 35.2       |
| Tax                                | 618           | 261           | 42.2        | 72                              | 11.7       | 125                       | 20.2       | 160            | 25.9       |
| Money Laundering                   | 931           | 699           | 75.1        | 36                              | 3.9        | 77                        | 8.3        | 119            | 12.8       |
| Racketeering/Extortion             | 818           | 740           | 90.5        | 17                              | 2.1        | 23                        | 2.8        | 38             | 4.6        |
| Gambling/Lottery                   | 104           | 22            | 21.2        | 9                               | 8.7        | 32                        | 30.8       | 41             | 39.4       |
| Civil Rights                       | 89            | 53            | 59.6        | 4                               | 4.5        | 11                        | 12.4       | 21             | 23.6       |
| Immigration                        | 11,616        | 11,093        | 95.5        | 86                              | 0.7        | 120                       | 1.0        | 317            | 2.7        |
| Pornography/Prostitution           | 662           | 598           | 90.3        | 10                              | 1.5        | 28                        | 4.2        | 26             | 3.9        |
| Prison Offenses                    | 316           | 278           | 88.0        | 12                              | 3.8        | 11                        | 3.5        | 15             | 4.7        |
| Administration of Justice Offenses | 1,088         | 636           | 58.5        | 59                              | 5.4        | 125                       | 11.5       | 268            | 24.6       |
| Environmental/Wildlife             | 133           | 39            | 29.3        | 7                               | 5.3        | 25                        | 18.8       | 62             | 46.6       |
| National Defense                   | 10            | 8             | 80.0        | 0                               | 0.0        | 0                         | 0.0        | 2              | 20.0       |
| Antitrust                          | 17            | 8             | 47.1        | 1                               | 5.9        | 6                         | 35.3       | 2              | 11.8       |
| Food & Drug                        | 89            | 14            | 15.7        | 7                               | 7.9        | 13                        | 14.6       | 55             | 61.8       |
| Other Miscellaneous Offenses       | 1,098         | 420           | 38.3        | 52                              | 4.7        | 127                       | 11.6       | 499            | 45.4       |

Of the 64,366 guideline cases, 1,074 cases were excluded due to one or more of the following reasons: missing sentencing information (707), missing primary offense category (393), or cases which the defendant received no imprisonment or probation (301)

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2002 Datafile, OPAFY02

Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2002**

**Tenth Circuit**

| PRIMARY OFFENSE                    | TOTAL        | Prison       |             | Prison/Community Split Sentence |            | Probation and Confinement |            | Probation Only |            |
|------------------------------------|--------------|--------------|-------------|---------------------------------|------------|---------------------------|------------|----------------|------------|
|                                    |              | Number       | Percent     | Number                          | Percent    | Number                    | Percent    | Number         | Percent    |
| <b>TOTAL</b>                       | <b>4,054</b> | <b>3,372</b> | <b>83.2</b> | <b>141</b>                      | <b>3.5</b> | <b>179</b>                | <b>4.4</b> | <b>362</b>     | <b>8.9</b> |
| Murder                             | 9            | 9            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Manslaughter                       | 8            | 6            | 75.0        | 1                               | 12.5       | 0                         | 0.0        | 1              | 12.5       |
| Kidnapping/Hostage Taking          | 1            | 1            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Sexual Abuse                       | 39           | 36           | 92.3        | 0                               | 0.0        | 1                         | 2.6        | 2              | 5.1        |
| Assault                            | 62           | 48           | 77.4        | 2                               | 3.2        | 7                         | 11.3       | 5              | 8.1        |
| Robbery                            | 107          | 106          | 99.1        | 0                               | 0.0        | 0                         | 0.0        | 1              | 0.9        |
| Arson                              | 2            | 2            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Drugs - Trafficking                | 1,276        | 1,161        | 91.0        | 46                              | 3.6        | 36                        | 2.8        | 33             | 2.6        |
| Drugs - Communication Facility     | 42           | 28           | 66.7        | 2                               | 4.8        | 7                         | 16.7       | 5              | 11.9       |
| Drugs - Simple Possession          | 73           | 10           | 13.7        | 1                               | 1.4        | 1                         | 1.4        | 61             | 83.6       |
| Firearms                           | 446          | 379          | 85.0        | 20                              | 4.5        | 14                        | 3.1        | 33             | 7.4        |
| Burglary/B&E                       | 1            | 1            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Auto Theft                         | 3            | 3            | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Larceny                            | 100          | 28           | 28.0        | 6                               | 6.0        | 14                        | 14.0       | 52             | 52.0       |
| Fraud                              | 272          | 156          | 57.4        | 34                              | 12.5       | 34                        | 12.5       | 48             | 17.6       |
| Embezzlement                       | 44           | 16           | 36.4        | 5                               | 11.4       | 8                         | 18.2       | 15             | 34.1       |
| Forgery/Counterfeiting             | 85           | 53           | 62.4        | 2                               | 2.4        | 17                        | 20.0       | 13             | 15.3       |
| Bribery                            | 3            | 1            | 33.3        | 0                               | 0.0        | 0                         | 0.0        | 2              | 66.7       |
| Tax                                | 23           | 7            | 30.4        | 6                               | 26.1       | 4                         | 17.4       | 6              | 26.1       |
| Money Laundering                   | 15           | 12           | 80.0        | 0                               | 0.0        | 2                         | 13.3       | 1              | 6.7        |
| Racketeering/Extortion             | 33           | 33           | 100.0       | 0                               | 0.0        | 0                         | 0.0        | 0              | 0.0        |
| Gambling/Lottery                   | 3            | 1            | 33.3        | 0                               | 0.0        | 1                         | 33.3       | 1              | 33.3       |
| Civil Rights                       | 2            | 1            | 50.0        | 0                               | 0.0        | 0                         | 0.0        | 1              | 50.0       |
| Immigration                        | 1,177        | 1,149        | 97.6        | 9                               | 0.8        | 3                         | 0.3        | 16             | 1.4        |
| Pornography/Prostitution           | 49           | 40           | 81.6        | 1                               | 2.0        | 6                         | 12.2       | 2              | 4.1        |
| Prison Offenses                    | 27           | 21           | 77.8        | 0                               | 0.0        | 3                         | 11.1       | 3              | 11.1       |
| Administration of Justice Offenses | 74           | 36           | 48.6        | 3                               | 4.1        | 13                        | 17.6       | 22             | 29.7       |
| Environmental/Wildlife             | 11           | 5            | 45.5        | 1                               | 9.1        | 3                         | 27.3       | 2              | 18.2       |
| National Defense                   | 0            | 0            | --          | 0                               | --         | 0                         | --         | 0              | --         |
| Antitrust                          | 0            | 0            | --          | 0                               | --         | 0                         | --         | 0              | --         |
| Food & Drug                        | 2            | 0            | 0.0         | 0                               | 0.0        | 0                         | 0.0        | 2              | 100.0      |
| Other Miscellaneous Offenses       | 65           | 23           | 35.4        | 2                               | 3.1        | 5                         | 7.7        | 35             | 53.8       |

Of the 4,122 guideline cases from the Tenth Circuit, 68 cases were excluded due to one or more of the following reasons: missing sentencing information (29), missing primary offense category (12) or cases in which the defendant received no imprisonment or probation (37).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2002 Datafile, OPAFY02.



**Table 6**

**INCARCERATION RATE OF DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2002**

| PRIMARY OFFENSE                     | TOTAL         | National        |             |                     |             | Tenth Circuit   |             |                     |             |
|-------------------------------------|---------------|-----------------|-------------|---------------------|-------------|-----------------|-------------|---------------------|-------------|
|                                     |               | Prison Sentence |             | Non-Prison Sentence |             | Prison Sentence |             | Non-Prison Sentence |             |
|                                     |               | Number          | Percent     | Number              | Percent     | Number          | Percent     | Number              | Percent     |
| <b>TOTAL</b>                        | <b>10,936</b> | <b>5,019</b>    | <b>45.9</b> | <b>5,917</b>        | <b>54.1</b> | <b>505</b>      | <b>58.0</b> | <b>366</b>          | <b>42.0</b> |
| <b>Fraud</b>                        | <b>2,499</b>  | 988             | 39.5        | 1,511               | 60.5        | 34              | 34.3        | 65                  | 65.7        |
| <b>Larceny</b>                      | <b>1,426</b>  | 301             | 21.1        | 1,125               | 78.9        | 8               | 11.1        | 64                  | 88.9        |
| <b>Immigration</b>                  | <b>2,543</b>  | 2,234           | 87.8        | 309                 | 12.2        | 352             | 94.9        | 19                  | 5.1         |
| <b>Embezzlement</b>                 | <b>515</b>    | 210             | 40.8        | 305                 | 59.2        | 12              | 37.5        | 20                  | 62.5        |
| <b>Drugs - Trafficking</b>          | <b>671</b>    | 338             | 50.4        | 333                 | 49.6        | 31              | 50.0        | 31                  | 50.0        |
| <b>Drugs - Simple Possession</b>    | <b>454</b>    | 120             | 26.4        | 334                 | 73.6        | 9               | 22.0        | 32                  | 78.0        |
| <b>Firearms</b>                     | <b>314</b>    | 151             | 48.1        | 163                 | 51.9        | 19              | 52.8        | 17                  | 47.2        |
| <b>Forgery/Counterfeiting</b>       | <b>622</b>    | 173             | 27.8        | 449                 | 72.2        | 11              | 30.6        | 25                  | 69.4        |
| <b>Other Miscellaneous Offenses</b> | <b>1,892</b>  | 504             | 26.6        | 1,388               | 73.4        | 29              | 23.8        | 93                  | 76.2        |

Of the 64,366 guideline cases, 53,430 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (53,321), missing sentencing information (707) or missing primary offense category (393).

Of the 4,122 guideline cases from the Tenth Circuit, 3,251 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (3,245), missing sentencing information (29) or missing primary offense category (12).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2002 Datafile, OPAFY02.

**Table 7**

**AVERAGE LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2002**

| PRIMARY OFFENSE                           | National       |                  |               | Tenth Circuit  |                  |              |
|---|----------------|------------------|---------------|----------------|------------------|--------------|
|   | Mean<br>Months | Median<br>Months | Number        | Mean<br>Months | Median<br>Months | Number       |
| <b>TOTAL</b>                              | <b>54.7</b>    | <b>30.0</b>      | <b>53,886</b> | <b>44.2</b>    | <b>27.0</b>      | <b>3,490</b> |
| <b>Murder</b>                             | 235.4          | 180.0            | 83            | 213.0          | 240.0            | 9            |
| <b>Manslaughter</b>                       | 39.6           | 27.0             | 56            | 47.6           | 18.0             | 7            |
| <b>Kidnapping/Hostage Taking</b>          | 183.0          | 126.0            | 64            | --             | --               | 1            |
| <b>Sexual Abuse</b>                       | 62.0           | 36.0             | 185           | 48.9           | 37.0             | 36           |
| <b>Assault</b>                            | 38.7           | 27.0             | 386           | 45.4           | 34.0             | 49           |
| <b>Robbery</b>                            | 92.4           | 71.0             | 1,595         | 92.1           | 63.5             | 106          |
| <b>Arson</b>                              | 93.0           | 60.0             | 60            | --             | --               | 2            |
| <b>Drugs - Trafficking</b>                | 74.3           | 57.0             | 24,074        | 61.3           | 40.0             | 1,204        |
| <b>Drugs - Communication Facility</b>     | 51.1           | 48.0             | 385           | 41.6           | 47.0             | 30           |
| <b>Drugs - Simple Possession</b>          | 17.8           | 6.0              | 183           | 24.3           | 3.0              | 10           |
| <b>Firearms</b>                           | 71.0           | 45.0             | 4,736         | 62.5           | 37.0             | 399          |
| <b>Burglary/B&amp;E</b>                   | 21.1           | 16.0             | 37            | --             | --               | 1            |
| <b>Auto Theft</b>                         | 60.3           | 24.0             | 125           | 248.5          | 295.0            | 3            |
| <b>Larceny</b>                            | 15.1           | 12.0             | 943           | 14.9           | 14.0             | 34           |
| <b>Fraud</b>                              | 19.6           | 14.0             | 4,688         | 20.6           | 15.5             | 182          |
| <b>Embezzlement</b>                       | 7.9            | 4.0              | 391           | 8.8            | 4.0              | 21           |
| <b>Forgery/Counterfeiting</b>             | 17.4           | 14.0             | 879           | 18.0           | 14.0             | 55           |
| <b>Bribery</b>                            | 25.7           | 12.0             | 81            | --             | --               | 1            |
| <b>Tax</b>                                | 17.3           | 12.0             | 330           | 13.7           | 12.0             | 13           |
| <b>Money Laundering</b>                   | 47.6           | 33.0             | 731           | 43.3           | 43.5             | 12           |
| <b>Racketeering/Extortion</b>             | 88.2           | 60.0             | 755           | 74.4           | 60.0             | 33           |
| <b>Gambling/Lottery</b>                   | 11.9           | 10.0             | 31            | --             | --               | 1            |
| <b>Civil Rights</b>                       | 42.1           | 24.0             | 56            | --             | --               | 1            |
| <b>Immigration</b>                        | 25.3           | 24.0             | 10,912        | 21.3           | 15.0             | 1,148        |
| <b>Pornography/Prostitution</b>           | 53.8           | 33.0             | 607           | 59.5           | 36.0             | 41           |
| <b>Prison Offenses</b>                    | 18.6           | 14.0             | 287           | 21.6           | 20.0             | 21           |
| <b>Administration of Justice Offenses</b> | 23.1           | 15.0             | 682           | 22.2           | 15.0             | 39           |
| <b>Environmental/Wildlife</b>             | 10.4           | 10.0             | 45            | 9.8            | 11.0             | 6            |
| <b>National Defense</b>                   | 149.0          | 56.5             | 8             | --             | --               | 0            |
| <b>Antitrust</b>                          | 14.3           | 12.0             | 9             | --             | --               | 0            |
| <b>Food &amp; Drug</b>                    | 20.1           | 12.0             | 21            | --             | --               | 0            |
| <b>Other Miscellaneous Offenses</b>       | 17.9           | 12.0             | 461           | 11.8           | 6.0              | 25           |

Of the 64,366 guideline cases, 10,480 cases were excluded for one or more of the following reasons: zero months prison ordered (9,373), missing primary offense category (393) or missing or indeterminable sentencing information (1,051).

Of the 4,122 guideline cases from the Tenth Circuit, 632 cases were excluded due to one or more of the following reasons: zero prison months ordered (564), missing primary offense category (12) or missing or indeterminable sentencing information (66).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2002 Datafile, OPAFY02.

Table 8

**GUIDELINE DEPARTURE RATE BY CIRCUIT AND DISTRICT  
Fiscal Year 2002**

| CIRCUIT<br>District   | TOTAL         | SENTENCED<br>WITHIN<br>GUIDELINE RANGE |             | SUBSTANTIAL<br>ASSISTANCE<br>DEPARTURE |             | OTHER<br>DOWNWARD<br>DEPARTURE |             | UPWARD<br>DEPARTURE |            |
|-----------------------|---------------|--|-------------|--|-------------|--------------------------------|-------------|---------------------|------------|
|                       |               | n                                      | %           | n                                      | %           | n                              | %           | n                   | %          |
| <b>TOTAL</b>          | <b>58,684</b> | <b>38,159</b>                          | <b>65.0</b> | <b>10,203</b>                          | <b>17.4</b> | <b>9,865</b>                   | <b>16.8</b> | <b>457</b>          | <b>0.8</b> |
| <b>D.C. CIRCUIT</b>   | <b>411</b>    | <b>246</b>                             | <b>59.9</b> | <b>128</b>                             | <b>31.1</b> | <b>35</b>                      | <b>8.5</b>  | <b>2</b>            | <b>0.5</b> |
| District of Columbia  | 411           | 246                                    | 59.9        | 128                                    | 31.1        | 35                             | 8.5         | 2                   | 0.5        |
| <b>FIRST CIRCUIT</b>  | <b>1,813</b>  | <b>1,373</b>                           | <b>75.7</b> | <b>261</b>                             | <b>14.4</b> | <b>169</b>                     | <b>9.3</b>  | <b>10</b>           | <b>0.6</b> |
| Maine                 | 188           | 134                                    | 71.3        | 44                                     | 23.4        | 9                              | 4.8         | 1                   | 0.5        |
| Massachusetts         | 602           | 363                                    | 60.3        | 122                                    | 20.3        | 113                            | 18.8        | 4                   | 0.7        |
| New Hampshire         | 130           | 80                                     | 61.5        | 35                                     | 26.9        | 15                             | 11.5        | 0                   | 0.0        |
| Puerto Rico           | 758           | 680                                    | 89.7        | 53                                     | 7.0         | 23                             | 3.0         | 2                   | 0.3        |
| Rhode Island          | 135           | 116                                    | 85.9        | 7                                      | 5.2         | 9                              | 6.7         | 3                   | 2.2        |
| <b>SECOND CIRCUIT</b> | <b>4,077</b>  | <b>2,501</b>                           | <b>61.3</b> | <b>773</b>                             | <b>19.0</b> | <b>779</b>                     | <b>19.1</b> | <b>24</b>           | <b>0.6</b> |
| Connecticut           | 326           | 175                                    | 53.7        | 32                                     | 9.8         | 115                            | 35.3        | 4                   | 1.2        |
| New York              |               |  |             |  |             |                                |             |                     |            |
| Eastern               | 1,383         | 744                                    | 53.8        | 242                                    | 17.5        | 393                            | 28.4        | 4                   | 0.3        |
| Northern              | 359           | 205                                    | 57.1        | 106                                    | 29.5        | 43                             | 12.0        | 5                   | 1.4        |
| Southern              | 1,404         | 1,046                                  | 74.5        | 223                                    | 15.9        | 130                            | 9.3         | 5                   | 0.4        |
| Western               | 434           | 245                                    | 56.5        | 137                                    | 31.6        | 47                             | 10.8        | 5                   | 1.2        |
| Vermont               | 171           | 86                                     | 50.3        | 33                                     | 19.3        | 51                             | 29.8        | 1                   | 0.6        |
| <b>THIRD CIRCUIT</b>  | <b>2,656</b>  | <b>1,564</b>                           | <b>58.9</b> | <b>858</b>                             | <b>32.3</b> | <b>209</b>                     | <b>7.9</b>  | <b>25</b>           | <b>0.9</b> |
| Delaware              | 67            | 49                                     | 73.1        | 11                                     | 16.4        | 7                              | 10.4        | 0                   | 0.0        |
| New Jersey            | 814           | 490                                    | 60.2        | 241                                    | 29.6        | 78                             | 9.6         | 5                   | 0.6        |
| Pennsylvania          |               |  |             |  |             |                                |             |                     |            |
| Eastern               | 966           | 487                                    | 50.4        | 397                                    | 41.1        | 73                             | 7.6         | 9                   | 0.9        |
| Middle                | 413           | 245                                    | 59.3        | 133                                    | 32.2        | 26                             | 6.3         | 9                   | 2.2        |
| Western               | 320           | 237                                    | 74.1        | 63                                     | 19.7        | 20                             | 6.3         | 0                   | 0.0        |
| Virgin Islands        | 76            | 56                                     | 73.7        | 13                                     | 17.1        | 5                              | 6.6         | 2                   | 2.6        |
| <b>FOURTH CIRCUIT</b> | <b>5,038</b>  | <b>3,858</b>                           | <b>76.6</b> | <b>937</b>                             | <b>18.6</b> | <b>210</b>                     | <b>4.2</b>  | <b>33</b>           | <b>0.7</b> |
| Maryland              | 510           | 286                                    | 56.1        | 161                                    | 31.6        | 57                             | 11.2        | 6                   | 1.2        |
| North Carolina        |               |  |             |  |             |                                |             |                     |            |
| Eastern               | 569           | 398                                    | 69.9        | 139                                    | 24.4        | 23                             | 4.0         | 9                   | 1.6        |
| Middle                | 423           | 363                                    | 85.8        | 45                                     | 10.6        | 11                             | 2.6         | 4                   | 0.9        |
| Western               | 522           | 327                                    | 62.6        | 173                                    | 33.1        | 21                             | 4.0         | 1                   | 0.2        |
| South Carolina        | 971           | 711                                    | 73.2        | 229                                    | 23.6        | 28                             | 2.9         | 3                   | 0.3        |
| Virginia              |               |  |             |  |             |                                |             |                     |            |
| Eastern               | 1,191         | 1,071                                  | 89.9        | 75                                     | 6.3         | 43                             | 3.6         | 2                   | 0.2        |
| Western               | 384           | 290                                    | 75.5        | 81                                     | 21.1        | 12                             | 3.1         | 1                   | 0.3        |
| West Virginia         |               |  |             |  |             |                                |             |                     |            |
| Northern              | 260           | 227                                    | 87.3        | 18                                     | 6.9         | 10                             | 3.8         | 5                   | 1.9        |
| Southern              | 208           | 185                                    | 88.9        | 16                                     | 7.7         | 5                              | 2.4         | 2                   | 1.0        |

| CIRCUIT<br>District    | TOTAL         | SENTENCED<br>WITHIN<br>GUIDELINE RANGE |             | SUBSTANTIAL<br>ASSISTANCE<br>DEPARTURE |             | OTHER<br>DOWNWARD<br>DEPARTURE |             | UPWARD<br>DEPARTURE |            |
|------------------------|---------------|--|-------------|--|-------------|--------------------------------|-------------|---------------------|------------|
|                        |               | n                                      | %           | n                                      | %           | n                              | %           | n                   | %          |
| <b>FIFTH CIRCUIT</b>   | <b>12,231</b> | <b>8,689</b>                           | <b>71.0</b> | <b>1,635</b>                           | <b>13.4</b> | <b>1,792</b>                   | <b>14.7</b> | <b>115</b>          | <b>0.9</b> |
| <b>Louisiana</b>       |               |  |             |  |             |                                |             |                     |            |
| Eastern                | 401           | 324                                    | 80.8        | 45                                     | 11.2        | 28                             | 7.0         | 4                   | 1.0        |
| Middle                 | 111           | 75                                     | 67.6        | 21                                     | 18.9        | 9                              | 8.1         | 6                   | 5.4        |
| Western                | 317           | 257                                    | 81.1        | 42                                     | 13.2        | 15                             | 4.7         | 3                   | 0.9        |
| <b>Mississippi</b>     |               |  |             |  |             |                                |             |                     |            |
| Northern               | 165           | 105                                    | 63.6        | 48                                     | 29.1        | 12                             | 7.3         | 0                   | 0.0        |
| Southern               | 352           | 269                                    | 76.4        | 68                                     | 19.3        | 12                             | 3.4         | 3                   | 0.9        |
| <b>Texas</b>           |               |  |             |  |             |                                |             |                     |            |
| Eastern                | 583           | 472                                    | 81.0        | 63                                     | 10.8        | 45                             | 7.7         | 3                   | 0.5        |
| Northern               | 984           | 750                                    | 76.2        | 168                                    | 17.1        | 48                             | 4.9         | 18                  | 1.8        |
| Southern               | 4,542         | 3,237                                  | 71.3        | 554                                    | 12.2        | 712                            | 15.7        | 39                  | 0.9        |
| Western                | 4,776         | 3,200                                  | 67.0        | 626                                    | 13.1        | 911                            | 19.1        | 39                  | 0.8        |
| <b>SIXTH CIRCUIT</b>   | <b>4,426</b>  | <b>2,959</b>                           | <b>66.9</b> | <b>1,152</b>                           | <b>26.0</b> | <b>280</b>                     | <b>6.3</b>  | <b>35</b>           | <b>0.8</b> |
| <b>Kentucky</b>        |               |  |             |  |             |                                |             |                     |            |
| Eastern                | 404           | 288                                    | 71.3        | 99                                     | 24.5        | 15                             | 3.7         | 2                   | 0.5        |
| Western                | 392           | 303                                    | 77.3        | 68                                     | 17.3        | 18                             | 4.6         | 3                   | 0.8        |
| <b>Michigan</b>        |               |  |             |  |             |                                |             |                     |            |
| Eastern                | 727           | 519                                    | 71.4        | 161                                    | 22.1        | 44                             | 6.1         | 3                   | 0.4        |
| Western                | 374           | 217                                    | 58.0        | 113                                    | 30.2        | 33                             | 8.8         | 11                  | 2.9        |
| <b>Ohio</b>            |               |  |             |  |             |                                |             |                     |            |
| Northern               | 808           | 510                                    | 63.1        | 206                                    | 25.5        | 86                             | 10.6        | 6                   | 0.7        |
| Southern               | 360           | 213                                    | 59.2        | 113                                    | 31.4        | 31                             | 8.6         | 3                   | 0.8        |
| <b>Tennessee</b>       |               |  |             |  |             |                                |             |                     |            |
| Eastern                | 613           | 448                                    | 73.1        | 152                                    | 24.8        | 13                             | 2.1         | 0                   | 0.0        |
| Middle                 | 305           | 181                                    | 59.3        | 109                                    | 35.7        | 13                             | 4.3         | 2                   | 0.7        |
| Western                | 443           | 280                                    | 63.2        | 131                                    | 29.6        | 27                             | 6.1         | 5                   | 1.1        |
| <b>SEVENTH CIRCUIT</b> | <b>2,678</b>  | <b>1,855</b>                           | <b>69.3</b> | <b>584</b>                             | <b>21.8</b> | <b>218</b>                     | <b>8.1</b>  | <b>21</b>           | <b>0.8</b> |
| <b>Illinois</b>        |               |  |             |  |             |                                |             |                     |            |
| Central                | 324           | 211                                    | 65.1        | 94                                     | 29.0        | 17                             | 5.2         | 2                   | 0.6        |
| Northern               | 1,078         | 689                                    | 63.9        | 262                                    | 24.3        | 112                            | 10.4        | 15                  | 1.4        |
| Southern               | 288           | 244                                    | 84.7        | 30                                     | 10.4        | 14                             | 4.9         | 0                   | 0.0        |
| <b>Indiana</b>         |               |  |             |  |             |                                |             |                     |            |
| Northern               | 350           | 250                                    | 71.4        | 74                                     | 21.1        | 25                             | 7.1         | 1                   | 0.3        |
| Southern               | 236           | 150                                    | 63.6        | 58                                     | 24.6        | 27                             | 11.4        | 1                   | 0.4        |
| <b>Wisconsin</b>       |               |  |             |  |             |                                |             |                     |            |
| Eastern                | 278           | 202                                    | 72.7        | 56                                     | 20.1        | 20                             | 7.2         | 0                   | 0.0        |
| Western                | 124           | 109                                    | 87.9        | 10                                     | 8.1         | 3                              | 2.4         | 2                   | 1.6        |
| <b>EIGHTH CIRCUIT</b>  | <b>3,565</b>  | <b>2,470</b>                           | <b>69.3</b> | <b>674</b>                             | <b>18.9</b> | <b>380</b>                     | <b>10.7</b> | <b>41</b>           | <b>1.2</b> |
| <b>Arkansas</b>        |               |  |             |  |             |                                |             |                     |            |
| Eastern                | 241           | 199                                    | 82.6        | 33                                     | 13.7        | 7                              | 2.9         | 2                   | 0.8        |
| Western                | 142           | 108                                    | 76.1        | 28                                     | 19.7        | 6                              | 4.2         | 0                   | 0.0        |
| <b>Iowa</b>            |               |  |             |  |             |                                |             |                     |            |
| Northern               | 351           | 233                                    | 66.4        | 83                                     | 23.6        | 28                             | 8.0         | 7                   | 2.0        |
| Southern               | 282           | 184                                    | 65.2        | 56                                     | 19.9        | 41                             | 14.5        | 1                   | 0.4        |
| Minnesota              | 363           | 225                                    | 62.0        | 68                                     | 18.7        | 68                             | 18.7        | 2                   | 0.6        |
| <b>Missouri</b>        |               |  |             |  |             |                                |             |                     |            |
| Eastern                | 597           | 455                                    | 76.2        | 106                                    | 17.8        | 35                             | 5.9         | 1                   | 0.2        |
| Western                | 636           | 399                                    | 62.7        | 197                                    | 31.0        | 38                             | 6.0         | 2                   | 0.3        |
| Nebraska               | 523           | 351                                    | 67.1        | 70                                     | 13.4        | 100                            | 19.1        | 2                   | 0.4        |
| North Dakota           | 141           | 101                                    | 71.6        | 17                                     | 12.1        | 17                             | 12.1        | 6                   | 4.3        |
| South Dakota           | 289           | 215                                    | 74.4        | 16                                     | 5.5         | 40                             | 13.8        | 18                  | 6.2        |

| CIRCUIT<br>District      | TOTAL         | SENTENCED<br>WITHIN<br>GUIDELINE RANGE |             | SUBSTANTIAL<br>ASSISTANCE<br>DEPARTURE |             | OTHER<br>DOWNWARD<br>DEPARTURE |             | UPWARD<br>DEPARTURE |            |
|--------------------------|---------------|--|-------------|--|-------------|--------------------------------|-------------|---------------------|------------|
|                          |               | n                                      | %           | n                                      | %           | n                              | %           | n                   | %          |
| <b>NINTH CIRCUIT</b>     | <b>11,733</b> | <b>5,723</b>                           | <b>48.8</b> | <b>1,385</b>                           | <b>11.8</b> | <b>4,540</b>                   | <b>38.7</b> | <b>85</b>           | <b>0.7</b> |
| Alaska                   | 162           | 108                                    | 66.7        | 32                                     | 19.8        | 18                             | 11.1        | 4                   | 2.5        |
| Arizona                  | 3,395         | 1,048                                  | 30.9        | 241                                    | 7.1         | 2,074                          | 61.1        | 32                  | 0.9        |
| California               |               |  |             |  |             |                                |             |                     |            |
| Central                  | 972           | 734                                    | 75.5        | 114                                    | 11.7        | 120                            | 12.3        | 4                   | 0.4        |
| Eastern                  | 730           | 539                                    | 73.8        | 138                                    | 18.9        | 50                             | 6.8         | 3                   | 0.4        |
| Northern                 | 658           | 414                                    | 62.9        | 79                                     | 12.0        | 157                            | 23.9        | 8                   | 1.2        |
| Southern                 | 2,995         | 1,120                                  | 37.4        | 229                                    | 7.6         | 1,642                          | 54.8        | 4                   | 0.1        |
| Guam                     | 128           | 87                                     | 68.0        | 38                                     | 29.7        | 2                              | 1.6         | 1                   | 0.8        |
| Hawaii                   | 358           | 195                                    | 54.5        | 131                                    | 36.6        | 32                             | 8.9         | 0                   | 0.0        |
| Idaho                    | 178           | 100                                    | 56.2        | 51                                     | 28.7        | 22                             | 12.4        | 5                   | 2.8        |
| Montana                  | 346           | 256                                    | 74.0        | 61                                     | 17.6        | 20                             | 5.8         | 9                   | 2.6        |
| Nevada                   | 559           | 403                                    | 72.1        | 55                                     | 9.8         | 97                             | 17.4        | 4                   | 0.7        |
| Northern Mariana Islands | 5             | 2                                      | 40.0        | 3                                      | 60.0        | 0                              | 0.0         | 0                   | 0.0        |
| Oregon                   | 502           | 302                                    | 60.2        | 88                                     | 17.5        | 109                            | 21.7        | 3                   | 0.6        |
| Washington               |               |  |             |  |             |                                |             |                     |            |
| Eastern                  | 272           | 138                                    | 50.7        | 29                                     | 10.7        | 103                            | 37.9        | 2                   | 0.7        |
| Western                  | 473           | 277                                    | 58.6        | 96                                     | 20.3        | 94                             | 19.9        | 6                   | 1.3        |
| <b>TENTH CIRCUIT</b>     | <b>3,833</b>  | <b>2,551</b>                           | <b>66.6</b> | <b>421</b>                             | <b>11.0</b> | <b>839</b>                     | <b>21.9</b> | <b>22</b>           | <b>0.6</b> |
| Colorado                 | 549           | 316                                    | 57.6        | 163                                    | 29.7        | 67                             | 12.2        | 3                   | 0.5        |
| Kansas                   | 493           | 369                                    | 74.8        | 76                                     | 15.4        | 44                             | 8.9         | 4                   | 0.8        |
| New Mexico               | 1,737         | 1,064                                  | 61.3        | 85                                     | 4.9         | 584                            | 33.6        | 4                   | 0.2        |
| Oklahoma                 |               |  |             |  |             |                                |             |                     |            |
| Eastern                  | 80            | 56                                     | 70.0        | 3                                      | 3.8         | 21                             | 26.3        | 0                   | 0.0        |
| Northern                 | 151           | 122                                    | 80.8        | 23                                     | 15.2        | 5                              | 3.3         | 1                   | 0.7        |
| Western                  | 152           | 102                                    | 67.1        | 34                                     | 22.4        | 11                             | 7.2         | 5                   | 3.3        |
| Utah                     | 542           | 421                                    | 77.7        | 25                                     | 4.6         | 95                             | 17.5        | 1                   | 0.2        |
| Wyoming                  | 129           | 101                                    | 78.3        | 12                                     | 9.3         | 12                             | 9.3         | 4                   | 3.1        |
| <b>ELEVENTH CIRCUIT</b>  | <b>6,223</b>  | <b>4,370</b>                           | <b>70.2</b> | <b>1,395</b>                           | <b>22.4</b> | <b>414</b>                     | <b>6.7</b>  | <b>44</b>           | <b>0.7</b> |
| Alabama                  |               |  |             |  |             |                                |             |                     |            |
| Middle                   | 149           | 71                                     | 47.7        | 69                                     | 46.3        | 7                              | 4.7         | 2                   | 1.3        |
| Northern                 | 500           | 319                                    | 63.8        | 158                                    | 31.6        | 19                             | 3.8         | 4                   | 0.8        |
| Southern                 | 304           | 190                                    | 62.5        | 103                                    | 33.9        | 10                             | 3.3         | 1                   | 0.3        |
| Florida                  |               |  |             |  |             |                                |             |                     |            |
| Middle                   | 1,384         | 803                                    | 58.0        | 467                                    | 33.7        | 103                            | 7.4         | 11                  | 0.8        |
| Northern                 | 321           | 221                                    | 68.8        | 82                                     | 25.5        | 14                             | 4.4         | 4                   | 1.2        |
| Southern                 | 2,212         | 1,785                                  | 80.7        | 284                                    | 12.8        | 134                            | 6.1         | 9                   | 0.4        |
| Georgia                  |               |  |             |  |             |                                |             |                     |            |
| Middle                   | 311           | 230                                    | 74.0        | 68                                     | 21.9        | 10                             | 3.2         | 3                   | 1.0        |
| Northern                 | 771           | 543                                    | 70.4        | 124                                    | 16.1        | 97                             | 12.6        | 7                   | 0.9        |
| Southern                 | 271           | 208                                    | 76.8        | 40                                     | 14.8        | 20                             | 7.4         | 3                   | 1.1        |

Of the 64,366 guideline cases, 365 cases with no analogous guidelines were excluded from the table. Of the remaining 64,001 cases, 5,317 were excluded due to missing departure information. Districts for which departure information is missing in five percent or more of the cases received included: Central California (44.0%), Eastern Virginia (24.3%), Southern California (22.8%), Delaware (21.2%), Southern West Virginia (20.0%), Eastern New York (19.7%), Western Washington (18.4%), Utah (18.3%), Northern Mariana Islands (16.7%), Eastern Kentucky (16.5%), Puerto Rico (15.8%), Western Oklahoma (14.1%), Northern Indiana (13.2%), Southern Florida (13.1%), Maine (13.0%), Virgin Islands (12.6%), Southern New York (12.5%), Western North Carolina (12.1%), Western Louisiana (11.9%), Idaho (11.0%), Rhode Island (10.0%), Eastern Washington (9.9%), Northern California (9.7%), Northern New York (8.9%), Middle Georgia (8.8%), Southern Ohio (8.4%), Oregon (7.9%), Guam (7.9%), Nevada (7.6%), Western Kentucky (7.1%), Eastern Texas (7.0%), Northern Ohio (7.0%), Minnesota (6.2%), Western Pennsylvania (6.2%), Central Illinois (5.8%), Southern Georgia (5.6%), Eastern Michigan (5.6%), Middle Pennsylvania (5.3%), Middle Florida (5.1%), and Middle Alabama (5.1%).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2002 Datafile, OPAFY02.

**Table 9**

**GUIDELINE DEPARTURE RATE BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2002**

**National**

| PRIMARY OFFENSE              | TOTAL         | SENTENCED WITHIN GUIDELINE RANGE |             | SUBSTANTIAL ASSISTANCE DEPARTURE |             | OTHER DOWNWARD DEPARTURE |             | UPWARD DEPARTURE |            |
|------------------------------|---------------|----------------------------------|-------------|----------------------------------|-------------|--------------------------|-------------|------------------|------------|
|                              |               | n                                | %           | n                                | %           | n                        | %           | n                | %          |
| <b>TOTAL</b>                 | <b>58,423</b> | <b>37,968</b>                    | <b>65.0</b> | <b>10,170</b>                    | <b>17.4</b> | <b>9,828</b>             | <b>16.8</b> | <b>457</b>       | <b>0.8</b> |
| Robbery                      | 1,522         | 1,051                            | 69.1        | 227                              | 14.9        | 220                      | 14.5        | 24               | 1.6        |
| Drugs - Trafficking          | 23,949        | 13,398                           | 55.9        | 6,565                            | 27.4        | 3,932                    | 16.4        | 54               | 0.2        |
| Drugs - Simple Possession    | 481           | 458                              | 95.2        | 17                               | 3.5         | 4                        | 0.8         | 2                | 0.4        |
| Firearms                     | 4,765         | 3,511                            | 73.7        | 581                              | 12.2        | 602                      | 12.6        | 71               | 1.5        |
| Larceny                      | 2,038         | 1,745                            | 85.6        | 151                              | 7.4         | 126                      | 6.2         | 16               | 0.8        |
| Fraud                        | 6,378         | 4,539                            | 71.2        | 1,135                            | 17.8        | 633                      | 9.9         | 71               | 1.1        |
| Embezzlement                 | 672           | 588                              | 87.5        | 24                               | 3.6         | 58                       | 8.6         | 2                | 0.3        |
| Forgery/Counterfeiting       | 1,363         | 1,094                            | 80.3        | 159                              | 11.7        | 97                       | 7.1         | 13               | 1.0        |
| Immigration                  | 10,399        | 6,861                            | 66.0        | 248                              | 2.4         | 3,236                    | 31.1        | 54               | 0.5        |
| Other Miscellaneous Offenses | 6,856         | 4,723                            | 68.9        | 1,063                            | 15.5        | 920                      | 13.4        | 150              | 2.2        |

**Tenth Circuit**

| PRIMARY OFFENSE              | TOTAL        | SENTENCED WITHIN GUIDELINE RANGE |             | SUBSTANTIAL ASSISTANCE DEPARTURE |             | OTHER DOWNWARD DEPARTURE |             | UPWARD DEPARTURE |            |
|------------------------------|--------------|----------------------------------|-------------|----------------------------------|-------------|--------------------------|-------------|------------------|------------|
|                              |              | n                                | %           | n                                | %           | n                        | %           | n                | %          |
| <b>TOTAL</b>                 | <b>3,828</b> | <b>2,547</b>                     | <b>66.5</b> | <b>420</b>                       | <b>11.0</b> | <b>839</b>               | <b>21.9</b> | <b>22</b>        | <b>0.6</b> |
| Robbery                      | 99           | 76                               | 76.8        | 7                                | 7.1         | 15                       | 15.2        | 1                | 1.0        |
| Drugs - Trafficking          | 1,227        | 749                              | 61.0        | 287                              | 23.4        | 188                      | 15.3        | 3                | 0.2        |
| Drugs - Simple Possession    | 62           | 61                               | 98.4        | 1                                | 1.6         | 0                        | 0.0         | 0                | 0.0        |
| Firearms                     | 394          | 258                              | 65.5        | 40                               | 10.2        | 92                       | 23.4        | 4                | 1.0        |
| Larceny                      | 98           | 93                               | 94.9        | 0                                | 0.0         | 4                        | 4.1         | 1                | 1.0        |
| Fraud                        | 267          | 205                              | 76.8        | 31                               | 11.6        | 29                       | 10.9        | 2                | 0.7        |
| Embezzlement                 | 42           | 33                               | 78.6        | 2                                | 4.8         | 7                        | 16.7        | 0                | 0.0        |
| Forgery/Counterfeiting       | 83           | 70                               | 84.3        | 5                                | 6.0         | 6                        | 7.2         | 2                | 2.4        |
| Immigration                  | 1,128        | 689                              | 61.1        | 10                               | 0.9         | 428                      | 37.9        | 1                | 0.1        |
| Other Miscellaneous Offenses | 428          | 313                              | 73.1        | 37                               | 8.6         | 70                       | 16.4        | 8                | 1.9        |

Of the 64,366 guideline cases, 5,943 cases were excluded due to one or more of the following reasons: no analogous guidelines (365), missing or indeterminable departure information (5,317) or missing primary offense category (393).

Of the 4,122 guideline cases from the Tenth Circuit, 294 cases were excluded due to one or more of the following reasons: no analogous guidelines (42), missing or indeterminable departure information (247) or missing primary offense category (12).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2002 Datafile, OPAFY02.