

**Preliminary Report to the Commission:**  
**Staff Working Group on Alternatives**

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## Introduction

The Commission, as part of its ongoing review of the implementation of the guidelines, has designated alternatives to imprisonment as a priority area of study during the 1991-92 amendment cycle.

During the previous amendment cycle, the Judicial Conference of the United States and the Alternatives to Imprisonment Project chaired by Commissioner Helen G. Corrothers submitted detailed recommendations to the Commission for increasing the number of existing intermediate punishments, expanding the pool of eligible defendants, and generally increasing district courts' flexibility in sentencing certain offenders. The Commission formed a staff working group to undertake a comprehensive and coordinated assessment of the two reports, as well as additional comments on alternatives received from judges and practitioners.

The working group includes staff from the Commission's legal, research, monitoring and training units. In addition, representatives from the Probation Division of the Administrative Office of the U.S. Courts, the Federal Judicial Center, and the Bureau of Prisons participated in staff working group meetings and contributed to the process.

To make the most efficient use of staff resources, the working group divided into three subgroups: a) program assessment, b) operational impact, and c) statistical modeling. The program assessment subgroup concentrated its efforts on the alternative sentencing programs identified in the Advisory Committee's Alternatives to Imprisonment Project Report. The operational impact subgroup reviewed the non-programmatic options of both sets of recommendations from a practitioner's standpoint in order to evaluate the impact the proposed alternatives would have on guideline application. The statistical modeling subgroup used Commission monitoring data to analyze populations of offenders that would be affected by any recommendations. Finally, working group members researched legal issues associated with the possible expansion of certain intermediate sanctions.

This report contains the staff working group's preliminary findings and recommendations.

## **I. Current Sentencing Options**

The guidelines currently permit alternatives to imprisonment for the following three groups:

*Offenders with sentencing ranges of 0-6 months:*

- straight probation;
- probation with confinement conditions;\* or
- imprisonment.

*Offenders with minimum terms of at least one but six or less months:*

- probation with confinement conditions;
- new split sentence;\*\* or
- imprisonment.

*Offenders with minimum terms of more than six but not more than ten months:*

- new split sentence; or
- imprisonment.

\* The term "probation with confinement conditions" means intermittent confinement, community confinement, or home detention.

\*\* The "new split sentence" requires service of at least half the minimum term in imprisonment followed by supervised release with either community confinement or home detention.

**Intermittent confinement** in prison or jail (e.g., nights or weekends) may be imposed as a condition of probation. The guidelines state that each 24 hours of intermittent confinement is equivalent to one day of imprisonment. A defendant who is employed in the community, but confined all remaining hours of a calendar day, is credited with one day of intermittent confinement.

**Under the guidelines, community confinement** may be imposed as a condition of probation or supervised release and is currently defined as residence in a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community facility. The guidelines recommend that the offender participate in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during non-residential hours. Commentary to the guidelines states that terms of community confinement greater than six months generally should not be imposed.

The guidelines permit **home detention** as a condition of probation or supervised release, but only as a substitute for imprisonment. Home detention is currently defined as a program of confinement and supervision that restricts defendants to their place of residence continuously, except for authorized absences, enforced by appropriate means of surveillance by the probation office. Offenders under home detention are required to be in their place of residence at all times except for approved absences for gainful employment, community service, religious services, medical care, educational or training programs, and such other times as may be specifically authorized. Commentary to the guidelines states that electronic monitoring is an appropriate means of surveillance and ordinarily should be used in connection with home detention.

**Community service** is currently recognized only as a condition of probation or supervised release, but not in lieu of imprisonment. Commentary to the guidelines states that community service generally should not be imposed in excess of 400 hours.

The guidelines presently provide a 1:1 equivalency when substituting intermittent confinement, community confinement, or home detention for imprisonment.

## **II. Use of Current Sentencing Options**

Monitoring data for fiscal year 1990 shows that 54 percent of the 8,074 offenders eligible for a sentence other than imprisonment (*i.e.*, straight probation, probation with confinement conditions, new split sentence) received one of the alternatives currently recognized by the guidelines. Conversely, 46 percent of offenders eligible for an alternative received a sentence of imprisonment.

Statistics show that courts imposed a sentence of straight probation on 70.2 percent of the offenders in Zone A (*i.e.*, offenders with sentencing ranges of 0-6 months). More than half of all offenders in the guideline's Zone B sentencing range (minimum at least one but not more than six months) were sent to prison, even though courts could have imposed a sentence of probation with confinement conditions or the new split sentence. And statistics show that the new split is by far the least used sentencing option -- of the more than 1,600 offenders who fell into Zone C on the sentencing table (minimum more than six but not more than ten months), courts imposed the new split in only 15.5 percent of the cases.

A review of the cases receiving sentencing alternatives by guideline ranges in FY1990 shows no major trends that would suggest any misuse. In fact, the statistics show a surprising degree of nonuse of the alternatives available. However, this finding has not deterred the staff working group from proposing an expansion of options for Commission consideration.

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| GUIDELINE RANGE         | TOTAL NUMBER | Prison       |             | New Split Sentence |            | Probation    |             | Probation and Sentencing Alternatives |             |
|-------------------------|--------------|--------------|-------------|--------------------|------------|--------------|-------------|---------------------------------------|-------------|
|                         |              | Number       | Percent     | Number             | Percent    | Number       | Percent     | Number                                | Percent     |
| <b>TOTAL NUMBER</b>     | <b>8,074</b> | <b>3,714</b> | <b>46.0</b> | <b>383</b>         | <b>4.7</b> | <b>2,646</b> | <b>32.8</b> | <b>1,331</b>                          | <b>16.5</b> |
| <b>GROUP "A" RANGES</b> | <b>3,133</b> | 715          | 22.8        | 9                  | 0.3        | 2,198        | 70.2        | 211                                   | 6.7         |
| <b>GROUP "B" RANGES</b> | <b>3,338</b> | 1,791        | 53.7        | 126                | 3.8        | 370          | 11.1        | 1,051                                 | 31.5        |
| <b>GROUP "C" RANGES</b> | <b>1,603</b> | 1,208        | 75.4        | 248                | 15.5       | 78           | 4.9         | 69                                    | 4.3         |

A detailed breakdown of the types of sentences imposed on offenders in Zones A, B, and C of the sentencing table, together with statistics on corresponding offender characteristics such as age, race, sex, and criminal history, is presented in Appendix A, tables 1-6. The use of each guideline alternative is displayed by circuit in tables 7-9. Additionally, table 10 shows the distribution of cases across the current sentencing table. Tables 12-14 display the proportion of cases across the sentencing table that receive one of the four sentencing options (i.e., straight probation, probation with confinement conditions, new split sentence, and imprisonment). Finally, tables 15-16 show the distribution of cases by sentencing alternatives.

### III. Expanding Guideline Sentencing Options

The staff working group was presented with two sets of recommendations for expanding sentencing options under the guidelines, one from Commissioner Corrothers, the other from the Judicial Conference. The Corrothers' Alternatives to Imprisonment Project Report consists of two major components: 1) an expansion of the array of sentencing options available to the courts; and 2) an increase in the numbers of offenders eligible for these expanded sentencing options.

Implementing this report's recommendations would require redrawing the Zone B and C lines on the current sentencing table to permit probation with confinement conditions for sentencing ranges up to 18-24 months in Criminal History Categories I-III (compared to the current limit of 6-12 months across all categories) and split sentences at ranges up to 24-30 months (compared to a current limit of 10-16 months). Additionally, new program options such as residential incarceration, intensive supervision, and public service work would need to be added to the menu of available sentencing options at varying equivalencies as substitutes for imprisonment.

The Judicial Conference proposals applicable to this staff working group (recommendations 1-3) seek to increase the "flexibility" available to sentencing judges at the lower guideline ranges, particularly with regard to non-imprisonment options for less serious first offenders. The Conference's proposals include redefining the split sentence to require service of only one month of imprisonment (as opposed to the current requirement of at least one half the minimum term), permitting straight probation at two additional offense levels in Criminal History Category I, and eliminating the distinction between Zones B and C to permit probation with confinement conditions for sentencing ranges up to 10-16 months. The proposals do not contain any new programs and do not expand the current pool of offenders eligible for alternative sentences; the recommendations seek to increase the court's flexibility to impose currently available options by revising existing guideline criteria.

It is important for Commissioners to keep in mind the potential interaction of these proposals with those offered by other staff working groups, especially groups studying Role in the Offense, Criminal History, and Acceptance of Responsibility.

#### **Overview**

In its initial guidelines, the Commission recognized the importance of providing a continuum of guideline sanctions of graduated severity to ensure that courts are not faced with the choice between over-sanctioning or under-sanctioning an offender due to a lack of appropriate sentencing options. The staff working group did not believe that it was necessary to discuss the merits of expanding alternatives to imprisonment since, by its actions, the Commission's identification of this issue for priority consideration during the 1991-92 amendment cycle shows an acceptance of this premise. Additionally, the argument is eloquently made in the discussion of the needs and benefits of expanding intermediate punishments in Commissioner Corrothers' project report (see, especially, Part I, subpart D).

The working group analyzed all suggested revisions and developed additional options in an effort to present Commissioners with a comprehensive series of proposals for their consideration. In doing so, the working group was guided by various provisions of the Sentencing Reform Act, Corrothers report, and the explanatory material accompanying the Judicial Conference proposals.

On the broadest level, two primary issues confronted the working group. The first was whether the menu of options available to judges at sentencing should be expanded to include additional alternatives. The second was whether the pool of offenders eligible for alternatives should be modified or expanded. The former issue is primarily one of

increasing flexibility at sentencing, although increasing options may also increase the pool of those receiving alternatives. The latter issue primarily speaks to increasing the numbers of those eligible for an alternative, although this option also will increase judges' flexibility.

More specifically, the working group addressed the following issues:

- ¶ Should the Commission redefine split sentences according to the Judicial Conference's proposal that would require service of only one month of incarceration rather than at least half of the minimum of the range?
- ¶ Should the Commission create a first offender adjustment?
- ¶ Should the Commission eliminate the distinction between Zones B and C on the sentencing table?
- ¶ Should the Commission redraw the lines that define Zones A, B, and C to increase the pool of offenders eligible for alternatives?
- ¶ Are there appropriate and practical sentencing alternatives that should be added to the options presently available under the guidelines?

## **Part A -- Program Review**

### **1. The New Split Sentence**

The working group sees great merit in the Judicial Conference proposal to redefine the split sentence to require service of only one month of incarceration rather than at least half of the minimum term. Redefining the split sentence in this manner may:

- 1) provide judges with greater flexibility;
- 2) promote more frequent use of this alternative;
- 3) be easier to use; and
- 4) provide for more proportionate sentences;

The Judicial Conference argues that, "The punitive value of short periods of incarceration is greatest at the start, with the 'clanging of the prison doors,' netting diminishing returns (at great cost) after that."<sup>1</sup> This theory may have its roots in the

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<sup>1</sup> Report and Recommendations of the Judicial Conference of the United States for Amendments to the United States Sentencing Guidelines, Appendix A at 1 (1991).

tenets of shock probation in which short terms of imprisonment are followed by probation. On this topic, Killinger *et al.* state:

Shock probation is seen as a treatment tool which is a compromise between the advantages of incarceration and those of probation. The proponents of this program claim that short-term incarceration coupled with the supervision of probation is not only relatively effective but humanitarian as well, and that the recidivism rate is significantly lower than the national average of recidivism for offenders not granted shock probation (shock probation figures showed a success rate of 85 per cent).<sup>2</sup>

The working group tends to agree with the Judicial Conference that redefining the split sentence in this manner "would do little to diminish the punishment meted out to these offenders" because the one month would almost certainly be served in a local jail or federal prison, not a halfway house. However, the working group notes that adoption of this proposal has the potential to exacerbate the "cliff" between offenders eligible for the split sentence and offenders one offense level higher who are not. Currently, individuals receiving a split sentence at offense level 12, Category I (the last level to qualify for the split sentence) would serve five months imprisonment, followed by a term of supervised release with a condition requiring five months of either community confinement or home detention. A minimum sentence of 12 months imprisonment is required for an offender one level higher because the split is no longer available. Under the proposed redefinition, the differential would widen from one month imprisonment followed by nine months community confinement or home detention at offense level 12 to 12 months imprisonment required at level 13.

Although it is not possible to predict which eligible offenders would receive the new split sentence were the redefinition adopted, tables 3-6 provide descriptive offense and offender information about individuals in the current B and C zones.

## **2. Intermittent Confinement**

The staff working group agrees with the recommendation of the Corrothers report that intermittent confinement be retained as a sentencing option at the current one day for one day equivalency. The group is also in agreement with the report's

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<sup>2</sup> G. Killinger, H. Kerper & P. Cromwell, Jr., Probation and Parole in the Criminal Justice System, at 76-77 (1976).

recommendation that intermittent confinement be allowed in lieu of not more than six months imprisonment because of the lack of resources and the time required to complete longer terms (e.g., 12 months confinement served on weekends would take more than three and a half years to complete).

### **3. Community Confinement**

Similarly, the staff working group agrees in large part with the Corrothers Committee recommendations concerning community confinement and its current 1:1 equivalency to imprisonment. The working group points out that the Commission might wish to consider limiting the maximum amount of community confinement to 12 months rather than the Corrothers Committee recommendation of 18 months (if alternatives are made available for guideline ranges beyond the current limit of 10 to 16 months). This is suggested in light of the fact that there is little federal or state experience with housing offenders in a halfway house setting for periods longer than one year. The working group is concerned that community confinement terms longer than 12 months may result in an unacceptably high failure rate.

### **4. Home Detention, Residential Incarceration, and Day Reporting Centers**

Currently, home detention is a sentencing alternative under the guidelines that may be imposed as a condition of probation or supervised release, but only as a substitute for imprisonment. The guidelines recognize one day of home detention as equivalent to one day of imprisonment.

The Corrothers report recommends changing this equivalency to two days of home detention for each day of imprisonment. Additionally, the report advocates the concept of "residential incarceration," a more restrictive form of home detention that would require offenders to remain in their homes continuously. Under the Corrothers proposal, residential incarceration would carry an equivalency of 1.5 days to each day of imprisonment.

The staff working group suggests that residential incarceration (24 hour restriction to the residence) and day reporting centers (reporting to a day facility with restriction to the residence at night) be incorporated into the current definition of home detention at the present 1:1 ratio. The Commission may wish to consider adding clarifying language to the commentary that would direct the court to adopt these more restrictive forms of home detention when appropriate and feasible.

**5. Public Service Work and Bootcamps**

The staff working group is currently analyzing these alternatives and plans to present its assessment and possible recommendations to the Commission in November.

**6. Intensive Supervision**

Intensive Supervision is a generic term applied to various probationary programs involving increased levels of offender supervision. This stepped-up supervision may be in the form of increased face-to-face contacts, telephone communications, continuous review of financial records, or checks on attendance and participation in various rehabilitative or educational programs.

Currently, federal probation officers carry average supervisory caseloads of at least 50. Advocates of intensive supervision envision a return to smaller caseloads (less than 25) for selected offenders in order to permit the probation officer to supervise them more closely. For example, instead of perhaps one face-to-face contact per month as in traditional probation, intensive supervision aims for two or more such contacts monthly.

Conditions of probation for participants in this program may include employment, community service, and drug or alcohol testing and rehabilitation -- conditions frequently part of more traditional probation. Because the concept of intensive supervision so closely resembles the model that traditional probation attempted to achieve for high-need offenders, the staff working group is hesitant to recommend it as a substitute for imprisonment.

However, the working group recommends that the Administrative Office be requested to provide the Commission with a report on the implementation and effectiveness of its newly created "Enhanced Supervision" program for consideration during the 1993 amendment cycle.

**7. Exclusionary Criteria**

The staff working group, much like the Corrothers Committee, recommends that the Commission draft commentary that would exclude from non-imprisonment sanctions any offender with a history of violence, offenders whose current offense involves violence, or offenders who for any reason present an unusually high risk to the public. Additionally, the working group suggests that non-imprisonment sanctions be denied to offenders who commit an offense while in custody (e.g., escape).

## **Part B -- Increasing the Eligibility Pool**

### **1. Expand Zone C**

State experience suggests that rehabilitative programs such as residence in a community treatment center, halfway house, or alcohol or drug rehabilitation center are practical sentencing options for up to one year. The Commission may wish to consider lowering the boundary line defining Zone C one level so that offenders with sentencing ranges of 12-18 months would become eligible for split sentences.

Adoption of this option might depend, in part, on the Commission's resolution of the proposal to redefine the split sentence. If the Commission decides to adopt the redefinition, expanding Zone C may aggravate the previously-discussed "cliff effect." If the Commission decides not to redefine the split, the staff working group recommends redrafting the language in §§5C1.1(c)(3) and (d)(2) that describes the option. The training unit informs the working group that practitioners find the language problematic; this in turn may contribute to the infrequent use of this alternative (see discussion in Part II).

Monitoring statistics tracking 18,290 offenders sentenced in 1990 show that 569 offenders (3% of the population) had a sentencing range of 12-18 months and would have been eligible for a split sentence if Zone C was enlarged one level. Of the 569 offenders, 46 (8%) had a primary offense of larceny, 19 (3%) embezzlement, 87 (15%) fraud, 75 (13%) drug importation and distribution, 48 (8%) forgery and counterfeiting, 32 (6%) sex offenses, 79 (14%) firearms, and 73 (13%) immigration.

When considering this option, it is important to note the infrequent use of the split sentence. Even in the cell in which it is given most frequently (level 11, Category I), four-fifths of all defendants who qualify for a split sentence receive a full term of imprisonment. See table 11 in Appendix A for a description of the offenders who would potentially benefit from this option. Table 18 models the sentencing table with an expanded Zone C.

### **2. Remove the Distinction Between Zones B and C**

The Judicial Conference recommends combining Zones B and C on the sentencing table as a way of increasing judicial flexibility. According to the Conference, this revision would "permit probation with community confinement or home detention conditions to substitute for imprisonment in 10 additional guideline cells [if the C line is not dropped]. This change would remove the requirement for some term of

imprisonment in cells with minimum terms of from 7 to 10 months, while maintaining the availability of the 'split sentence' where it is now permitted" (emphasis in original). Table 19 models the sentencing table with a combined Zone B and C.

While adoption of this recommendation would increase the courts' flexibility at sentencing, members of the working group expressed concerns about the proposal on two grounds. First, members were hesitant to abandon the graduated continuum of sanctions approach in the current guidelines that mandates some term of incarceration at higher offense levels. Second, maintaining the line between Zones B and C ensures that a segment of Zone C population will experience the impact of some "clanging of the doors." In lieu of combining Zones B and C, the working group supports redefining the split sentence to require service of only one month imprisonment.

Tables 5-6 provide descriptive offense and offender information on individuals in the current Zone C who would be affected by this proposal.

### **3. Create a Zone D**

The Corrothers report recommended expanding Zone B from the current maximum range of 6 to 12 months up to 18 to 24 months to permit probation with confinement conditions at higher offense levels for offenders in Categories I-III. Additionally, the report recommended a corresponding expansion of Zone C from the current maximum range of 10 to 16 months up to 24 to 30 months.

The staff working group is continuing to examine this proposal, as well as exploring the possibility of creating a new Zone D that would achieve many of the goals advanced by the Corrothers report while providing a more graduated continuum of sentencing options. One possible way to accomplish this would be to adopt the redefinition of the split sentence, make this new definition applicable to current Zone C offenders, and create a Zone D that would apply the current split sentence definition in §5C1.1 that requires service of at least half the minimum of the term. The staff working group plans to further study the significant implications of such a change in greater detail (e.g., increased complexity, potential for disparity) before presenting any options to the Commission.

### **4. First Offender Reduction**

One of the primary objectives of the Judicial Conference recommendations is to increase the flexibility available to judges sentencing first offenders. To this end, the

Conference suggests permitting straight probation at two additional offense levels (ranges 1-7 and 2-8) for offenders in Category I.

The staff working group has developed a proposal that meets most of the Conference's objectives in this area, as well as the Commission's statutory directive to ensure that "the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense, and the general appropriateness of imposing a term of imprisonment on a person convicted of a crime of violence that results in serious bodily injury."<sup>3</sup>

Accordingly, the staff working group recommends a mandatory two-level reduction in the adjusted offense level for certain first offenders with less serious offense conduct. The adjustment could be drafted in Chapter Four of the Guidelines Manual and would operate much like the career offender enhancement.

An eligible first offender might be defined as an offender 1) who has zero criminal history points under §4A1.1, 2) whose offense is not a crime of violence as defined in §4B1.2, and 3) who did not possess a weapon during the instant offense. The working group is currently studying an appropriate offense level cut-off (e.g., level 18) that would further restrict this adjustment to a class of less serious offenses.

To maintain integrity and consistency within the guidelines, it is suggested that the Commission employ the Chapter Four criminal history definitions in determining eligibility for the first offender adjustment, including the "decay" factor. However, the Commission may wish to consider adding departure language that would exclude offenders with certain types of foreign convictions.<sup>4</sup>

A mandatory first offender adjustment would increase the number of individuals eligible for sentencing options by moving offenders into Zones A, B, and C who might not otherwise be there. Additionally, such an adjustment has the potential to reduce

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<sup>3</sup> 28 U.S.C. § 994(j).

<sup>4</sup> There may be procedural, if not constitutional, problems with what is frequently termed the "true first offender" (someone who has had no arrests). The working group suggests that diversionary sentences not be counted unless they result from "a finding or admission of guilt, or a plea of *nolo contendere*, in a judicial proceeding" as currently required. Excluding foreign, tribal and expunged convictions may seem contrary to the philosophical basis for the first offender adjustment, but ensuring that they are constitutionally sound may prove difficult.

sentences for certain first offenders, even if the reduction does not result in their being eligible for non-imprisonment alternatives.

Automatic application of this adjustment would fulfill several purposes. First, it would address the congressional directive in 28 U.S.C. § 994(j). Second, the adjustment would provide symmetry by serving as a mirror image of the career offender enhancement in §4B1.1. Inasmuch as the Commission and Congress feel that certain criminal behavior and criminal history is so serious that it cannot be adequately addressed by application of Chapter Two guidelines, it may likewise be appropriate to distinguish between those individuals who have never sustained a conviction and those who have had contact with the system and chose not to learn from the experience. And third, employment of an adjustment of this nature avoids further alteration of the sentencing table and negates, in large measure, the incentive to create a Criminal History Category 0.

The selection of two levels for the reduction is intended to effect a meaningful adjustment for a segment of the offender population for which alternatives and/or decreased prison time would be appropriate. In addition, it should be noted that such an adjustment would retain a sentence that is common to the sentencing range both before and after the reduction (i.e., the maximum sentence in the adjusted range will be identical to the minimum sentence in the range prior to the adjustment.)

See table 11 (Guideline Sentencing Ranges By Primary Offense Category), table 21 (Selected Offense Levels of Offenders With Zero Criminal History Points, by offense type), and table 22 (Selected Offense Levels of Offenders with Zero Criminal History Points, by offender characteristics) for descriptions of offenses and offenders eligible for the two-level decrease.

In discussing a first offender reduction, the working group considered the merits of excluding certain classes of offenses (other than weapons offenses or violent crimes) from operation of the adjustment. Specifically, the group focused on drug and white collar offenses. The group was interested in examining the type of white collar offender presently ineligible for straight probation under the guidelines, but who would become eligible after the two-level first offender reduction.

To assist the Commission in assessing the policy implications of this issue, the group reviewed a random selection of case files of defendants convicted of fraud, embezzlement, and forgery offenses who had an offense level of 7-8 and zero Criminal History Points. Summaries of the cases and guideline calculations are presented in Appendix B.

In general, these offenders were largely bank tellers, low level bank or credit union employees, government employees, or citizens unaffiliated with financial institutions or government agencies. The sample of cases also included a mail clerk, two computer hackers, and a credit union manager. In the majority of cases, no manipulation of the defendant's relevant conduct was apparent.

Similarly, the working group reviewed case files of drug offenders with zero Criminal History Points and offense levels of 13-16. Currently, this class of defendants has no alternative to imprisonment. Depending on the placement of the Zone C line, the first offender reduction could make an otherwise ineligible offender eligible for a split sentence, or it could simply result in a reduced term of imprisonment. Review of the drug case files did not indicate that the offenders at these levels were large-scale drug dealers or that drug amounts were frequently manipulated downward to limit the affect of the relevant conduct guideline. Summaries of the cases and guideline calculations are presented in Appendix B.

To further illustrate the impact of a first offender adjustment, the working group modeled several of the most frequently used guidelines to examine the type of offense conduct that presently results in mandatory imprisonment, but under a first offender adjustment might permit a sentencing alternative (*i.e.*, a split sentence). For the sake of this exercise, the working group chose level 18 as the cutoff point to qualify for the first offender adjustment. A memorandum that models guideline application in various fraud, theft, drug distribution, bid-rigging, tax evasion, and alien smuggling scenarios is provided in Appendix B.

**Appendix A:**  
**Statistical Information**

Table 1

**SENTENCE IMPOSED ON OFFENDERS IN CURRENT ZONE A  
(by offense type)**

(October 1, 1989 through September 30, 1990)

| OFFENSE TYPE                     | TOTAL<br>NUMBER | Prison     |             | New Split Sentence |            | Probation    |             | Probation and<br>Sentencing<br>Alternatives |            |
|----------------------------------|-----------------|------------|-------------|--------------------|------------|--------------|-------------|---------------------------------------------|------------|
|                                  |                 | Number     | Percent     | Number             | Percent    | Number       | Percent     | Number                                      | Percent    |
| <b>TOTAL NUMBER</b>              | <b>2,715</b>    | <b>551</b> | <b>20.3</b> | <b>8</b>           | <b>0.3</b> | <b>1,965</b> | <b>72.0</b> | <b>201</b>                                  | <b>7.4</b> |
| Homicide                         | 0               | 0          | -           | 0                  | -          | 0            | -           | 0                                           | -          |
| Kidnapping                       | 0               | 0          | -           | 0                  | -          | 0            | -           | 0                                           | -          |
| Robbery                          | 2               | 0          | 0.0         | 0                  | 0.0        | 1            | 50.0        | 1                                           | 50.0       |
| Assault                          | 20              | 3          | 15.0        | 0                  | 0.0        | 13           | 65.0        | 4                                           | 20.0       |
| Burglary/B&E                     | 1               | 0          | 0.0         | 1                  | 100.0      | 0            | 0.0         | 0                                           | 0.0        |
| Larceny                          | 566             | 67         | 11.8        | 1                  | 0.2        | 470          | 83.0        | 28                                          | 5.0        |
| Embezzlement                     | 307             | 15         | 4.9         | 1                  | 0.3        | 283          | 85.7        | 28                                          | 9.1        |
| Tax Offenses                     | 18              | 1          | 5.6         | 0                  | 0.0        | 16           | 88.9        | 1                                           | 5.6        |
| Fraud                            | 593             | 151        | 25.5        | 1                  | 0.2        | 416          | 70.2        | 25                                          | 4.2        |
| Drugs-Importation & Distribution | 118             | 26         | 22.0        | 0                  | 0.0        | 68           | 57.6        | 24                                          | 20.3       |
| Drugs-Simple Possession          | 305             | 69         | 22.6        | 2                  | 0.7        | 198          | 64.9        | 36                                          | 11.8       |
| Drugs-Communication Facility     | 12              | 1          | 8.3         | 0                  | 0.0        | 8            | 66.7        | 3                                           | 25.0       |
| Auto Theft                       | 6               | 1          | 16.7        | 0                  | 0.0        | 5            | 83.3        | 0                                           | 0.0        |
| Forgery/Counterfeiting           | 148             | 23         | 15.5        | 0                  | 0.0        | 113          | 76.4        | 12                                          | 8.1        |
| Sex Offenses                     | 2               | 0          | 0.0         | 0                  | 0.0        | 2            | 100.0       | 0                                           | 0.0        |
| Bribery                          | 19              | 2          | 10.5        | 0                  | 0.0        | 17           | 89.5        | 0                                           | 0.0        |
| Escape                           | 17              | 7          | 41.2        | 0                  | 0.0        | 9            | 52.9        | 1                                           | 5.9        |
| Firearms                         | 125             | 29         | 23.2        | 1                  | 0.8        | 78           | 62.4        | 17                                          | 13.6       |
| Immigration                      | 176             | 122        | 69.3        | 0                  | 0.0        | 49           | 27.8        | 5                                           | 2.8        |
| Extortion/Racketeering           | 4               | 3          | 75.0        | 0                  | 0.0        | 1            | 25.0        | 0                                           | 0.0        |
| Gambling/Lottery                 | 6               | 0          | 0.0         | 0                  | 0.0        | 6            | 100.0       | 0                                           | 0.0        |
| Money Laundering                 | 0               | 0          | -           | 0                  | -          | 0            | -           | 0                                           | -          |
| Other                            | 270             | 31         | 11.5        | 1                  | 0.4        | 222          | 82.2        | 16                                          | 5.9        |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 2

**SENTENCE IMPOSED ON OFFENDERS IN CURRENT ZONE A**  
(by defendant characteristics)

(October 1, 1989 through September 30, 1990)

| DEFENDANT CHARACTERISTICS       | TOTAL NUMBER <sup>1</sup> | Prison     |             | New Split Sentence |            | Probation    |             | Probation and Sentencing Alternatives |            |
|---------------------------------|---------------------------|------------|-------------|--------------------|------------|--------------|-------------|---------------------------------------|------------|
|                                 |                           | Number     | Percent     | Number             | Percent    | Number       | Percent     | Number                                | Percent    |
| <b>TOTAL NUMBER<sup>1</sup></b> | <b>3,133</b>              | <b>715</b> | <b>22.8</b> | <b>9</b>           | <b>0.3</b> | <b>2,198</b> | <b>70.2</b> | <b>211</b>                            | <b>6.7</b> |
| <b>AGE</b>                      |                           |            |             |                    |            |              |             |                                       |            |
| Under 22                        | 316                       | 61         | 19.3        | 2                  | 0.6        | 229          | 72.5        | 24                                    | 7.6        |
| 22 to 25                        | 441                       | 109        | 24.7        | 2                  | 0.5        | 297          | 67.4        | 33                                    | 7.5        |
| 26 to 30                        | 601                       | 176        | 29.3        | 0                  | 0.0        | 376          | 62.6        | 49                                    | 8.2        |
| 31 to 35                        | 452                       | 112        | 24.8        | 2                  | 0.4        | 300          | 66.4        | 38                                    | 8.4        |
| 36 to 40                        | 323                       | 59         | 18.3        | 1                  | 0.3        | 229          | 70.9        | 34                                    | 10.5       |
| 41 to 50                        | 390                       | 66         | 16.9        | 1                  | 0.3        | 298          | 76.4        | 25                                    | 6.4        |
| Over 50                         | 243                       | 28         | 11.5        | 0                  | 0.0        | 209          | 86.0        | 6                                     | 2.5        |
| <b>RACE</b>                     |                           |            |             |                    |            |              |             |                                       |            |
| White                           | 1,397                     | 176        | 12.6        | 7                  | 0.5        | 1,109        | 79.4        | 105                                   | 7.5        |
| Black                           | 784                       | 151        | 19.3        | 1                  | 0.1        | 565          | 72.1        | 67                                    | 8.6        |
| Hispanic                        | 390                       | 189        | 48.5        | 0                  | 0.0        | 181          | 46.4        | 20                                    | 5.1        |
| Other                           | 115                       | 24         | 20.9        | 0                  | 0.0        | 82           | 71.3        | 9                                     | 7.8        |
| <b>SEX</b>                      |                           |            |             |                    |            |              |             |                                       |            |
| Male                            | 1,810                     | 457        | 25.3        | 7                  | 0.4        | 1,194        | 66.0        | 152                                   | 8.4        |
| Female                          | 899                       | 90         | 10.0        | 1                  | 0.1        | 759          | 84.4        | 49                                    | 5.5        |
| <b>CRIMINAL HISTORY</b>         |                           |            |             |                    |            |              |             |                                       |            |
| Low                             | 2,705                     | 544        | 20.1        | 5                  | 0.2        | 1,996        | 73.8        | 160                                   | 5.9        |
| Medium                          | 408                       | 163        | 40.0        | 4                  | 1.0        | 195          | 47.8        | 46                                    | 11.3       |
| High                            | 20                        | 8          | 40.0        | 0                  | 0.0        | 7            | 35.0        | 5                                     | 25.0       |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 3  
SENTENCE IMPOSED ON OFFENDERS IN CURRENT ZONE B  
(by offense type)

(October 1, 1989 through September 30, 1990)

| OFFENSE TYPE                     | TOTAL NUMBER | Prison |         | New Split Sentence |         | Probation |         | Probation and Sentencing Alternatives |         |
|----------------------------------|--------------|--------|---------|--------------------|---------|-----------|---------|---------------------------------------|---------|
|                                  |              | Number | Percent | Number             | Percent | Number    | Percent | Number                                | Percent |
| TOTAL NUMBER                     | 3,035        | 1,556  | 51.3    | 100                | 3.3     | 365       | 12.0    | 1,014                                 | 33.4    |
| Homicide                         | 4            | 2      | 50.0    | 0                  | 0.0     | 0         | 0.0     | 2                                     | 50.0    |
| Kidnapping                       | 0            | 0      | -       | 0                  | -       | 0         | -       | 0                                     | -       |
| Robbery                          | 1            | 1      | 100.0   | 0                  | 0.0     | 0         | 0.0     | 0                                     | 0.0     |
| Assault                          | 28           | 16     | 57.1    | 1                  | 3.6     | 4         | 14.3    | 7                                     | 25.0    |
| Burglary/B&E                     | 7            | 3      | 42.9    | 3                  | 42.9    | 0         | 0.0     | 1                                     | 14.3    |
| Larceny                          | 295          | 142    | 48.1    | 5                  | 1.7     | 45        | 15.3    | 103                                   | 34.9    |
| Embezzlement                     | 291          | 56     | 19.2    | 9                  | 3.1     | 58        | 19.9    | 168                                   | 57.7    |
| Tax Offenses                     | 24           | 11     | 45.8    | 0                  | 0.0     | 4         | 16.7    | 9                                     | 37.5    |
| Fraud                            | 593          | 240    | 40.5    | 19                 | 3.2     | 87        | 14.7    | 247                                   | 41.7    |
| Drugs-Importation & Distribution | 369          | 187    | 50.7    | 23                 | 6.2     | 35        | 9.5     | 124                                   | 33.6    |
| Drugs-Simple Possession          | 59           | 45     | 76.3    | 2                  | 3.4     | 3         | 5.1     | 9                                     | 15.3    |
| Drugs-Communication Facility     | 90           | 43     | 47.8    | 3                  | 3.3     | 11        | 12.2    | 33                                    | 36.7    |
| Auto Theft                       | 42           | 22     | 52.4    | 3                  | 7.1     | 5         | 11.9    | 12                                    | 28.6    |
| Forgery/Counterfeiting           | 249          | 115    | 46.2    | 6                  | 2.4     | 36        | 14.5    | 92                                    | 37.0    |
| Sex Offenses                     | 13           | 9      | 69.2    | 0                  | 0.0     | 2         | 15.4    | 2                                     | 15.4    |
| Bribery                          | 28           | 12     | 42.9    | 2                  | 7.1     | 3         | 10.7    | 11                                    | 39.3    |
| Escape                           | 21           | 19     | 90.5    | 0                  | 0.0     | 0         | 0.0     | 2                                     | 9.5     |
| Firearms                         | 239          | 144    | 60.3    | 13                 | 5.4     | 16        | 6.7     | 66                                    | 27.6    |
| Immigration                      | 477          | 402    | 84.3    | 4                  | 0.8     | 28        | 5.9     | 43                                    | 9.0     |
| Extortion/Racketeering           | 14           | 6      | 42.9    | 0                  | 0.0     | 4         | 28.6    | 4                                     | 28.6    |
| Gambling/Lottery                 | 44           | 13     | 29.6    | 5                  | 11.4    | 4         | 9.1     | 22                                    | 50.0    |
| Money Laundering                 | 0            | 0      | -       | 0                  | -       | 0         | -       | 0                                     | -       |
| Other                            | 147          | 68     | 46.3    | 2                  | 1.4     | 20        | 13.6    | 57                                    | 38.8    |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 4

**SENTENCE IMPOSED ON OFFENDERS IN CURRENT ZONE B**  
(by defendant characteristics)

(October 1, 1989 through September 30, 1990)

| DEFENDANT CHARACTERISTICS       | TOTAL NUMBER <sup>1</sup> | Prison       |             | New Split Sentence |            | Probation  |             | Probation and Sentencing Alternatives |             |
|---------------------------------|---------------------------|--------------|-------------|--------------------|------------|------------|-------------|---------------------------------------|-------------|
|                                 |                           | Number       | Percent     | Number             | Percent    | Number     | Percent     | Number                                | Percent     |
| <b>TOTAL NUMBER<sup>1</sup></b> | <b>3,338</b>              | <b>1,791</b> | <b>53.7</b> | <b>126</b>         | <b>3.8</b> | <b>370</b> | <b>11.1</b> | <b>1,051</b>                          | <b>31.5</b> |
| <b>AGE</b>                      |                           |              |             |                    |            |            |             |                                       |             |
| Under 22                        | 286                       | 172          | 60.1        | 15                 | 5.2        | 15         | 5.2         | 84                                    | 29.4        |
| 22 to 25                        | 489                       | 280          | 57.3        | 22                 | 4.5        | 51         | 10.4        | 136                                   | 27.8        |
| 26 to 30                        | 678                       | 382          | 56.3        | 24                 | 3.5        | 64         | 9.4         | 208                                   | 30.7        |
| 31 to 35                        | 570                       | 309          | 54.2        | 17                 | 3.0        | 67         | 11.8        | 177                                   | 31.1        |
| 36 to 40                        | 452                       | 225          | 49.8        | 19                 | 4.2        | 57         | 12.6        | 151                                   | 33.4        |
| 41 to 50                        | 506                       | 241          | 47.6        | 21                 | 4.2        | 65         | 12.9        | 179                                   | 35.4        |
| Over 50                         | 253                       | 110          | 43.5        | 6                  | 2.4        | 40         | 15.8        | 97                                    | 38.3        |
| <b>RACE</b>                     |                           |              |             |                    |            |            |             |                                       |             |
| White                           | 1,632                     | 682          | 42.4        | 47                 | 2.9        | 243        | 14.9        | 650                                   | 39.8        |
| Black                           | 698                       | 356          | 51.0        | 28                 | 4.0        | 68         | 9.7         | 246                                   | 35.2        |
| Hispanic                        | 584                       | 441          | 75.5        | 15                 | 2.6        | 42         | 7.2         | 86                                    | 14.7        |
| Other                           | 104                       | 58           | 55.8        | 10                 | 9.6        | 11         | 10.6        | 25                                    | 24.0        |
| <b>SEX</b>                      |                           |              |             |                    |            |            |             |                                       |             |
| Male                            | 2,366                     | 1,354        | 57.2        | 82                 | 3.5        | 239        | 10.1        | 691                                   | 29.2        |
| Female                          | 665                       | 201          | 30.2        | 18                 | 2.7        | 125        | 18.8        | 321                                   | 48.3        |
| <b>CRIMINAL HISTORY</b>         |                           |              |             |                    |            |            |             |                                       |             |
| Low                             | 2,317                     | 1,006        | 43.4        | 95                 | 4.1        | 322        | 13.9        | 894                                   | 38.6        |
| Medium                          | 726                       | 526          | 72.5        | 24                 | 3.3        | 41         | 5.7         | 135                                   | 18.6        |
| High                            | 295                       | 259          | 87.8        | 7                  | 2.4        | 7          | 2.4         | 22                                    | 7.5         |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 5

**SENTENCE IMPOSED ON OFFENDERS IN CURRENT ZONE C**  
(by offense type)

(October 1, 1989 through September 30, 1990)

| OFFENSE TYPE                     | TOTAL<br>NUMBER | Prison       |             | New Split Sentence |             | Probation |            | Probation and<br>Sentencing<br>Alternatives |            |
|----------------------------------|-----------------|--------------|-------------|--------------------|-------------|-----------|------------|---------------------------------------------|------------|
|                                  |                 | Number       | Percent     | Number             | Percent     | Number    | Percent    | Number                                      | Percent    |
| <b>TOTAL NUMBER</b>              | <b>1,476</b>    | <b>1,112</b> | <b>75.3</b> | <b>222</b>         | <b>15.0</b> | <b>76</b> | <b>5.2</b> | <b>66</b>                                   | <b>4.5</b> |
| Homicide                         | 1               | 1            | 100.0       | 0                  | 0.0         | 0         | 0.0        | 0                                           | 0.0        |
| Kidnapping                       | 0               | 0            | -           | 0                  | -           | 0         | -          | 0                                           | -          |
| Robbery                          | 2               | 1            | 50.0        | 0                  | 0.0         | 0         | 0.0        | 1                                           | 50.0       |
| Assault                          | 4               | 4            | 100.0       | 0                  | 0.0         | 0         | 0.0        | 0                                           | 0.0        |
| Burglary/B&E                     | 10              | 6            | 60.0        | 4                  | 40.0        | 0         | 0.0        | 0                                           | 0.0        |
| Larceny                          | 94              | 72           | 76.6        | 11                 | 11.7        | 3         | 3.2        | 8                                           | 8.5        |
| Embezzlement                     | 83              | 48           | 57.8        | 28                 | 33.7        | 3         | 3.6        | 4                                           | 4.8        |
| Tax Offenses                     | 2               | 1            | 50.0        | 0                  | 0.0         | 0         | 0.0        | 1                                           | 50.0       |
| Fraud                            | 246             | 171          | 69.5        | 48                 | 19.5        | 17        | 6.9        | 10                                          | 4.1        |
| Drugs-Importation & Distribution | 387             | 297          | 76.7        | 64                 | 16.5        | 12        | 3.1        | 14                                          | 3.6        |
| Drugs-Simple Possession          | 12              | 10           | 83.3        | 1                  | 8.3         | 1         | 8.3        | 0                                           | 0.0        |
| Drugs-Communication Facility     | 32              | 29           | 90.6        | 0                  | 0.0         | 2         | 6.3        | 1                                           | 3.1        |
| Auto Theft                       | 25              | 19           | 76.0        | 3                  | 12.0        | 2         | 8.0        | 1                                           | 4.0        |
| Forgery/Counterfeiting           | 68              | 51           | 75.0        | 9                  | 13.2        | 4         | 5.9        | 4                                           | 5.9        |
| Sex Offenses                     | 25              | 12           | 48.0        | 7                  | 28.0        | 4         | 16.0       | 2                                           | 8.0        |
| Bribery                          | 5               | 3            | 60.0        | 1                  | 20.0        | 0         | 0.0        | 1                                           | 20.0       |
| Escape                           | 21              | 14           | 66.7        | 4                  | 19.1        | 3         | 14.3       | 0                                           | 0.0        |
| Firearms                         | 189             | 157          | 83.1        | 19                 | 10.1        | 8         | 4.2        | 5                                           | 2.7        |
| Immigration                      | 148             | 144          | 97.3        | 0                  | 0.0         | 3         | 2.0        | 1                                           | 0.7        |
| Extortion/Racketeering           | 8               | 3            | 37.5        | 2                  | 25.0        | 3         | 37.5       | 0                                           | 0.0        |
| Gambling/Lottery                 | 19              | 6            | 31.6        | 7                  | 36.8        | 3         | 15.8       | 3                                           | 15.8       |
| Money Laundering                 | 2               | 1            | 50.0        | 0                  | 0.0         | 0         | 0.0        | 1                                           | 50.0       |
| Other                            | 93              | 62           | 66.7        | 14                 | 15.1        | 8         | 8.6        | 9                                           | 9.7        |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 6

**SENTENCE IMPOSED ON OFFENDERS IN CURRENT ZONE C**  
(by defendant characteristics)

(October 1, 1989 through September 30, 1990)

| DEFENDANT CHARACTERISTICS | TOTAL NUMBER/ | Prison       |             | New Split Sentence |             | Probation |            | Probation and Sentencing Alternatives |            |
|---------------------------|---------------|--------------|-------------|--------------------|-------------|-----------|------------|---------------------------------------|------------|
|                           |               | Number       | Percent     | Number             | Percent     | Number    | Percent    | Number                                | Percent    |
| <b>TOTAL NUMBER/</b>      | <b>1,603</b>  | <b>1,208</b> | <b>75.4</b> | <b>248</b>         | <b>15.5</b> | <b>78</b> | <b>4.9</b> | <b>69</b>                             | <b>4.3</b> |
| <b>AGE</b>                |               |              |             |                    |             |           |            |                                       |            |
| Under 22                  | 106           | 83           | 78.3        | 16                 | 15.1        | 5         | 4.7        | 2                                     | 1.9        |
| 22 to 25                  | 202           | 161          | 79.7        | 25                 | 12.4        | 5         | 2.5        | 11                                    | 5.5        |
| 26 to 30                  | 345           | 273          | 79.1        | 48                 | 13.9        | 16        | 4.6        | 8                                     | 2.3        |
| 31 to 35                  | 306           | 239          | 78.1        | 48                 | 15.7        | 10        | 3.3        | 9                                     | 2.9        |
| 36 to 40                  | 207           | 148          | 71.5        | 37                 | 17.9        | 11        | 5.3        | 11                                    | 5.3        |
| 41 to 50                  | 259           | 176          | 68.0        | 46                 | 17.8        | 22        | 8.5        | 15                                    | 5.8        |
| Over 50                   | 120           | 74           | 61.7        | 27                 | 22.5        | 9         | 7.5        | 10                                    | 8.3        |
| <b>RACE</b>               |               |              |             |                    |             |           |            |                                       |            |
| White                     | 797           | 546          | 68.5        | 142                | 17.8        | 58        | 7.3        | 51                                    | 6.4        |
| Black                     | 356           | 279          | 78.4        | 58                 | 16.3        | 10        | 2.8        | 9                                     | 2.5        |
| Hispanic                  | 286           | 256          | 89.5        | 18                 | 6.3         | 6         | 2.1        | 6                                     | 2.1        |
| Other                     | 27            | 22           | 81.5        | 4                  | 14.8        | 1         | 3.7        | 0                                     | 0.0        |
| <b>SEX</b>                |               |              |             |                    |             |           |            |                                       |            |
| Male                      | 1,258         | 963          | 76.6        | 175                | 13.9        | 61        | 4.9        | 59                                    | 4.7        |
| Female                    | 214           | 145          | 67.8        | 47                 | 22.0        | 15        | 7.0        | 7                                     | 3.3        |
| <b>CRIMINAL HISTORY</b>   |               |              |             |                    |             |           |            |                                       |            |
| Low                       | 913           | 609          | 66.7        | 190                | 20.8        | 62        | 6.8        | 52                                    | 5.7        |
| Medium                    | 480           | 403          | 84.0        | 52                 | 10.8        | 13        | 2.7        | 12                                    | 2.5        |
| High                      | 210           | 186          | 88.6        | 6                  | 2.9         | 3         | 1.4        | 5                                     | 2.4        |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 7

**SENTENCE IMPOSED ON OFFENDERS IN CURRENT ZONE A  
(by circuit)**

(October 1, 1989 through September 30, 1990)

| UNITED STATES CIRCUIT | TOTAL<br>NUMBER | Prison     |             | New Split Sentence |            | Probation    |             | Probation and<br>Sentencing<br>Alternatives |            |
|-----------------------|-----------------|------------|-------------|--------------------|------------|--------------|-------------|---------------------------------------------|------------|
|                       |                 | Number     | Percent     | Number             | Percent    | Number       | Percent     | Number                                      | Percent    |
| <b>TOTAL NUMBER</b>   | <b>3,133</b>    | <b>715</b> | <b>22.8</b> | <b>9</b>           | <b>0.3</b> | <b>2,196</b> | <b>70.2</b> | <b>211</b>                                  | <b>6.7</b> |
| D.C. Circuit          | 42              | 9          | 21.4        | 0                  | 0.0        | 29           | 69.1        | 4                                           | 9.5        |
| First Circuit         | 48              | 17         | 35.4        | 0                  | 0.0        | 30           | 62.5        | 1                                           | 2.1        |
| Second Circuit        | 148             | 50         | 33.8        | 0                  | 0.0        | 95           | 64.2        | 3                                           | 2.0        |
| Third Circuit         | 115             | 16         | 13.9        | 1                  | 0.9        | 94           | 81.7        | 4                                           | 3.5        |
| Fourth Circuit        | 332             | 74         | 22.3        | 2                  | 0.6        | 224          | 67.5        | 32                                          | 9.6        |
| Fifth Circuit         | 684             | 204        | 29.8        | 3                  | 0.4        | 442          | 64.6        | 35                                          | 5.1        |
| Sixth Circuit         | 339             | 35         | 10.3        | 2                  | 0.6        | 287          | 84.7        | 15                                          | 4.4        |
| Seventh Circuit       | 139             | 19         | 13.7        | 0                  | 0.0        | 105          | 75.5        | 15                                          | 10.8       |
| Eighth Circuit        | 198             | 59         | 29.8        | 0                  | 0.0        | 120          | 60.6        | 19                                          | 9.6        |
| Ninth Circuit         | 419             | 134        | 32.0        | 1                  | 0.2        | 254          | 60.6        | 30                                          | 7.2        |
| Tenth Circuit         | 211             | 35         | 16.6        | 0                  | 0.0        | 154          | 73.0        | 22                                          | 10.4       |
| Eleventh Circuit      | 458             | 63         | 13.8        | 0                  | 0.0        | 364          | 79.5        | 31                                          | 6.8        |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 8

**SENTENCE IMPOSED ON OFFENDERS IN CURRENT ZONE B**  
(by circuit)

(October 1, 1989 through September 30, 1990)

| UNITED STATES CIRCUIT | TOTAL<br>NUMBER | Prison       |             | New Split Sentence |            | Probation  |             | Probation and<br>Sentencing<br>Alternatives |             |
|-----------------------|-----------------|--------------|-------------|--------------------|------------|------------|-------------|---------------------------------------------|-------------|
|                       |                 | Number       | Percent     | Number             | Percent    | Number     | Percent     | Number                                      | Percent     |
| <b>TOTAL NUMBER</b>   | <b>3,338</b>    | <b>1,791</b> | <b>53.7</b> | <b>126</b>         | <b>3.8</b> | <b>370</b> | <b>11.1</b> | <b>1,051</b>                                | <b>31.5</b> |
| D.C. Circuit          | 21              | 14           | 66.7        | 1                  | 4.8        | 2          | 9.5         | 4                                           | 19.1        |
| First Circuit         | 66              | 31           | 47.0        | 4                  | 6.1        | 11         | 16.7        | 20                                          | 30.3        |
| Second Circuit        | 234             | 129          | 55.1        | 11                 | 4.7        | 47         | 20.1        | 47                                          | 20.1        |
| Third Circuit         | 165             | 42           | 22.7        | 10                 | 5.4        | 30         | 16.2        | 103                                         | 55.7        |
| Fourth Circuit        | 343             | 155          | 45.2        | 9                  | 2.6        | 39         | 11.4        | 140                                         | 40.8        |
| Fifth Circuit         | 580             | 391          | 66.3        | 17                 | 2.9        | 54         | 9.2         | 128                                         | 21.7        |
| Sixth Circuit         | 279             | 130          | 46.6        | 14                 | 5.0        | 29         | 10.4        | 106                                         | 38.0        |
| Seventh Circuit       | 122             | 48           | 39.3        | 4                  | 3.3        | 9          | 7.4         | 61                                          | 50.0        |
| Eighth Circuit        | 211             | 115          | 54.5        | 10                 | 4.7        | 14         | 6.6         | 72                                          | 34.1        |
| Ninth Circuit         | 562             | 367          | 65.3        | 27                 | 4.8        | 49         | 8.7         | 119                                         | 21.2        |
| Tenth Circuit         | 256             | 142          | 55.5        | 11                 | 4.3        | 28         | 10.9        | 75                                          | 29.3        |
| Eleventh Circuit      | 469             | 227          | 48.4        | 8                  | 1.7        | 58         | 12.4        | 176                                         | 37.5        |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 9

**SENTENCE IMPOSED ON OFFENDERS IN CURRENT ZONE C**  
(by circuit)

(October 1, 1989 through September 30, 1990)

| UNITED STATES CIRCUIT | TOTAL<br>NUMBER | Prison       |             | New Split Sentence |             | Probation |            | Probation and<br>Sentencing<br>Alternatives |            |
|-----------------------|-----------------|--------------|-------------|--------------------|-------------|-----------|------------|---------------------------------------------|------------|
|                       |                 | Number       | Percent     | Number             | Percent     | Number    | Percent    | Number                                      | Percent    |
| <b>TOTAL NUMBER</b>   | <b>1,603</b>    | <b>1,208</b> | <b>75.4</b> | <b>248</b>         | <b>15.5</b> | <b>78</b> | <b>4.9</b> | <b>69</b>                                   | <b>4.3</b> |
| D.C. Circuit          | 7               | 5            | 71.4        | 1                  | 14.3        | 1         | 10.0       | 0                                           | 0.0        |
| First Circuit         | 47              | 33           | 70.2        | 8                  | 17.0        | 5         | 10.6       | 1                                           | 2.1        |
| Second Circuit        | 117             | 84           | 71.8        | 19                 | 16.2        | 9         | 7.7        | 5                                           | 4.3        |
| Third Circuit         | 80              | 53           | 66.3        | 13                 | 16.3        | 8         | 10.0       | 6                                           | 7.5        |
| Fourth Circuit        | 197             | 137          | 69.5        | 42                 | 21.3        | 8         | 4.1        | 10                                          | 5.1        |
| Fifth Circuit         | 279             | 223          | 79.9        | 37                 | 13.3        | 11        | 3.9        | 8                                           | 2.9        |
| Sixth Circuit         | 141             | 113          | 80.1        | 17                 | 12.1        | 7         | 5.0        | 4                                           | 2.8        |
| Seventh Circuit       | 56              | 33           | 58.9        | 14                 | 25.0        | 3         | 5.4        | 6                                           | 10.7       |
| Eighth Circuit        | 105             | 70           | 66.7        | 22                 | 21.0        | 4         | 3.8        | 9                                           | 8.6        |
| Ninth Circuit         | 275             | 229          | 83.3        | 30                 | 10.9        | 8         | 2.9        | 8                                           | 2.9        |
| Tenth Circuit         | 96              | 75           | 78.1        | 12                 | 12.5        | 5         | 5.2        | 4                                           | 4.2        |
| Eleventh Circuit      | 203             | 153          | 75.4        | 33                 | 16.3        | 9         | 4.4        | 8                                           | 3.9        |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 10

**DISTRIBUTION OF CASES WITHIN SENTENCING TABLE**  
**(October 1, 1989 through September 30, 1990)**

| OFFENSE LEVEL | TOTAL NUMBER | CRIMINAL HISTORY CATEGORY |       |       |       |     |       |
|---------------|--------------|---------------------------|-------|-------|-------|-----|-------|
|               |              | I                         | II    | III   | IV    | V   | VI    |
| TOTAL NUMBER  | 20,171       | 12,627                    | 2,263 | 2,229 | 1,211 | 642 | 1,199 |
| 1             | 15           | 13                        | 1     | 0     | 0     | 1   | 0     |
| 2             | 459          | 389                       | 39    | 19    | 8     | 1   | 3     |
| 3             | 238          | 153                       | 24    | 35    | 11    | 5   | 10    |
| 4             | 1,680        | 1297                      | 144   | 111   | 54    | 27  | 47    |
| 5             | 423          | 307                       | 45    | 30    | 23    | 6   | 12    |
| 6             | 1,280        | 722                       | 121   | 153   | 120   | 70  | 94    |
| 7             | 1,001        | 593                       | 99    | 115   | 73    | 53  | 68    |
| 8             | 777          | 482                       | 89    | 74    | 56    | 31  | 45    |
| 9             | 620          | 387                       | 60    | 89    | 35    | 26  | 41    |
| 10            | 1,507        | 882                       | 180   | 190   | 118   | 71  | 86    |
| 11            | 667          | 350                       | 64    | 79    | 56    | 53  | 63    |
| 12            | 961          | 569                       | 114   | 122   | 75    | 33  | 48    |
| 13            | 417          | 248                       | 41    | 45    | 36    | 26  | 21    |
| 14            | 781          | 493                       | 95    | 91    | 57    | 25  | 20    |
| 15            | 244          | 142                       | 27    | 29    | 12    | 5   | 29    |
| 16            | 703          | 463                       | 89    | 91    | 27    | 20  | 13    |
| 17            | 267          | 137                       | 27    | 36    | 19    | 13  | 35    |
| 18            | 588          | 365                       | 73    | 93    | 35    | 6   | 14    |
| 19            | 159          | 74                        | 24    | 31    | 14    | 5   | 11    |
| 20            | 660          | 409                       | 95    | 98    | 42    | 27  | 21    |
| 21            | 148          | 93                        | 20    | 12    | 12    | 3   | 8     |
| 22            | 611          | 384                       | 84    | 89    | 31    | 22  | 21    |
| 23            | 143          | 73                        | 19    | 16    | 23    | 4   | 6     |
| 24            | 1,210        | 653                       | 142   | 122   | 46    | 25  | 20    |
| 25            | 75           | 41                        | 8     | 8     | 8     | 4   | 8     |
| 26            | 984          | 647                       | 126   | 126   | 49    | 16  | 20    |
| 27            | 63           | 36                        | 8     | 9     | 1     | 5   | 2     |
| 28            | 585          | 403                       | 62    | 73    | 27    | 10  | 10    |
| 29            | 52           | 37                        | 4     | 4     | 4     | 1   | 2     |
| 30            | 677          | 368                       | 76    | 73    | 29    | 11  | 100   |
| 31            | 45           | 27                        | 7     | 5     | 2     | 0   | 4     |
| 32            | 761          | 413                       | 102   | 70    | 37    | 7   | 132   |
| 33            | 39           | 20                        | 9     | 6     | 1     | 1   | 2     |
| 34            | 599          | 332                       | 56    | 68    | 18    | 10  | 75    |
| 35            | 67           | 26                        | 3     | 5     | 2     | 0   | 31    |
| 36            | 269          | 163                       | 44    | 32    | 23    | 3   | 4     |
| 37            | 96           | 22                        | 7     | 4     | 1     | 1   | 63    |
| 38            | 168          | 102                       | 29    | 23    | 7     | 3   | 4     |
| 39            | 27           | 14                        | 6     | 1     | 3     | 1   | 2     |
| 40            | 64           | 29                        | 10    | 13    | 6     | 1   | 2     |
| 41            | 16           | 8                         | 4     | 1     | 2     | 0   | 0     |
| 42            | 39           | 28                        | 3     | 7     | 0     | 1   | 2     |
| 43            | 24           | 12                        | 3     | 3     | 1     | 5   | 0     |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 11

**GUIDELINE SENTENCING RANGES BY PRIMARY OFFENSE CATEGORY**  
**For Guideline Cases With Complete Reports on the Sentencing Hearing Received**  
**(October 1, 1989 through September 30, 1990)**

| GUIDELINE RANGE | Total  | Percent | PRIMARY OFFENSE CATEGORY |       |            |       |         |       |         |       |
|-----------------|--------|---------|--------------------------|-------|------------|-------|---------|-------|---------|-------|
|                 |        |         | Homicide                 |       | Kidnapping |       | Robbery |       | Assault |       |
|                 |        |         | N                        | %     | N          | %     | N       | %     | N       | %     |
| 0-6             | 2,820  | 15.4    | 0                        | 0.0   | 0          | 0.0   | 2       | 0.3   | 20      | 11.8  |
| 1-7             | 650    | 3.6     | 0                        | 0.0   | 0          | 0.0   | 1       | 0.1   | 14      | 8.1   |
| 2-8             | 719    | 3.9     | 1                        | 1.5   | 0          | 0.0   | 0       | 0.0   | 3       | 1.7   |
| 3-9             | 8      | 0.0     | 0                        | 0.0   | 0          | 0.0   | 0       | 0.0   | 0       | 0.0   |
| 4-10            | 580    | 3.2     | 3                        | 4.5   | 0          | 0.0   | 0       | 0.0   | 8       | 3.5   |
| 6-12            | 1,074  | 5.9     | 0                        | 0.0   | 0          | 0.0   | 1       | 0.1   | 5       | 2.3   |
| 8-14            | 598    | 3.3     | 0                        | 0.0   | 0          | 0.0   | 1       | 0.1   | 3       | 1.7   |
| 9-15            | 74     | 0.4     | 0                        | 0.0   | 0          | 0.0   | 0       | 0.0   | 0       | 0.0   |
| 10-16           | 791    | 4.3     | 1                        | 1.5   | 0          | 0.0   | 0       | 0.0   | 1       | 0.9   |
| 12-18           | 569    | 3.1     | 3                        | 4.5   | 0          | 0.0   | 1       | 0.1   | 8       | 3.5   |
| 15-21           | 803    | 4.4     | 2                        | 3.0   | 0          | 0.0   | 1       | 0.1   | 4       | 2.3   |
| 18-24           | 394    | 2.2     | 0                        | 0.0   | 0          | 0.0   | 2       | 0.3   | 3       | 1.7   |
| 21-27           | 703    | 3.8     | 4                        | 6.0   | 0          | 0.0   | 2       | 0.3   | 3       | 1.7   |
| 24-30           | 415    | 2.3     | 0                        | 0.0   | 0          | 0.0   | 40      | 5.5   | 4       | 2.3   |
| 27-33           | 595    | 3.3     | 1                        | 1.5   | 0          | 0.0   | 14      | 1.9   | 6       | 3.5   |
| 30-37           | 242    | 1.3     | 1                        | 1.5   | 1          | 2.9   | 32      | 4.4   | 14      | 8.1   |
| 33-41           | 561    | 3.1     | 1                        | 1.5   | 1          | 2.9   | 57      | 7.9   | 2       | 1.2   |
| 37-46           | 250    | 1.4     | 0                        | 0.0   | 1          | 2.9   | 63      | 8.7   | 21      | 12.2  |
| 41-51           | 520    | 2.8     | 0                        | 0.0   | 3          | 8.6   | 57      | 7.9   | 16      | 9.3   |
| 46-57           | 191    | 1.0     | 13                       | 19.4  | 2          | 5.7   | 52      | 7.2   | 8       | 3.5   |
| 51-63           | 912    | 5.0     | 2                        | 3.0   | 2          | 5.7   | 53      | 7.3   | 7       | 4.1   |
| 57-71           | 215    | 1.2     | 3                        | 4.5   | 2          | 5.7   | 40      | 5.5   | 8       | 3.5   |
| 63-78           | 774    | 4.2     | 1                        | 1.5   | 0          | 0.0   | 53      | 7.3   | 8       | 3.5   |
| 70-87           | 195    | 1.1     | 5                        | 7.5   | 2          | 5.7   | 37      | 5.1   | 4       | 2.3   |
| 77-96           | 75     | 0.4     | 0                        | 0.0   | 1          | 2.9   | 21      | 2.9   | 0       | 0.0   |
| 78-97           | 495    | 2.7     | 1                        | 1.5   | 2          | 5.7   | 12      | 1.7   | 2       | 1.2   |
| 84-105          | 32     | 0.2     | 1                        | 1.5   | 2          | 5.7   | 13      | 1.8   | 0       | 0.0   |
| 87-108          | 105    | 0.6     | 2                        | 3.0   | 0          | 0.0   | 4       | 0.6   | 0       | 0.0   |
| 92-115          | 74     | 0.4     | 0                        | 0.0   | 0          | 0.0   | 4       | 0.6   | 1       | 0.6   |
| 97-121          | 440    | 2.4     | 1                        | 1.5   | 1          | 2.9   | 6       | 0.8   | 0       | 0.0   |
| 100-125         | 23     | 0.1     | 1                        | 1.5   | 0          | 0.0   | 5       | 0.7   | 2       | 1.2   |
| 106-135         | 92     | 0.5     | 2                        | 3.0   | 0          | 0.0   | 1       | 0.1   | 1       | 0.6   |
| 110-137         | 42     | 0.2     | 0                        | 0.0   | 1          | 2.9   | 6       | 0.8   | 1       | 0.6   |
| 120-150         | 22     | 0.1     | 0                        | 0.0   | 0          | 0.0   | 7       | 1.0   | 1       | 0.6   |
| 121-151         | 465    | 2.5     | 1                        | 1.5   | 2          | 5.7   | 2       | 0.3   | 1       | 0.6   |
| 130-162         | 14     | 0.1     | 0                        | 0.0   |            | 0.0   | 1       | 0.1   | 1       | 0.6   |
| 135-168         | 146    | 0.8     | 4                        | 6.0   | 1          | 2.9   | 1       | 0.1   | 0       | 0.0   |
| 140-175         | 0      | 0.0     | 0                        | 0.0   | 0          | 0.0   | 0       | 0.0   | 0       | 0.0   |
| 151-188         | 387    | 2.1     | 0                        | 0.0   | 0          | 0.0   | 1       | 0.1   | 0       | 0.0   |
| 188-210         | 217    | 1.2     | 2                        | 3.0   | 0          | 0.0   | 47      | 6.5   | 0       | 0.0   |
| 188-236         | 229    | 1.3     | 0                        | 0.0   | 2          | 5.7   | 1       | 0.1   | 0       | 0.0   |
| 210-262         | 217    | 1.2     | 1                        | 1.5   | 2          | 5.7   | 59      | 8.1   | 2       | 1.2   |
| 235-293         | 147    | 0.8     | 1                        | 1.5   | 0          | 0.0   | 0       | 0.0   | 0       | 0.0   |
| 282-327         | 135    | 0.7     | 1                        | 1.5   | 1          | 2.9   | 20      | 2.8   | 0       | 0.0   |
| 282-365         | 83     | 0.5     | 1                        | 1.5   | 2          | 5.7   | 2       | 0.3   | 0       | 0.0   |
| 324-405         | 30     | 0.2     | 0                        | 0.0   | 0          | 0.0   | 0       | 0.0   | 0       | 0.0   |
| 360-lfe         | 136    | 0.7     | 2                        | 3.0   | 4          | 11.4  | 3       | 0.4   | 0       | 0.0   |
| lfe             | 23     | 0.1     | 5                        | 7.5   | 0          | 0.0   | 0       | 0.0   | 0       | 0.0   |
| TOTAL           | 18,290 | 100.0   | 67                       | 100.0 | 35         | 100.0 | 725     | 100.0 | 172     | 100.0 |

| GUIDELINE RANGE | PRIMARY OFFENSE CATEGORY |       |         |       |              |       |              |       |       |       |
|-----------------|--------------------------|-------|---------|-------|--------------|-------|--------------|-------|-------|-------|
|                 | Burglary/B&E             |       | Larceny |       | Embezzlement |       | Tax Offenses |       | Fraud |       |
|                 | N                        | %     | N       | %     | N            | %     | N            | %     | N     | %     |
| 0-6             | 1                        | 1.6   | 619     | 49.8  | 320          | 42.3  | 18           | 30.5  | 612   | 32.3  |
| 1-7             | 0                        | 0.0   | 65      | 5.2   | 75           | 9.9   | 5            | 8.5   | 116   | 6.1   |
| 2-8             | 1                        | 1.6   | 62      | 6.8   | 72           | 9.5   | 8            | 13.8  | 165   | 8.7   |
| 3-9             | 0                        | 0.0   | 7       | 0.6   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 4-10            | 0                        | 0.0   | 56      | 4.6   | 65           | 8.6   | 1            | 1.7   | 137   | 7.2   |
| 6-12            | 6                        | 9.5   | 66      | 6.9   | 74           | 9.8   | 10           | 17.0  | 180   | 9.5   |
| 8-14            | 5                        | 7.9   | 44      | 3.5   | 40           | 5.3   | 3            | 5.1   | 119   | 6.3   |
| 9-15            | 0                        | 0.0   | 12      | 1.0   | 0            | 0.0   | 0            | 0.0   | 5     | 0.3   |
| 10-16           | 5                        | 7.9   | 39      | 3.1   | 41           | 5.4   | 0            | 0.0   | 121   | 6.4   |
| 12-18           | 5                        | 7.9   | 46      | 3.7   | 19           | 2.5   | 3            | 5.1   | 87    | 4.6   |
| 15-21           | 5                        | 7.9   | 45      | 3.6   | 14           | 1.9   | 4            | 6.8   | 75    | 4.0   |
| 18-24           | 2                        | 3.2   | 27      | 2.2   | 11           | 1.5   | 2            | 3.4   | 73    | 3.9   |
| 21-27           | 7                        | 11.1  | 17      | 1.4   | 9            | 1.2   | 1            | 1.7   | 49    | 2.6   |
| 24-30           | 8                        | 12.7  | 30      | 2.4   | 6            | 0.8   | 0            | 0.0   | 40    | 2.1   |
| 27-33           | 1                        | 1.6   | 22      | 1.8   | 5            | 0.7   | 0            | 0.0   | 35    | 1.9   |
| 30-37           | 5                        | 7.9   | 11      | 0.9   | 0            | 0.0   | 0            | 0.0   | 26    | 1.4   |
| 33-41           | 1                        | 1.6   | 9       | 0.7   | 4            | 0.5   | 1            | 1.7   | 15    | 0.8   |
| 37-46           | 1                        | 1.6   | 9       | 0.7   | 1            | 0.1   | 0            | 0.0   | 13    | 0.7   |
| 41-51           | 4                        | 6.3   | 4       | 0.3   | 0            | 0.0   | 1            | 1.7   | 9     | 0.5   |
| 46-57           | 2                        | 3.2   | 2       | 0.2   | 0            | 0.0   | 1            | 1.7   | 1     | 0.1   |
| 51-63           | 2                        | 3.2   | 3       | 0.2   | 0            | 0.0   | 0            | 0.0   | 6     | 0.3   |
| 57-71           | 1                        | 1.6   | 1       | 0.1   | 0            | 0.0   | 0            | 0.0   | 3     | 0.2   |
| 63-78           | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 1            | 1.7   | 2     | 0.1   |
| 70-87           | 1                        | 1.6   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 2     | 0.1   |
| 77-96           | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 2     | 0.1   |
| 78-97           | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 2     | 0.1   |
| 84-106          | 0                        | 0.0   | 2       | 0.2   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 87-106          | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 92-115          | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 97-121          | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 100-125         | 0                        | 0.0   | 1       | 0.1   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 106-135         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 110-137         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 120-150         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 121-151         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 130-162         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 135-166         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 1     | 0.1   |
| 140-175         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 151-186         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 166-210         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 186-236         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 210-262         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 236-288         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 262-327         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 282-365         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 324-406         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| 360-496         | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| We              | 0                        | 0.0   | 0       | 0.0   | 0            | 0.0   | 0            | 0.0   | 0     | 0.0   |
| TOTAL           | 63                       | 100.0 | 1,242   | 100.0 | 756          | 100.0 | 59           | 100.0 | 1,896 | 100.0 |

| GUIDELINE RANGE | PRIMARY OFFENSE CATEGORY           |       |                           |       |                                |       |            |       |                        |       |
|-----------------|------------------------------------|-------|---------------------------|-------|--------------------------------|-------|------------|-------|------------------------|-------|
|                 | Drugs (Importation & Distribution) |       | Drugs (Simple Possession) |       | Drugs (Communication Facility) |       | Auto Theft |       | Forgery/Counterfeiting |       |
|                 | N                                  | %     | N                         | %     | N                              | %     | N          | %     | N                      | %     |
| 0-6             | 117                                | 1.4   | 323                       | 70.2  | 12                             | 6.6   | 6          | 5.0   | 148                    | 22.7  |
| 1-7             | 9                                  | 0.1   | 12                        | 2.6   | 0                              | 0.0   | 8          | 6.6   | 81                     | 12.4  |
| 2-8             | 66                                 | 0.8   | 15                        | 3.3   | 14                             | 7.9   | 9          | 7.4   | 58                     | 8.9   |
| 3-9             | 0                                  | 0.0   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 4-10            | 21                                 | 0.3   | 4                         | 0.9   | 4                              | 2.3   | 13         | 10.7  | 56                     | 8.6   |
| 6-12            | 268                                | 3.3   | 24                        | 5.2   | 69                             | 36.0  | 12         | 9.9   | 52                     | 8.0   |
| 8-14            | 81                                 | 1.0   | 0                         | 0.0   | 13                             | 7.3   | 9          | 7.4   | 35                     | 5.4   |
| 9-15            | 2                                  | 0.0   | 3                         | 0.7   | 1                              | 0.6   | 1          | 0.8   | 6                      | 0.9   |
| 10-16           | 291                                | 3.5   | 10                        | 2.2   | 19                             | 10.7  | 14         | 11.6  | 30                     | 4.6   |
| 12-18           | 75                                 | 0.9   | 7                         | 1.5   | 3                              | 1.7   | 6          | 5.0   | 48                     | 7.4   |
| 15-21           | 380                                | 4.6   | 22                        | 4.6   | 9                              | 5.1   | 7          | 5.8   | 27                     | 4.1   |
| 18-24           | 80                                 | 1.0   | 2                         | 0.4   | 2                              | 1.1   | 5          | 4.1   | 26                     | 4.0   |
| 21-27           | 418                                | 5.1   | 21                        | 4.6   | 6                              | 3.4   | 10         | 8.3   | 16                     | 2.5   |
| 24-30           | 95                                 | 1.2   | 2                         | 0.4   | 6                              | 3.4   | 7          | 5.8   | 26                     | 4.0   |
| 27-33           | 370                                | 4.5   | 7                         | 1.5   | 2                              | 1.1   | 2          | 1.7   | 11                     | 1.7   |
| 30-37           | 70                                 | 0.9   | 1                         | 0.2   | 1                              | 0.6   | 5          | 4.1   | 11                     | 1.7   |
| 33-41           | 401                                | 4.9   | 2                         | 0.4   | 0                              | 0.0   | 3          | 2.5   | 6                      | 1.2   |
| 37-46           | 100                                | 1.2   | 0                         | 0.0   | 1                              | 0.6   | 3          | 2.5   | 2                      | 0.3   |
| 41-51           | 367                                | 4.5   | 1                         | 0.2   | 1                              | 0.6   | 1          | 0.8   | 2                      | 0.3   |
| 46-57           | 79                                 | 1.0   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 3                      | 0.5   |
| 51-63           | 766                                | 9.7   | 0                         | 0.0   | 1                              | 0.6   | 0          | 0.0   | 1                      | 0.2   |
| 57-71           | 137                                | 1.7   | 1                         | 0.2   | 0                              | 0.0   | 0          | 0.0   | 1                      | 0.2   |
| 63-78           | 672                                | 8.2   | 1                         | 0.2   | 1                              | 0.6   | 0          | 0.0   | 2                      | 0.3   |
| 70-87           | 130                                | 1.6   | 0                         | 0.0   | 1                              | 0.6   | 0          | 0.0   | 0                      | 0.0   |
| 77-96           | 46                                 | 0.6   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 78-97           | 451                                | 5.5   | 0                         | 0.0   | 1                              | 0.6   | 0          | 0.0   | 0                      | 0.0   |
| 84-105          | 12                                 | 0.1   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 87-108          | 83                                 | 1.0   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 92-115          | 62                                 | 0.8   | 0                         | 0.0   | 1                              | 0.6   | 0          | 0.0   | 0                      | 0.0   |
| 97-121          | 421                                | 5.1   | 0                         | 0.0   | 2                              | 1.1   | 0          | 0.0   | 0                      | 0.0   |
| 100-125         | 10                                 | 0.1   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 106-135         | 79                                 | 1.0   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 110-137         | 31                                 | 0.4   | 0                         | 0.0   | 1                              | 0.6   | 0          | 0.0   | 0                      | 0.0   |
| 120-150         | 13                                 | 0.2   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 121-151         | 442                                | 5.4   | 0                         | 0.0   | 5                              | 2.8   | 0          | 0.0   | 0                      | 0.0   |
| 130-162         | 11                                 | 0.1   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 135-168         | 129                                | 1.6   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 140-175         | 0                                  | 0.0   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 151-188         | 370                                | 4.5   | 1                         | 0.2   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 186-210         | 160                                | 2.0   | 0                         | 0.0   | 1                              | 0.6   | 0          | 0.0   | 0                      | 0.0   |
| 188-235         | 216                                | 2.6   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 210-262         | 151                                | 1.8   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 235-298         | 140                                | 1.7   | 1                         | 0.2   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 282-327         | 108                                | 1.3   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 282-365         | 85                                 | 1.0   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 324-405         | 29                                 | 0.4   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| 380-We          | 117                                | 1.4   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| We              | 12                                 | 0.1   | 0                         | 0.0   | 0                              | 0.0   | 0          | 0.0   | 0                      | 0.0   |
| TOTAL           | 8,204                              | 100.0 | 460                       | 100.0 | 177                            | 100.0 | 121        | 100.0 | 662                    | 100.0 |

| GUIDELINE RANGE | PRIMARY OFFENSE CATEGORY |       |         |       |        |       |          |       |             |       |
|-----------------|--------------------------|-------|---------|-------|--------|-------|----------|-------|-------------|-------|
|                 | Sex Offenses             |       | Bribery |       | Escape |       | Firearms |       | Immigration |       |
|                 | N                        | %     | N       | %     | N      | %     | N        | %     | N           | %     |
| 0-6             | 2                        | 1.4   | 20      | 27.0  | 17     | 6.7   | 125      | 11.3  | 172         | 17.3  |
| 1-7             | 1                        | 0.7   | 2       | 2.7   | 0      | 0.0   | 42       | 3.8   | 189         | 19.5  |
| 2-8             | 6                        | 4.3   | 14      | 18.9  | 7      | 2.8   | 46       | 4.2   | 102         | 10.6  |
| 3-9             | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 4-10            | 1                        | 0.7   | 5       | 6.8   | 4      | 1.8   | 75       | 6.8   | 88          | 9.1   |
| 5-12            | 4                        | 2.8   | 9       | 12.2  | 10     | 3.9   | 81       | 7.3   | 88          | 9.1   |
| 6-14            | 21                       | 14.9  | 2       | 2.7   | 14     | 5.5   | 96       | 8.9   | 48          | 5.0   |
| 8-15            | 0                        | 0.0   | 0       | 0.0   | 1      | 0.4   | 0        | 0.0   | 43          | 4.5   |
| 10-16           | 5                        | 3.6   | 4       | 5.4   | 7      | 2.8   | 90       | 8.1   | 55          | 5.7   |
| 12-18           | 32                       | 22.7  | 3       | 4.1   | 31     | 12.2  | 79       | 7.1   | 73          | 7.6   |
| 15-21           | 5                        | 3.6   | 3       | 4.1   | 8      | 3.1   | 118      | 10.7  | 44          | 4.6   |
| 18-24           | 14                       | 9.9   | 3       | 4.1   | 34     | 13.3  | 56       | 5.1   | 15          | 1.6   |
| 21-27           | 2                        | 1.4   | 3       | 4.1   | 5      | 2.0   | 84       | 7.6   | 22          | 2.3   |
| 24-30           | 2                        | 1.4   | 1       | 1.4   | 42     | 16.5  | 41       | 3.7   | 25          | 2.6   |
| 27-33           | 2                        | 1.4   | 0       | 0.0   | 36     | 14.1  | 44       | 4.0   | 0           | 0.0   |
| 30-37           | 2                        | 1.4   | 0       | 0.0   | 7      | 2.8   | 30       | 2.7   | 0           | 0.0   |
| 33-41           | 0                        | 0.0   | 0       | 0.0   | 10     | 3.9   | 13       | 1.2   | 1           | 0.1   |
| 37-46           | 1                        | 0.7   | 0       | 0.0   | 4      | 1.8   | 12       | 1.1   | 0           | 0.0   |
| 41-51           | 1                        | 0.7   | 1       | 1.4   | 7      | 2.8   | 12       | 1.1   | 0           | 0.0   |
| 46-57           | 2                        | 1.4   | 0       | 0.0   | 4      | 1.8   | 3        | 0.3   | 0           | 0.0   |
| 51-63           | 1                        | 0.7   | 1       | 1.4   | 0      | 0.0   | 10       | 0.9   | 1           | 0.1   |
| 57-71           | 4                        | 2.8   | 0       | 0.0   | 1      | 0.4   | 7        | 0.6   | 0           | 0.0   |
| 63-78           | 0                        | 0.0   | 0       | 0.0   | 1      | 0.4   | 9        | 0.8   | 0           | 0.0   |
| 70-87           | 3                        | 2.1   | 0       | 0.0   | 2      | 0.8   | 2        | 0.2   | 0           | 0.0   |
| 77-88           | 0                        | 0.0   | 0       | 0.0   | 1      | 0.4   | 3        | 0.3   | 0           | 0.0   |
| 78-97           | 0                        | 0.0   | 2       | 2.7   | 0      | 0.0   | 1        | 0.1   | 0           | 0.0   |
| 84-106          | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 1        | 0.1   | 0           | 0.0   |
| 87-108          | 4                        | 2.8   | 0       | 0.0   | 1      | 0.4   | 1        | 0.1   | 1           | 0.1   |
| 92-115          | 1                        | 0.7   | 0       | 0.0   | 0      | 0.0   | 3        | 0.3   | 0           | 0.0   |
| 97-121          | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 1        | 0.1   | 0           | 0.0   |
| 100-125         | 0                        | 0.0   | 0       | 0.0   | 1      | 0.4   | 3        | 0.3   | 0           | 0.0   |
| 108-135         | 3                        | 2.1   | 0       | 0.0   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 110-137         | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 1        | 0.1   | 0           | 0.0   |
| 120-150         | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 121-151         | 2                        | 1.4   | 1       | 1.4   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 130-162         | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 1        | 0.1   | 0           | 0.0   |
| 135-168         | 4                        | 2.8   | 0       | 0.0   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 140-175         | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 151-188         | 4                        | 2.8   | 0       | 0.0   | 0      | 0.0   | 2        | 0.2   | 0           | 0.0   |
| 188-210         | 2                        | 1.4   | 0       | 0.0   | 0      | 0.0   | 1        | 0.1   | 0           | 0.0   |
| 188-235         | 2                        | 1.4   | 0       | 0.0   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 210-282         | 2                        | 1.4   | 0       | 0.0   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 235-288         | 3                        | 2.1   | 0       | 0.0   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 282-327         | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 1        | 0.1   | 0           | 0.0   |
| 282-385         | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 2        | 0.2   | 0           | 0.0   |
| 324-405         | 1                        | 0.7   | 0       | 0.0   | 0      | 0.0   | 0        | 0.0   | 0           | 0.0   |
| 380-486         | 2                        | 1.4   | 0       | 0.0   | 0      | 0.0   | 7        | 0.6   | 0           | 0.0   |
| 486             | 0                        | 0.0   | 0       | 0.0   | 0      | 0.0   | 1        | 0.1   | 0           | 0.0   |
| TOTAL           | 141                      | 100.0 | 74      | 100.0 | 255    | 100.0 | 1,108    | 100.0 | 987         | 100.0 |

| GUIDELINE RANGE | PRIMARY OFFENSE CATEGORY   |       |                      |       |                     |       |       |       |
|-----------------|----------------------------|-------|----------------------|-------|---------------------|-------|-------|-------|
|                 | Extortion/<br>Racketeering |       | Gambling/<br>Lottery |       | Money<br>Laundering |       | Other |       |
|                 | N                          | %     | N                    | %     | N                   | %     | N     | %     |
| 0-6             | 4                          | 2.0   | 8                    | 7.3   | 0                   | 0.0   | 278   | 38.1  |
| 1-7             | 1                          | 0.5   | 1                    | 1.2   | 0                   | 0.0   | 28    | 3.7   |
| 2-8             | 3                          | 1.5   | 8                    | 9.8   | 0                   | 0.0   | 37    | 4.8   |
| 3-9             | 0                          | 0.0   | 0                    | 0.0   | 0                   | 0.0   | 1     | 0.1   |
| 4-10            | 2                          | 1.0   | 3                    | 3.7   | 0                   | 0.0   | 31    | 4.1   |
| 6-12            | 9                          | 4.8   | 31                   | 37.8  | 1                   | 1.4   | 54    | 7.1   |
| 8-14            | 2                          | 1.0   | 8                    | 7.3   | 1                   | 1.4   | 51    | 6.7   |
| 9-15            | 0                          | 0.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 10-16           | 5                          | 2.5   | 13                   | 15.9  | 1                   | 1.4   | 39    | 5.1   |
| 12-18           | 5                          | 2.5   | 3                    | 3.7   | 0                   | 0.0   | 34    | 4.5   |
| 15-21           | 5                          | 2.5   | 5                    | 6.1   | 0                   | 0.0   | 20    | 2.8   |
| 18-24           | 1                          | 0.5   | 1                    | 1.2   | 0                   | 0.0   | 35    | 4.6   |
| 21-27           | 9                          | 4.8   | 3                    | 3.7   | 0                   | 0.0   | 12    | 1.6   |
| 24-30           | 7                          | 3.5   | 1                    | 1.2   | 1                   | 1.4   | 31    | 4.1   |
| 27-33           | 12                         | 6.1   | 0                    | 0.0   | 0                   | 0.0   | 25    | 3.3   |
| 30-37           | 6                          | 3.0   | 0                    | 0.0   | 2                   | 2.7   | 17    | 2.2   |
| 33-41           | 10                         | 5.1   | 1                    | 1.2   | 8                   | 10.8  | 13    | 1.7   |
| 37-46           | 6                          | 3.0   | 0                    | 0.0   | 3                   | 4.1   | 9     | 1.2   |
| 41-51           | 13                         | 6.6   | 0                    | 0.0   | 8                   | 10.8  | 12    | 1.6   |
| 46-57           | 9                          | 4.8   | 0                    | 0.0   | 5                   | 6.8   | 7     | 0.9   |
| 51-63           | 11                         | 5.6   | 0                    | 0.0   | 4                   | 5.4   | 12    | 1.6   |
| 57-71           | 1                          | 0.5   | 0                    | 0.0   | 6                   | 8.1   | 1     | 0.1   |
| 63-78           | 14                         | 7.1   | 0                    | 0.0   | 6                   | 8.1   | 5     | 0.7   |
| 70-87           | 3                          | 1.5   | 0                    | 0.0   | 2                   | 2.7   | 1     | 0.1   |
| 77-96           | 1                          | 0.5   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 78-97           | 12                         | 6.1   | 0                    | 0.0   | 8                   | 10.8  | 1     | 0.1   |
| 84-105          | 0                          | 0.0   | 0                    | 0.0   | 0                   | 0.0   | 1     | 0.1   |
| 87-106          | 1                          | 0.5   | 0                    | 0.0   | 7                   | 9.5   | 1     | 0.1   |
| 92-115          | 2                          | 1.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 97-121          | 7                          | 3.5   | 0                    | 0.0   | 0                   | 0.0   | 1     | 0.1   |
| 100-125         | 0                          | 0.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 106-135         | 1                          | 0.5   | 0                    | 0.0   | 5                   | 6.8   | 0     | 0.0   |
| 110-137         | 0                          | 0.0   | 0                    | 0.0   | 1                   | 1.4   | 0     | 0.0   |
| 120-150         | 0                          | 0.0   | 0                    | 0.0   | 0                   | 0.0   | 1     | 0.1   |
| 121-151         | 4                          | 2.0   | 0                    | 0.0   | 2                   | 2.7   | 3     | 0.4   |
| 130-162         | 0                          | 0.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 135-166         | 2                          | 1.0   | 0                    | 0.0   | 3                   | 4.1   | 1     | 0.1   |
| 140-175         | 0                          | 0.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 151-186         | 7                          | 3.5   | 0                    | 0.0   | 0                   | 0.0   | 2     | 0.3   |
| 186-210         | 4                          | 2.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 186-235         | 7                          | 3.5   | 0                    | 0.0   | 0                   | 0.0   | 1     | 0.1   |
| 210-262         | 0                          | 0.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 235-263         | 2                          | 1.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 263-327         | 4                          | 2.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 263-365         | 1                          | 0.5   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 324-405         | 0                          | 0.0   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| 360-life        | 1                          | 0.5   | 0                    | 0.0   | 0                   | 0.0   | 0     | 0.0   |
| life            | 4                          | 2.0   | 0                    | 0.0   | 0                   | 0.0   | 1     | 0.1   |
| TOTAL           | 198                        | 100.0 | 62                   | 100.0 | 74                  | 100.0 | 764   | 100.0 |

\*Of the 29,011 guideline cases, the Commission received Reports on the Sentencing Hearing for 22,943 (79.1%). Of the 22,943 cases with such reports, 216 mixed law cases (both guideline and pre-guideline counts) were excluded. In addition, 4,437 cases were excluded due to one or more of the following conditions: missing guideline range (2,758), missing primary offense category (1,867), or cases with no analogous guideline (43). The guideline ranges indicated above correspond to the offense levels and criminal history categories established by the court and do not indicate the impact of mandatory minimums or statutory maximums constricting the sentence. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 1990 Data File, MONFY90.

Table 12  
**PROPORTION OF CASES RECEIVING A TERM OF PROBATION  
 WITH CONFINEMENT CONDITIONS**  
 (October 1, 1989 through September 30, 1990)

| OFFENSE<br>LEVEL | CRIMINAL HISTORY CATEGORY |      |      |      |      |      |
|------------------|---------------------------|------|------|------|------|------|
|                  | I                         | II   | III  | IV   | V    | VI   |
| 1                | 0.09                      | 0.00 | -    | -    | 0.00 | -    |
| 2                | 0.04                      | 0.11 | 0.06 | 0.14 | 0.00 | 0.00 |
| 3                | 0.02                      | 0.14 | 0.14 | 0.36 | 0.00 | 0.20 |
| 4                | 0.05                      | 0.08 | 0.17 | 0.15 | 0.07 | 0.02 |
| 5                | 0.07                      | 0.09 | 0.24 | 0.13 | 0.17 | 0.00 |
| 6                | 0.09                      | 0.23 | 0.10 | 0.04 | 0.01 | 0.00 |
| 7                | 0.35                      | 0.30 | 0.17 | 0.03 | 0.02 | 0.00 |
| 8                | 0.48                      | 0.18 | 0.11 | 0.04 | 0.00 | 0.00 |
| 9                | 0.42                      | 0.25 | 0.06 | 0.00 | 0.00 | 0.00 |
| 10               | 0.34                      | 0.04 | 0.01 | 0.00 | 0.01 | 0.00 |
| 11               | 0.05                      | 0.00 | 0.01 | 0.00 | 0.00 | 0.00 |
| 12               | 0.06                      | 0.02 | 0.00 | 0.00 | 0.00 | 0.00 |
| 13               | 0.03                      | 0.02 | 0.02 | 0.00 | 0.00 | 0.00 |
| 14               | 0.02                      | 0.02 | 0.01 | 0.00 | 0.00 | 0.00 |
| 15               | 0.04                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 16               | 0.02                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 17               | 0.03                      | 0.00 | 0.03 | 0.00 | 0.00 | 0.00 |
| 18               | 0.01                      | 0.01 | 0.00 | 0.00 | 0.00 | 0.00 |
| 19               | 0.03                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 20               | 0.01                      | 0.01 | 0.00 | 0.00 | 0.00 | 0.00 |
| 21               | 0.03                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 22               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 23               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 24               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 25               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 26               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 27               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 28               | 0.01                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 29               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 30               | 0.00                      | 0.01 | 0.00 | 0.00 | 0.00 | 0.00 |
| 31               | 0.00                      | 0.00 | 0.00 | 0.00 | -    | 0.00 |
| 32               | 0.01                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 33               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 34               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 35               | 0.00                      | 0.00 | 0.00 | 0.00 | -    | 0.00 |
| 36               | 0.01                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 37               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 38               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 39               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 40               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 41               | 0.00                      | 0.00 | 0.00 | 0.00 | -    | -    |
| 42               | 0.00                      | 0.00 | 0.00 | -    | 0.00 | 0.00 |
| 43               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | -    |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 13

**PROPORTION OF CASES RECEIVING THE NEW SPLIT SENTENCE**  
**(October 1, 1989 through September 30, 1990)**

| OFFENSE<br>LEVEL | CRIMINAL HISTORY CATEGORY |      |      |      |      |      |
|------------------|---------------------------|------|------|------|------|------|
|                  | I                         | II   | III  | IV   | V    | VI   |
| 1                | 0.00                      | 0.00 | -    | -    | 0.00 | -    |
| 2                | 0.00                      | 0.03 | 0.00 | 0.00 | 0.00 | 0.00 |
| 3                | 0.00                      | 0.00 | 0.03 | 0.00 | 0.00 | 0.10 |
| 4                | 0.00                      | 0.00 | 0.02 | 0.02 | 0.00 | 0.06 |
| 5                | 0.00                      | 0.00 | 0.00 | 0.04 | 0.00 | 0.00 |
| 6                | 0.00                      | 0.00 | 0.01 | 0.01 | 0.01 | 0.01 |
| 7                | 0.02                      | 0.02 | 0.05 | 0.07 | 0.04 | 0.03 |
| 8                | 0.03                      | 0.08 | 0.05 | 0.00 | 0.00 | 0.02 |
| 9                | 0.05                      | 0.05 | 0.06 | 0.03 | 0.04 | 0.00 |
| 10               | 0.06                      | 0.16 | 0.08 | 0.02 | 0.01 | 0.00 |
| 11               | 0.21                      | 0.11 | 0.03 | 0.03 | 0.02 | 0.00 |
| 12               | 0.20                      | 0.03 | 0.02 | 0.00 | 0.03 | 0.04 |
| 13               | 0.02                      | 0.02 | 0.00 | 0.06 | 0.00 | 0.00 |
| 14               | 0.01                      | 0.04 | 0.02 | 0.00 | 0.00 | 0.00 |
| 15               | 0.01                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.03 |
| 16               | 0.02                      | 0.02 | 0.00 | 0.04 | 0.00 | 0.00 |
| 17               | 0.03                      | 0.00 | 0.03 | 0.00 | 0.00 | 0.00 |
| 18               | 0.01                      | 0.00 | 0.01 | 0.00 | 0.00 | 0.00 |
| 19               | 0.05                      | 0.00 | 0.06 | 0.00 | 0.00 | 0.00 |
| 20               | 0.01                      | 0.01 | 0.00 | 0.00 | 0.04 | 0.00 |
| 21               | 0.02                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 22               | 0.01                      | 0.01 | 0.01 | 0.03 | 0.00 | 0.00 |
| 23               | 0.00                      | 0.11 | 0.00 | 0.00 | 0.00 | 0.00 |
| 24               | 0.00                      | 0.01 | 0.02 | 0.02 | 0.00 | 0.00 |
| 25               | 0.03                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 26               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 27               | 0.03                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 28               | 0.01                      | 0.00 | 0.03 | 0.00 | 0.00 | 0.00 |
| 29               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 30               | 0.00                      | 0.01 | 0.00 | 0.00 | 0.00 | 0.03 |
| 31               | 0.04                      | 0.00 | 0.00 | 0.00 | -    | 0.00 |
| 32               | 0.00                      | 0.03 | 0.00 | 0.00 | 0.00 | 0.00 |
| 33               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 34               | 0.00                      | 0.00 | 0.03 | 0.00 | 0.00 | 0.00 |
| 35               | 0.00                      | 0.00 | 0.00 | 0.00 | -    | 0.00 |
| 36               | 0.00                      | 0.02 | 0.00 | 0.00 | 0.00 | 0.00 |
| 37               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 38               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 39               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 40               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 41               | 0.00                      | 0.00 | 0.00 | 0.00 | -    | -    |
| 42               | 0.04                      | 0.00 | 0.00 | -    | 0.00 | 0.00 |
| 43               | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | -    |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 14  
**PROPORTION OF CASES RECEIVING A TERM OF IMPRISONMENT**  
 (October 1, 1989 through September 30, 1990)

| OFFENSE<br>LEVEL | CRIMINAL HISTORY CATEGORY |      |      |      |      |      |
|------------------|---------------------------|------|------|------|------|------|
|                  | I                         | II   | III  | IV   | V    | VI   |
| 1                | 0.36                      | 0.00 | -    | -    | 1.00 | -    |
| 2                | 0.07                      | 0.18 | 0.78 | 0.29 | 1.00 | 1.00 |
| 3                | 0.11                      | 0.27 | 0.46 | 0.36 | 1.00 | 0.70 |
| 4                | 0.24                      | 0.44 | 0.38 | 0.76 | 0.89 | 0.89 |
| 5                | 0.11                      | 0.36 | 0.59 | 0.83 | 0.83 | 1.00 |
| 6                | 0.25                      | 0.68 | 0.86 | 0.94 | 0.97 | 0.98 |
| 7                | 0.44                      | 0.62 | 0.75 | 0.88 | 0.92 | 0.97 |
| 8                | 0.33                      | 0.68 | 0.77 | 0.95 | 1.00 | 0.98 |
| 9                | 0.42                      | 0.68 | 0.86 | 0.91 | 0.96 | 1.00 |
| 10               | 0.49                      | 0.75 | 0.89 | 0.98 | 0.97 | 0.99 |
| 11               | 0.65                      | 0.88 | 0.95 | 0.97 | 0.98 | 1.00 |
| 12               | 0.68                      | 0.94 | 0.98 | 1.00 | 0.97 | 0.96 |
| 13               | 0.87                      | 0.93 | 0.95 | 0.94 | 0.96 | 1.00 |
| 14               | 0.92                      | 0.90 | 0.97 | 0.98 | 1.00 | 1.00 |
| 15               | 0.90                      | 0.96 | 1.00 | 1.00 | 1.00 | 0.97 |
| 16               | 0.93                      | 0.93 | 0.98 | 0.96 | 1.00 | 1.00 |
| 17               | 0.88                      | 1.00 | 0.94 | 1.00 | 1.00 | 1.00 |
| 18               | 0.97                      | 0.99 | 0.99 | 1.00 | 1.00 | 1.00 |
| 19               | 0.88                      | 1.00 | 0.94 | 1.00 | 1.00 | 1.00 |
| 20               | 0.97                      | 0.97 | 0.98 | 1.00 | 0.96 | 1.00 |
| 21               | 0.93                      | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 22               | 0.96                      | 0.99 | 0.99 | 0.97 | 1.00 | 1.00 |
| 23               | 0.99                      | 0.89 | 1.00 | 1.00 | 1.00 | 1.00 |
| 24               | 0.98                      | 0.99 | 0.98 | 0.98 | 1.00 | 1.00 |
| 25               | 0.98                      | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 26               | 0.98                      | 1.00 | 0.98 | 0.96 | 1.00 | 0.95 |
| 27               | 0.95                      | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 28               | 0.97                      | 1.00 | 0.97 | 1.00 | 1.00 | 1.00 |
| 29               | 1.00                      | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 30               | 0.98                      | 0.97 | 1.00 | 1.00 | 1.00 | 0.97 |
| 31               | 0.96                      | 1.00 | 1.00 | 1.00 | -    | 1.00 |
| 32               | 0.98                      | 0.97 | 1.00 | 1.00 | 1.00 | 1.00 |
| 33               | 1.00                      | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 34               | 0.98                      | 1.00 | 0.97 | 1.00 | 1.00 | 1.00 |
| 35               | 1.00                      | 1.00 | 1.00 | 1.00 | -    | 1.00 |
| 36               | 0.99                      | 0.95 | 1.00 | 1.00 | 1.00 | 1.00 |
| 37               | 1.00                      | 1.00 | 1.00 | 1.00 | 1.00 | 0.98 |
| 38               | 1.00                      | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 39               | 1.00                      | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 40               | 1.00                      | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 41               | 1.00                      | 1.00 | 1.00 | 1.00 | -    | -    |
| 42               | 0.96                      | 1.00 | 1.00 | -    | 1.00 | 1.00 |
| 43               | 1.00                      | 1.00 | 1.00 | 1.00 | 1.00 | -    |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 15

**DISTRIBUTION OF CURRENT SENTENCING ALTERNATIVES**  
(by offense type)

(October 1, 1989 through September 30, 1990)

| OFFENSE TYPE                     | A            |              | B            |              | C            |              |
|----------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                                  | Number       | Percent      | Number       | Percent      | Number       | Percent      |
| <b>TOTAL NUMBER</b>              | <b>2,715</b> | <b>100.0</b> | <b>3,035</b> | <b>100.0</b> | <b>1,476</b> | <b>100.0</b> |
| Homicide                         | 0            | 0.0          | 4            | 0.1          | 1            | 0.1          |
| Kidnapping                       | 0            | 0.0          | 0            | 0.0          | 0            | 0.0          |
| Robbery                          | 2            | 0.1          | 1            | 0.0          | 2            | 0.1          |
| Assault                          | 20           | 0.7          | 28           | 0.9          | 4            | 0.3          |
| Burglary/B&E                     | 1            | 0.0          | 7            | 0.2          | 10           | 0.7          |
| Larceny                          | 566          | 20.9         | 295          | 9.7          | 94           | 6.4          |
| Embezzlement                     | 307          | 11.3         | 291          | 9.6          | 83           | 5.6          |
| Tax Offenses                     | 18           | 0.7          | 24           | 0.8          | 2            | 0.1          |
| Fraud                            | 593          | 21.8         | 593          | 19.5         | 246          | 16.7         |
| Drugs-Importation & Distribution | 118          | 4.4          | 369          | 12.2         | 387          | 26.2         |
| Drugs-Simple Possession          | 305          | 11.2         | 59           | 1.9          | 12           | 0.8          |
| Drugs-Communication Facility     | 12           | 0.4          | 90           | 3.0          | 32           | 2.2          |
| Auto Theft                       | 6            | 0.2          | 42           | 1.4          | 25           | 1.7          |
| Forgery/Counterfeiting           | 148          | 5.5          | 249          | 8.2          | 68           | 4.6          |
| Sex Offenses                     | 2            | 0.1          | 13           | 0.4          | 25           | 1.7          |
| Bribery                          | 19           | 0.7          | 28           | 0.9          | 5            | 0.3          |
| Escape                           | 17           | 0.6          | 21           | 0.7          | 21           | 1.4          |
| Firearms                         | 125          | 4.6          | 239          | 7.9          | 189          | 12.8         |
| Immigration                      | 176          | 6.5          | 477          | 15.7         | 148          | 10.0         |
| Extortion/Racketeering           | 4            | 0.2          | 14           | 0.5          | 8            | 0.5          |
| Gambling/Lottery                 | 6            | 0.2          | 44           | 1.5          | 19           | 1.3          |
| Money Laundering                 | 0            | 0.0          | 0            | 0.0          | 2            | 0.1          |
| Other                            | 270          | 9.9          | 147          | 4.8          | 93           | 6.3          |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 16

**DISTRIBUTION OF CURRENT SENTENCING ALTERNATIVES**  
(by defendant characteristics)

(October 1, 1989 through September 30, 1990)

| OFFENDER<br>CHARACTERISTICS | A            |              | B            |              | C            |              |
|-----------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                             | Number       | Percent      | Number       | Percent      | Number       | Percent      |
| <b>TOTAL NUMBER</b>         | <b>3,133</b> | <b>100.0</b> | <b>3,338</b> | <b>100.0</b> | <b>1,603</b> | <b>100.0</b> |
| <b>AGE</b>                  |              |              |              |              |              |              |
| Under 22                    | 316          | 10.1         | 286          | 8.6          | 106          | 6.6          |
| 22 to 25                    | 441          | 14.1         | 489          | 14.7         | 202          | 12.6         |
| 26 to 30                    | 601          | 19.2         | 678          | 20.3         | 345          | 21.5         |
| 31 to 35                    | 452          | 14.4         | 570          | 17.1         | 306          | 19.1         |
| 36 to 40                    | 323          | 10.3         | 452          | 13.5         | 207          | 12.9         |
| 41 to 50                    | 390          | 12.5         | 506          | 15.2         | 259          | 16.2         |
| Over 50                     | 243          | 7.8          | 253          | 7.6          | 120          | 7.5          |
| <b>RACE</b>                 |              |              |              |              |              |              |
| White                       | 1,397        | 44.6         | 1,632        | 48.9         | 797          | 49.7         |
| Black                       | 784          | 25.0         | 698          | 20.9         | 356          | 22.2         |
| Hispanic                    | 390          | 12.5         | 584          | 17.5         | 286          | 17.8         |
| Other                       | 115          | 3.7          | 104          | 3.1          | 27           | 1.7          |
| <b>SEX</b>                  |              |              |              |              |              |              |
| Male                        | 1,810        | 57.8         | 2,366        | 70.9         | 1,258        | 78.5         |
| Female                      | 899          | 28.7         | 665          | 19.9         | 214          | 13.4         |
| <b>CRIMINAL HISTORY</b>     |              |              |              |              |              |              |
| Low                         | 2,705        | 86.3         | 2,317        | 69.4         | 913          | 57.0         |
| Medium                      | 408          | 13.0         | 726          | 21.8         | 480          | 29.9         |
| High                        | 20           | 0.6          | 295          | 8.8          | 210          | 13.1         |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 17

**DISTRIBUTION OF CURRENT SENTENCING ALTERNATIVES  
(by circuit)**

(October 1, 1989 through September 30, 1990)

| UNITED STATES<br>CIRCUIT | A            |              | B            |              | C            |              |
|--------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                          | Number       | Percent      | Number       | Percent      | Number       | Percent      |
| <b>TOTAL NUMBER</b>      | <b>3,133</b> | <b>100.0</b> | <b>3,338</b> | <b>100.0</b> | <b>1,603</b> | <b>100.0</b> |
| D.C. Circuit             | 42           | 1.3          | 21           | 0.6          | 7            | 0.4          |
| First Circuit            | 48           | 1.5          | 66           | 2.0          | 47           | 2.9          |
| Second Circuit           | 148          | 4.7          | 234          | 7.0          | 117          | 7.3          |
| Third Circuit            | 115          | 3.7          | 185          | 5.5          | 80           | 5.0          |
| Fourth Circuit           | 332          | 10.6         | 343          | 10.3         | 197          | 12.3         |
| Fifth Circuit            | 684          | 21.8         | 590          | 17.7         | 279          | 17.4         |
| Sixth Circuit            | 339          | 10.8         | 279          | 8.4          | 141          | 8.8          |
| Seventh Circuit          | 139          | 4.4          | 122          | 3.7          | 56           | 3.5          |
| Eighth Circuit           | 198          | 6.3          | 211          | 6.3          | 105          | 6.6          |
| Ninth Circuit            | 419          | 13.4         | 562          | 16.8         | 275          | 17.2         |
| Tenth Circuit            | 211          | 6.7          | 256          | 7.7          | 96           | 6.0          |
| Eleventh Circuit         | 458          | 14.6         | 469          | 14.1         | 203          | 12.7         |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 18  
SENTENCING TABLE WITH EXPANDED ZONE C

| OFFENSE LEVEL |    | CRIMINAL HISTORY CATEGORY |          |          |          |          |          |
|---------------|----|---------------------------|----------|----------|----------|----------|----------|
|               |    | I                         | II       | III      | IV       | V        | VI       |
| A             | 1  | 0-6                       | 0-6      | 0-6      | 0-6      | 0-6      | 0-6      |
|               | 2  | 0-6                       | 0-6      | 0-6      | 0-6      | 0-6      | 1-7      |
|               | 3  | 0-6                       | 0-6      | 0-6      | 0-6      | 2-8      | 3-9      |
|               | 4  | 0-6                       | 0-6      | 0-6      | 2-8      | 4-10     | 6-12     |
|               | 5  | 0-6                       | 0-6      | 1-7      | 4-10     | 6-12     | 9-15     |
|               | 6  | 0-6                       | 1-7      | 2-8      | 6-12     | 9-15     | 12-18    |
| B             | 7  | 1-7                       | 2-8      | 4-10     | 8-14     | 12-18    | 15-21    |
|               | 8  | 2-8                       | 4-10     | 6-12     | 10-16    | 15-21    | 18-24    |
|               | 9  | 4-10                      | 6-12     | 8-14     | 12-18    | 18-24    | 21-27    |
|               | 10 | 6-12                      | 8-14     | 10-16    | 15-21    | 21-27    | 24-30    |
| C             | 11 | 8-14                      | 10-16    | 12-18    | 18-24    | 24-30    | 27-33    |
|               | 12 | 10-16                     | 12-18    | 15-21    | 21-27    | 27-33    | 30-37    |
|               | 13 | 12-18                     | 15-21    | 18-24    | 24-30    | 30-37    | 33-41    |
|               | 14 | 15-21                     | 18-24    | 21-27    | 27-33    | 33-41    | 37-46    |
|               | 15 | 18-24                     | 21-27    | 24-30    | 30-37    | 37-46    | 41-51    |
|               | 16 | 21-27                     | 24-30    | 27-33    | 33-41    | 41-51    | 46-57    |
|               | 17 | 24-30                     | 27-33    | 30-37    | 37-46    | 37-46    | 51-63    |
|               | 18 | 27-33                     | 30-37    | 33-41    | 41-51    | 51-63    | 57-71    |
|               | 19 | 30-37                     | 33-41    | 37-46    | 46-57    | 57-71    | 63-78    |
|               | 20 | 33-41                     | 37-46    | 41-51    | 51-63    | 63-78    | 70-87    |
|               | 21 | 37-46                     | 41-51    | 37-46    | 57-71    | 70-87    | 77-96    |
|               | 22 | 41-51                     | 37-46    | 51-63    | 63-78    | 77-96    | 84-105   |
|               | 23 | 37-46                     | 51-63    | 57-71    | 70-87    | 84-105   | 92-115   |
|               | 24 | 51-63                     | 57-71    | 63-78    | 77-96    | 92-115   | 100-125  |
|               | 25 | 57-71                     | 63-78    | 70-87    | 84-105   | 100-125  | 110-137  |
|               | 26 | 63-78                     | 70-87    | 78-97    | 92-115   | 110-137  | 120-150  |
|               | 27 | 70-87                     | 78-97    | 87-108   | 100-125  | 120-150  | 130-162  |
|               | 28 | 78-97                     | 87-108   | 97-121   | 110-137  | 130-162  | 140-175  |
|               | 29 | 87-108                    | 97-121   | 108-135  | 121-151  | 140-175  | 151-188  |
|               | 30 | 97-121                    | 108-135  | 121-151  | 135-168  | 151-188  | 168-210  |
|               | 31 | 108-135                   | 121-151  | 135-168  | 151-188  | 168-210  | 188-235  |
|               | 32 | 121-151                   | 135-168  | 151-188  | 168-210  | 188-235  | 210-262  |
|               | 33 | 135-168                   | 151-188  | 168-210  | 188-235  | 210-262  | 235-293  |
|               | 34 | 151-188                   | 168-210  | 188-235  | 210-262  | 235-293  | 262-327  |
|               | 35 | 168-210                   | 188-235  | 210-262  | 235-293  | 262-327  | 292-365  |
|               | 36 | 188-235                   | 210-262  | 235-293  | 262-327  | 292-365  | 324-405  |
|               | 37 | 210-262                   | 235-293  | 262-327  | 292-365  | 324-405  | 360-Life |
|               | 38 | 235-293                   | 262-327  | 292-365  | 324-405  | 360-Life | 360-Life |
|               | 39 | 262-327                   | 292-365  | 324-405  | 360-Life | 360-Life | 360-Life |
|               | 40 | 292-365                   | 324-405  | 360-Life | 360-Life | 360-Life | 360-Life |
|               | 41 | 324-405                   | 360-Life | 360-Life | 360-Life | 360-Life | 360-Life |
|               | 42 | 360-Life                  | 360-Life | 360-Life | 360-Life | 360-Life | 360-Life |
|               | 43 | Life                      | Life     | Life     | Life     | Life     | Life     |

**KEY**

A – Probation available (see §5B1.1(a)(1))

B – Probation with condition of confinement available (see §5B1.1(a)(2))

C – New "split sentence" available (see §§5C1.1(c)(3),(d)(2))

**Table 19**  
**SENTENCING TABLE WITH ZONES B & C COMBINED**

| OFFENSE LEVEL |    | CRIMINAL HISTORY CATEGORY |          |          |          |          |          |
|---------------|----|---------------------------|----------|----------|----------|----------|----------|
|               |    | I                         | II       | III      | IV       | V        | VI       |
| A             | 1  | 0-6                       | 0-6      | 0-6      | 0-6      | 0-6      | 0-6      |
|               | 2  | 0-6                       | 0-6      | 0-6      | 0-6      | 0-6      | 1-7      |
|               | 3  | 0-6                       | 0-6      | 0-6      | 0-6      | 2-8      | 3-9      |
|               | 4  | 0-6                       | 0-6      | 0-6      | 2-8      | 4-10     | 6-12     |
|               | 5  | 0-6                       | 0-6      | 1-7      | 4-10     | 6-12     | 9-15     |
|               | 6  | 0-6                       | 1-7      | 2-8      | 6-12     | 9-15     | 12-18    |
| B             | 7  | 1-7                       | 2-8      | 4-10     | 8-14     | 12-18    | 15-21    |
|               | 8  | 2-8                       | 4-10     | 6-12     | 10-16    | 15-21    | 18-24    |
|               | 9  | 4-10                      | 6-12     | 8-14     | 12-18    | 18-24    | 21-27    |
|               | 10 | 6-12                      | 8-14     | 10-16    | 15-21    | 21-27    | 24-30    |
|               | 11 | 8-14                      | 10-16    | 12-18    | 18-24    | 24-30    | 27-33    |
|               | 12 | 10-16                     | 12-18    | 15-21    | 21-27    | 27-33    | 30-37    |
|               | 13 | 12-18                     | 15-21    | 18-24    | 24-30    | 30-37    | 33-41    |
|               | 14 | 15-21                     | 18-24    | 21-27    | 27-33    | 33-41    | 37-46    |
|               | 15 | 18-24                     | 21-27    | 24-30    | 30-37    | 37-46    | 41-51    |
|               | 16 | 21-27                     | 24-30    | 27-33    | 33-41    | 41-51    | 46-57    |
|               | 17 | 24-30                     | 27-33    | 30-37    | 37-46    | 37-46    | 51-63    |
|               | 18 | 27-33                     | 30-37    | 33-41    | 41-51    | 51-63    | 57-71    |
|               | 19 | 30-37                     | 33-41    | 37-46    | 46-57    | 57-71    | 63-78    |
|               | 20 | 33-41                     | 37-46    | 41-51    | 51-63    | 63-78    | 70-87    |
|               | 21 | 37-46                     | 41-51    | 37-46    | 57-71    | 70-87    | 77-96    |
|               | 22 | 41-51                     | 37-46    | 51-63    | 63-78    | 77-96    | 84-105   |
|               | 23 | 37-46                     | 51-63    | 57-71    | 70-87    | 84-105   | 92-115   |
|               | 24 | 51-63                     | 57-71    | 63-78    | 77-96    | 92-115   | 100-125  |
|               | 25 | 57-71                     | 63-78    | 70-87    | 84-105   | 100-125  | 110-137  |
|               | 26 | 63-78                     | 70-87    | 78-97    | 92-115   | 110-137  | 120-150  |
|               | 27 | 70-87                     | 78-97    | 87-108   | 100-125  | 120-150  | 130-162  |
|               | 28 | 78-97                     | 87-108   | 97-121   | 110-137  | 130-162  | 140-175  |
|               | 29 | 87-108                    | 97-121   | 108-135  | 121-151  | 140-175  | 151-188  |
|               | 30 | 97-121                    | 108-135  | 121-151  | 135-168  | 151-188  | 168-210  |
|               | 31 | 108-135                   | 121-151  | 135-168  | 151-188  | 168-210  | 188-235  |
|               | 32 | 121-151                   | 135-168  | 151-188  | 168-210  | 188-235  | 210-262  |
|               | 33 | 135-168                   | 151-188  | 168-210  | 188-235  | 210-262  | 235-293  |
|               | 34 | 151-188                   | 168-210  | 188-235  | 210-262  | 235-293  | 262-327  |
|               | 35 | 168-210                   | 188-235  | 210-262  | 235-293  | 262-327  | 292-365  |
|               | 36 | 188-235                   | 210-262  | 235-293  | 262-327  | 292-365  | 324-405  |
|               | 37 | 210-262                   | 235-293  | 262-327  | 292-365  | 324-405  | 360-Life |
|               | 38 | 235-293                   | 262-327  | 292-365  | 324-405  | 360-Life | 360-Life |
|               | 39 | 262-327                   | 292-365  | 324-405  | 360-Life | 360-Life | 360-Life |
|               | 40 | 292-365                   | 324-405  | 360-Life | 360-Life | 360-Life | 360-Life |
|               | 41 | 324-405                   | 360-Life | 360-Life | 360-Life | 360-Life | 360-Life |
|               | 42 | 360-Life                  | 360-Life | 360-Life | 360-Life | 360-Life | 360-Life |
|               | 43 | Life                      | Life     | Life     | Life     | Life     | Life     |

**KEY**

**A – Probation available (see §5B1.1(a)(1))**

**B – Probation with condition of confinement available (see §5B1.1(a)(2))**

Table 21

**SELECTED OFFENSE LEVELS OF OFFENDERS WITH ZERO CRIMINAL HISTORY POINTS**  
(by offense type)

(October 1, 1989 through September 30, 1990)

| OFFENSE TYPE                     | SELECTED OFFENSE LEVELS |              |            |              |            |              |            |              |            |              |           |              |            |              |
|----------------------------------|-------------------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|--------------|-----------|--------------|------------|--------------|
|                                  | 7 or 8                  |              | 9 or 10    |              | 11 or 12   |              | 13 or 14   |              | 15 or 16   |              | 17        |              | 18         |              |
|                                  | Number                  | Percent      | Number     | Percent      | Number     | Percent      | Number     | Percent      | Number     | Percent      | Number    | Percent      | Number     | Percent      |
| <b>TOTAL NUMBER</b>              | <b>622</b>              | <b>100.0</b> | <b>725</b> | <b>100.0</b> | <b>553</b> | <b>100.0</b> | <b>423</b> | <b>100.0</b> | <b>349</b> | <b>100.0</b> | <b>82</b> | <b>100.0</b> | <b>196</b> | <b>100.0</b> |
| Homicide                         | 0                       | 0.0          | 0          | 0.0          | 1          | 0.2          | 1          | 0.2          | 0          | 0.0          | 0         | 0.0          | 0          | 0.0          |
| Kidnapping                       | 0                       | 0.0          | 0          | 0.0          | 0          | 0.0          | 0          | 0.0          | 0          | 0.0          | 0         | 0.0          | 0          | 0.0          |
| Robbery                          | 0                       | 0.0          | 0          | 0.0          | 1          | 0.2          | 1          | 0.2          | 3          | 0.9          | 25        | 30.5         | 1          | 0.5          |
| Assault                          | 10                      | 1.6          | 3          | 0.4          | 1          | 0.2          | 0          | 0.0          | 1          | 0.3          | 1         | 1.2          | 5          | 2.5          |
| Burglary/B&E                     | 1                       | 0.2          | 4          | 0.6          | 2          | 0.4          | 0          | 0.0          | 2          | 0.6          | 2         | 2.4          | 0          | 0.0          |
| Larceny                          | 63                      | 10.1         | 51         | 7.0          | 27         | 4.9          | 22         | 5.2          | 8          | 2.3          | 7         | 8.5          | 3          | 1.5          |
| Embezzlement                     | 91                      | 14.6         | 94         | 13.0         | 56         | 10.1         | 22         | 5.2          | 14         | 4.0          | 4         | 4.9          | 3          | 1.5          |
| Tax Offenses                     | 10                      | 1.6          | 8          | 1.1          | 1          | 0.2          | 2          | 0.5          | 1          | 0.3          | 0         | 0.0          | 0          | 0.0          |
| Fraud                            | 135                     | 21.7         | 141        | 19.5         | 97         | 17.5         | 60         | 14.2         | 34         | 9.7          | 10        | 12.2         | 7          | 3.5          |
| Drugs-Importation & Distribution | 36                      | 5.8          | 155        | 21.4         | 180        | 32.6         | 196        | 46.3         | 203        | 58.2         | 7         | 8.5          | 133        | 77.3         |
| Drugs-Simple Possession          | 5                       | 0.8          | 4          | 0.6          | 6          | 1.1          | 13         | 3.1          | 15         | 4.3          | 0         | 0.0          | 2          | 1.0          |
| Drugs-Communication Facility     | 10                      | 1.6          | 53         | 7.3          | 7          | 1.3          | 3          | 0.7          | 1          | 0.3          | 0         | 0.0          | 0          | 0.0          |
| Auto Theft                       | 9                       | 1.5          | 10         | 1.4          | 6          | 1.1          | 1          | 0.2          | 2          | 0.6          | 1         | 1.2          | 0          | 0.0          |
| Forgery/Counterfeiting           | 61                      | 9.8          | 33         | 4.6          | 21         | 3.8          | 26         | 6.2          | 11         | 3.2          | 7         | 8.5          | 2          | 1.0          |
| Sex Offenses                     | 2                       | 0.3          | 1          | 0.1          | 16         | 2.9          | 22         | 5.2          | 8          | 2.3          | 1         | 1.2          | 1          | 0.5          |
| Bribery                          | 11                      | 1.8          | 9          | 1.2          | 2          | 0.4          | 3          | 0.7          | 3          | 0.9          | 0         | 0.0          | 0          | 0.0          |
| Escape                           | 1                       | 0.2          | 3          | 0.4          | 10         | 1.8          | 4          | 1.0          | 0          | 0.0          | 0         | 0.0          | 1          | 0.5          |
| Firearms                         | 26                      | 4.2          | 40         | 5.5          | 41         | 7.4          | 16         | 3.8          | 14         | 4.0          | 3         | 3.7          | 3          | 1.5          |
| Immigration                      | 116                     | 18.7         | 48         | 6.6          | 14         | 2.5          | 1          | 0.2          | 0          | 0.0          | 0         | 0.0          | 0          | 0.0          |
| Extortion/Racketeering           | 1                       | 0.2          | 6          | 0.8          | 4          | 0.7          | 2          | 0.5          | 3          | 0.9          | 2         | 2.4          | 7          | 3.5          |
| Gambling/Lottery                 | 6                       | 1.0          | 17         | 2.3          | 11         | 2.0          | 4          | 1.0          | 2          | 0.6          | 0         | 0.0          | 0          | 0.0          |
| Money Laundering                 | 28                      | 4.5          | 45         | 6.2          | 48         | 8.7          | 24         | 5.7          | 24         | 6.9          | 12        | 14.6         | 10         | 5.1          |
| Other                            | 0                       | 0.0          | 0          | 0.0          | 1          | 0.2          | 0          | 0.0          | 0          | 0.0          | 0         | 0.0          | 0          | 0.0          |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

Table 22

**SELECTED OFFENSE LEVELS OF OFFENDERS WITH ZERO CRIMINAL HISTORY POINTS**  
(by offender characteristics)

(October 1, 1989 through September 30, 1990)

| OFFENDER CHARACTERISTICS | SELECTED OFFENSE LEVELS |              |            |              |            |              |            |              |            |              |           |              |            |              |        |         |
|--------------------------|-------------------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|--------------|-----------|--------------|------------|--------------|--------|---------|
|                          | 7 or 8                  |              | 9 or 10    |              | 11 or 12   |              | 13 or 14   |              | 15 or 16   |              | 17        |              | 18         |              |        |         |
|                          | Number                  | Percent      | Number     | Percent      | Number     | Percent      | Number     | Percent      | Number     | Percent      | Number    | Percent      | Number     | Percent      | Number | Percent |
| <b>TOTAL NUMBER</b>      | <b>680</b>              | <b>100.0</b> | <b>781</b> | <b>100.0</b> | <b>591</b> | <b>100.0</b> | <b>445</b> | <b>100.0</b> | <b>374</b> | <b>100.0</b> | <b>86</b> | <b>100.0</b> | <b>204</b> | <b>100.0</b> |        |         |
| <b>AGE</b>               | Under 22                | 73           | 10.7       | 66           | 8.5        | 47           | 8.0        | 33           | 7.4        | 37           | 9.9       | 13           | 15.1       | 22           | 10.8   |         |
|                          | 22 to 25                | 104          | 15.3       | 103          | 13.2       | 59           | 10.0       | 73           | 16.4       | 48           | 12.8      | 13           | 15.1       | 26           | 12.8   |         |
|                          | 26 to 30                | 134          | 19.7       | 146          | 18.7       | 116          | 19.6       | 72           | 16.2       | 66           | 17.7      | 12           | 14.0       | 41           | 20.1   |         |
|                          | 31 to 35                | 126          | 18.5       | 130          | 16.7       | 123          | 20.8       | 72           | 16.2       | 65           | 17.4      | 7            | 8.1        | 38           | 18.6   |         |
|                          | 36 to 40                | 86           | 12.7       | 110          | 14.1       | 81           | 13.7       | 70           | 15.7       | 57           | 15.2      | 11           | 12.8       | 28           | 13.7   |         |
|                          | 41 to 50                | 98           | 14.4       | 140          | 17.9       | 109          | 18.4       | 79           | 17.8       | 67           | 17.9      | 20           | 23.3       | 38           | 18.6   |         |
|                          | Over 50                 | 59           | 8.7        | 86           | 11.0       | 56           | 9.5        | 46           | 10.3       | 34           | 9.1       | 10           | 11.6       | 11           | 5.4    |         |
| <b>RACE</b>              | White                   | 353          | 57.2       | 443          | 61.4       | 326          | 59.2       | 248          | 59.5       | 183          | 52.9      | 51           | 63.0       | 106          | 53.8   |         |
|                          | Black                   | 113          | 18.3       | 152          | 21.1       | 115          | 20.9       | 69           | 16.6       | 55           | 15.9      | 17           | 21.0       | 22           | 11.2   |         |
|                          | Hispanic                | 127          | 20.6       | 103          | 14.3       | 103          | 18.7       | 90           | 21.6       | 104          | 30.1      | 11           | 13.6       | 61           | 31.0   |         |
|                          | Other                   | 24           | 3.9        | 23           | 3.2        | 7            | 1.3        | 10           | 2.4        | 4            | 1.2       | 2            | 2.5        | 8            | 4.1    |         |
| <b>SEX</b>               | Male                    | 449          | 72.4       | 529          | 73.0       | 445          | 80.5       | 352          | 83.4       | 303          | 86.6      | 72           | 87.8       | 166          | 83.8   |         |
|                          | Female                  | 171          | 27.6       | 196          | 27.0       | 108          | 19.5       | 70           | 16.6       | 47           | 13.4      | 10           | 12.2       | 32           | 16.2   |         |

SOURCE: U.S. Sentencing Commission, FY90 Data File, MONFY90.

**MEMORANDUM**

TO: Paul Martin  
Sharon Henegan

FROM: Caryl Ricca

DATE: October 10, 1991

RE: Proposed First Offender Adjustment

The Commission working group on alternatives has recommended the creation of a two-level downward adjustment for those first offenders who have never sustained a conviction countable under §4A1.1, whose instant offense of conviction is not a crime of violence, and whose adjusted offense level is 18 or less.

A review of Chapter Two guidelines (covering non-violent offenses) is presented below to illustrate the types of first offenders who may or may not be eligible for such a reduction:

Larceny, Embezzlement, and Other Forms of Theft

Those first offenders whose instant offense is covered under §2B1.1 will be eligible for this two-level reduction if the theft involved less than \$2,500,000, the offense involved more than minimal planning, and the defendant accepted responsibility.

|                                                  |     |
|--------------------------------------------------|-----|
| Base offense level:                              | 4   |
| More than \$1,500,000 but less than \$2,500,000: | +14 |
| More than minimal planning:                      | + 2 |
| Acceptance of Responsibility:                    | - 2 |

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Adjusted Offense Level: 18

Those first offenders committing thefts involving more than \$2,500,000 will generally not be eligible for such a reduction.

Fraud and Deceit

Those first offenders whose instant offense is covered under §2F1.1 will be eligible for this two-level reduction if the fraud involved less than \$2,500,000, the offense involved more than minimal planning, and the defendant accepted responsibility.

|                                                  |     |
|--------------------------------------------------|-----|
| Base offense level:                              | 6   |
| More than \$1,500,000 but less than \$2,500,000: | +12 |
| More than minimal planning:                      | + 2 |
| Acceptance of responsibility:                    | - 2 |

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Adjusted Offense Level: 18

Guideline Calculations. Criminal History I (0 points). The defendant's offense level was 16 for a conviction under 21 USC § 846, conspiracy to distribute cocaine.

Sentence. The defendant was sentenced to 21 months in prison (low end of range) and 36 months of supervised release.

**Case No. 42323**

Offense. In a series of shipments, defendant supplied an individual with cocaine, the amount of which exceeded 50 grams, but was less than 100 grams.

Guideline Calculations. Criminal History I (0 points). The defendant's offense level was 14 for a conviction under 21 USC § 841(a)(1), distribution of cocaine. The defendant's role is seen as that of a small-scale distributor.

Sentence. The defendant was sentenced to 15 months (low end of range) and 36 months of supervised release.

Those first offenders committing frauds involving more than \$2,500,000 will generally not be eligible for such a reduction.

#### Drug Distribution

Those first offenders whose instant offense is covered under §2D1.1 will be eligible for this two-level reduction if no weapon was possessed, the defendant accepted responsibility, and the offense involved the following drug amounts:

Base offense level:

20

- 40 G - 60 G heroin
- 200 G - 300 G cocaine
- 2 G - 3 G cocaine base
- 40 G - 60 G methamphetamine
- 40 KG - 60 KG marihuana

Acceptance of responsibility:

- 2

Adjusted Offense Level:

18

Those first offenders committing drug distribution offenses involving larger quantities of such drugs will generally not be eligible for this reduction.

#### Unlawful Possession of Controlled Substances

All first offenders whose instant offense is covered under §2D2.1 will be eligible for this two-level reduction, with the exception of those offenders convicted of possessing more than 5 grams of a mixture or substance containing cocaine base.

Highest base offense level:

8

#### Gambling

All first offenders whose instant offense is covered under Chapter Two, Part E, Subpart 3 (Gambling) will be eligible for this two-level reduction.

Highest base offense level plus any SOCs:

12

#### Smuggling, Transporting, or Harboring an Unlawful Alien

All first offenders whose instant offense is covered under §2L1.1(a)(2) (effective November 1, 1991) will be eligible for this two-level reduction.

Base offense level (without 3-level reduction at (b)(1)): 9

Unlawfully Entering or Remaining in the United States

All first offenders whose instant offense is covered under §2L1.2 will be eligible for this two-level reduction.

Base offense level: 8

Bid-Rigging, Price-Fixing or Market-Allocation Among Competitors

All first offenders whose instant offense is covered under §2R1.1 will be eligible for this two-level reduction.

Base offense level: 9

Non-competitive bids: +1

More than \$50,000,000: +3

Adjusted Offense Level: 13

Tax Evasion

Those first offenders whose instant offense is covered under §2T1.1 will be eligible for this two-level reduction if the tax loss was less than \$800,000, the source of the income was derived from criminal activity, sophisticated means were used to impede discovery of the nature or extent of the offense, and the defendant accepted responsibility.

Base offense level (tax loss \$500,000 - \$800,000): 16

Criminal activity: + 2

Sophisticated Means: + 2

Acceptance of responsibility: - 2

Adjusted Offense Level: 18

Those first offenders committing tax evasion involving more than \$800,000 in tax loss will generally not be eligible for such a reduction.