

	FY 2001		FY 2002		FY 2003		FY 2004 Pre-Blakely Only		Total Pre-Booker FY 2001 to FY 2004		Post-Booker 2/1/2005 - 9/30/2006		% Change Post-Booker
NATIONAL	55,089		58,684		65,171		48,251		227,195		114,318		
Below-Range Sentences	6,127	11.1%	6,054	10.3%	4,896	7.5%	2,498	5.2%	19,575	8.6%	14,059	12.3%	42.7%
Above-Range Sentences	306	0.6%	457	0.8%	541	0.8%	382	0.8%	1,686	0.7%	1,816	1.6%	114.1%
Out-of-Guidelines Sentences	6,433	11.7%	6,511	11.1%	5,437	8.3%	2,880	6.0%	21,261	9.4%	15,875	13.9%	+48.4%
D.C. Circuit	260		411		477		409		1,557		812		
Out-of-Guidelines Sentences	23	8.8%	26	6.3%	22	4.6%	24	5.9%	95	6.1%	131	16.1%	+164.4%
First Circuit	1,480		1,813		1,832		1,279		6,404		2,568		
Out-of-Guidelines Sentences	151	10.2%	168	9.3%	156	8.5%	77	6.0%	552	8.6%	474	18.5%	+114.1%
Second Circuit	3,926		4,077		4,763		3,426		16,192		7,301		
Out-of-Guidelines Sentences	698	17.8%	716	17.6%	786	16.5%	494	14.4%	2,694	16.6%	1,851	25.4%	+52.4%
Third Circuit	2,561		2,656		2,783		2,086		10,086		5,128		
Out-of-Guidelines Sentences	213	8.3%	219	8.2%	231	8.3%	128	6.1%	791	7.8%	924	18.0%	+129.8%
Fourth Circuit	4,739		5,038		5,698		4,185		19,660		10,333		
Out-of-Guidelines Sentences	269	5.7%	230	4.6%	248	4.4%	170	4.1%	917	4.7%	1,287	12.5%	+167.0%
Fifth Circuit	11,203		12,231		13,298		9,773		46,505		25,506		
Out-of-Guidelines Sentences	1,622	14.5%	1,475	12.1%	1,121	8.4%	436	4.5%	4,654	10.0%	2,405	9.4%	-5.8%
Sixth Circuit	4,187		4,426		4,789		3,434		16,836		8,518		
Out-of-Guidelines Sentences	280	6.7%	275	6.2%	277	5.8%	191	5.6%	1,023	6.1%	1,371	16.1%	+164.9%
Seventh Circuit	2,392		2,678		3,041		2,224		10,335		5,008		
Out-of-Guidelines Sentences	162	6.8%	201	7.5%	166	5.5%	110	4.9%	639	6.2%	798	15.9%	+157.7%
Eighth Circuit	3,486		3,565		4,329		3,528		14,908		8,214		
Out-of-Guidelines Sentences	342	9.8%	376	10.5%	356	8.2%	196	5.6%	1,270	8.5%	1,298	15.8%	+85.5%
Ninth Circuit	11,893		11,733		13,286		9,377		46,289		20,658		
Out-of-Guidelines Sentences	1,996	16.8%	2,101	17.9%	1,463	11.0%	668	7.1%	6,228	13.5%	2,908	14.1%	+4.6%
Tenth Circuit	2,980		3,833		4,476		3,728		15,017		9,548		
Out-of-Guidelines Sentences	250	8.4%	308	8.0%	271	6.1%	190	5.1%	1,019	6.8%	1,125	11.8%	+73.6%
Eleventh Circuit	5,982		6,223		6,399		4,802		23,406		10,724		
Out-of-Guidelines Sentences	427	7.1%	416	6.7%	340	5.3%	196	4.1%	1,379	5.9%	1,303	12.2%	+106.2%
Proportionality Circuits	36,449		39,807		43,862		32,953		153,071		80,419		
Out-of-Guidelines Sentences	3,503	9.6%	3,449	8.7%	2,935	6.7%	1,566	4.8%	11,453	7.5%	10,061	12.5%	+67.2%
Other Circuits	18,640		18,877		21,309		15,298		74,124		33,899		
Out-of-Guidelines Sentences	2,930	15.7%	3,062	16.2%	2,502	11.7%	1,314	8.6%	9,808	13.2%	5,814	17.2%	+29.6%

"Out-of-Guidelines Sentences" excludes government-sponsored downward departures, as defined in Appendix B of the Sentencing Commission's *Final Report on the Impact of United States v. Booker On Federal Sentencing* (March 2006).

"Proportionality Circuits" are the First, Fourth, Fifth, Sixth, Seventh, Eighth, Tenth, and Eleventh Circuits.

"Other Circuits" are the District of Columbia, Second, Third, and Ninth Circuits.

"% Change Post-Booker" calculates the percent change, from the Total Pre-Booker to Post-Booker periods, in the rate of Out-of-Guidelines Sentences. Calculations based on the percentages shown for Total Pre-Booker and Post-Booker may yield slightly different results due to rounding.

Sources: United States Sentencing Commission, 2005 Datafiles, USSCFY05, and Preliminary Data from USSCFY06 (October 1, 2005 through September 30, 2006); United States Sentencing Commission, 2001 and 2002 Datafiles, USSCFY01 and USSCFY02; United States Sentencing Commission, *2004 Sourcebook of Federal Sentencing Statistics*, Table 26A; United States Sentencing Commission, *2003 Sourcebook of Federal Sentencing Statistics*, Table 26A.