

**United
States
Sentencing
Commission**



Statistical Information Packet

Fiscal Year 2007

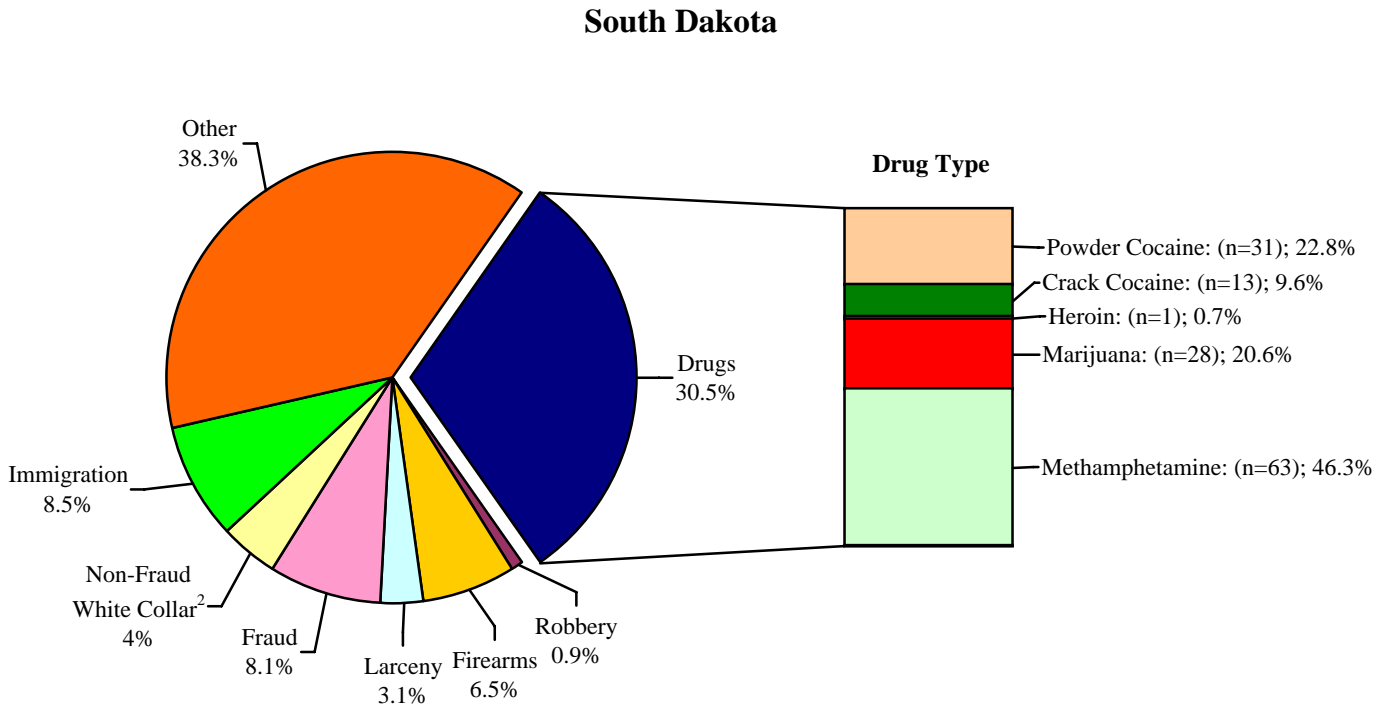
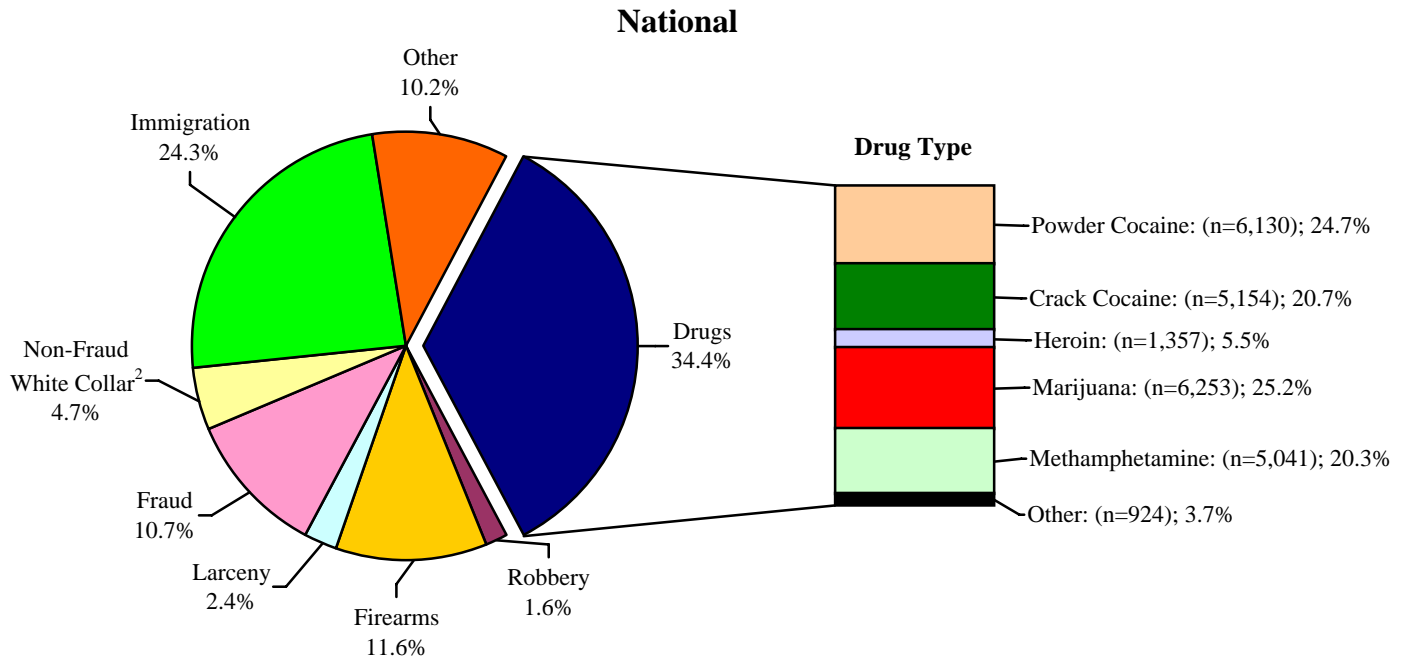
District of South Dakota

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Figure A

DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED BY SELECT PRIMARY OFFENSE CATEGORY¹
Fiscal Year 2007



¹Of the 72,865 guideline cases, 613 cases were excluded due to one of the following reasons: missing primary offense category (100) or missing drug type (513). Of the 446 guideline cases from the District of South Dakota, no case was excluded.

²The Non-Fraud White Collar category includes the following offense types: Embezzlement, Forgery/Counterfeiting, Bribery, Money Laundering, and Tax.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 1

**DISTRIBUTION OF GUIDELINE DEFENDANTS SENTENCED
BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2007**

PRIMARY OFFENSE	National		South Dakota	
	Number	Percent	Number	Percent
TOTAL	72,765	100.0	446	100.0
Murder	81	0.1	1	0.2
Manslaughter	65	0.1	14	3.1
Kidnapping/Hostage Taking	48	0.1	0	0.0
Sexual Abuse	382	0.5	30	6.7
Assault	576	0.8	42	9.4
Robbery	1,120	1.5	4	0.9
Arson	78	0.1	0	0.0
Drugs - Trafficking	24,332	33.4	133	29.8
Drugs - Communication Facility	376	0.5	0	0.0
Drugs - Simple Possession	664	0.9	3	0.7
Firearms	8,359	11.5	29	6.5
Burglary/B&E	41	0.1	8	1.8
Auto Theft	64	0.1	0	0.0
Larceny	1,762	2.4	14	3.1
Fraud	7,767	10.7	36	8.1
Embezzlement	465	0.6	9	2.0
Forgery/Counterfeiting	1,157	1.6	6	1.3
Bribery	243	0.3	2	0.4
Tax	647	0.9	1	0.2
Money Laundering	918	1.3	0	0.0
Racketeering/Extortion	621	0.9	0	0.0
Gambling/Lottery	113	0.2	0	0.0
Civil Rights	64	0.1	0	0.0
Immigration	17,592	24.2	38	8.5
Pornography/Prostitution	1,445	2.0	9	2.0
Prison Offenses	316	0.4	7	1.6
Administration of Justice Offenses	1,016	1.4	4	0.9
Environmental/Wildlife	193	0.3	7	1.6
National Defense	32	0.0	0	0.0
Antitrust	15	0.0	0	0.0
Food & Drug	71	0.1	0	0.0
Other Miscellaneous Offenses	2,142	2.9	49	11.0

Of the 72,865 guideline cases, 100 cases were excluded due to missing information on primary offense category.

Of the 446 guideline cases from the District of South Dakota, no case was excluded.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 2

**MODE OF CONVICTION BY CIRCUIT AND DISTRICT
Fiscal Year 2007**

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
TOTAL	72,761	69,689	95.8	3,072	4.2
D.C. CIRCUIT	450	416	92.4	34	7.6
District of Columbia	450	416	92.4	34	7.6
FIRST CIRCUIT	1,926	1,786	92.7	140	7.3
Maine	191	171	89.5	20	10.5
Massachusetts	581	528	90.9	53	9.1
New Hampshire	239	230	96.2	9	3.8
Puerto Rico	772	726	94.0	46	6.0
Rhode Island	143	131	91.6	12	8.4
SECOND CIRCUIT	4,453	4,227	94.9	226	5.1
Connecticut	405	390	96.3	15	3.7
New York					
Eastern	1,043	980	94.0	63	6.0
Northern	450	427	94.9	23	5.1
Southern	1,653	1,545	93.5	108	6.5
Western	762	747	98.0	15	2.0
Vermont	140	138	98.6	2	1.4
THIRD CIRCUIT	3,099	2,924	94.4	175	5.6
Delaware	107	100	93.5	7	6.5
New Jersey	1,012	978	96.6	34	3.4
Pennsylvania					
Eastern	793	732	92.3	61	7.7
Middle	589	572	97.1	17	2.9
Western	492	461	93.7	31	6.3
Virgin Islands	106	81	76.4	25	23.6
FOURTH CIRCUIT	6,540	6,204	94.9	336	5.1
Maryland	696	645	92.7	51	7.3
North Carolina					
Eastern	611	588	96.2	23	3.8
Middle	429	400	93.2	29	6.8
Western	766	728	95.0	38	5.0
South Carolina	1,129	1,093	96.8	36	3.2
Virginia					
Eastern	1,764	1,671	94.7	93	5.3
Western	623	583	93.6	40	6.4
West Virginia					
Northern	268	253	94.4	15	5.6
Southern	254	243	95.7	11	4.3

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
FIFTH CIRCUIT	15,086	14,723	97.6	363	2.4
Louisiana					
Eastern	420	407	96.9	13	3.1
Middle	166	156	94.0	10	6.0
Western	488	460	94.3	28	5.7
Mississippi					
Northern	193	191	99.0	2	1.0
Southern	430	409	95.1	21	4.9
Texas					
Eastern	978	951	97.2	27	2.8
Northern	1,052	1,001	95.2	51	4.8
Southern	5,581	5,475	98.1	106	1.9
Western	5,778	5,673	98.2	105	1.8
SIXTH CIRCUIT	5,271	4,996	94.8	275	5.2
Kentucky					
Eastern	579	549	94.8	30	5.2
Western	536	510	95.1	26	4.9
Michigan					
Eastern	759	716	94.3	43	5.7
Western	447	429	96.0	18	4.0
Ohio					
Northern	881	836	94.9	45	5.1
Southern	631	603	95.6	28	4.4
Tennessee					
Eastern	570	538	94.4	32	5.6
Middle	317	303	95.6	14	4.4
Western	551	512	92.9	39	7.1
SEVENTH CIRCUIT	2,928	2,728	93.2	200	6.8
Illinois					
Central	391	367	93.9	24	6.1
Northern	850	776	91.3	74	8.7
Southern	344	327	95.1	17	4.9
Indiana					
Northern	426	385	90.4	41	9.6
Southern	314	289	92.0	25	8.0
Wisconsin					
Eastern	406	392	96.6	14	3.4
Western	197	192	97.5	5	2.5
EIGHTH CIRCUIT	5,059	4,823	95.3	236	4.7
Arkansas					
Eastern	366	361	98.6	5	1.4
Western	182	173	95.1	9	4.9
Iowa					
Northern	455	418	91.9	37	8.1
Southern	373	346	92.8	27	7.2
Minnesota	541	507	93.7	34	6.3
Missouri					
Eastern	975	946	97.0	29	3.0
Western	808	778	96.3	30	3.7
Nebraska	703	674	95.9	29	4.1
North Dakota	210	199	94.8	11	5.2
South Dakota	446	421	94.4	25	5.6

CIRCUIT District	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
NINTH CIRCUIT	14,821	14,410	97.2	411	2.8
Alaska	131	124	94.7	7	5.3
Arizona	4,720	4,653	98.6	67	1.4
California					
Central	1,630	1,561	95.8	69	4.2
Eastern	946	914	96.6	32	3.4
Northern	655	641	97.9	14	2.1
Southern	3,245	3,180	98.0	65	2.0
Guam	68	64	94.1	4	5.9
Hawaii	359	345	96.1	14	3.9
Idaho	251	238	94.8	13	5.2
Montana	366	323	88.3	43	11.7
Nevada	655	632	96.5	23	3.5
Northern Mariana Islands	19	13	68.4	6	31.6
Oregon	565	549	97.2	16	2.8
Washington					
Eastern	364	349	95.9	15	4.1
Western	847	824	97.3	23	2.7
TENTH CIRCUIT	5,885	5,710	97.0	175	3.0
Colorado	548	517	94.3	31	5.7
Kansas	649	626	96.5	23	3.5
New Mexico	2,520	2,493	98.9	27	1.1
Oklahoma					
Eastern	95	84	88.4	11	11.6
Northern	231	211	91.3	20	8.7
Western	547	515	94.1	32	5.9
Utah	913	890	97.5	23	2.5
Wyoming	382	374	97.9	8	2.1
ELEVENTH CIRCUIT	7,243	6,742	93.1	501	6.9
Alabama					
Middle	243	226	93.0	17	7.0
Northern	582	527	90.5	55	9.5
Southern	356	330	92.7	26	7.3
Florida					
Middle	1,604	1,496	93.3	108	6.7
Northern	441	391	88.7	50	11.3
Southern	2,326	2,171	93.3	155	6.7
Georgia					
Middle	538	507	94.2	31	5.8
Northern	609	569	93.4	40	6.6
Southern	544	525	96.5	19	3.5

Of the 72,865 guideline cases, 104 cases were excluded due to missing information on mode of conviction.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 3

**MODE OF CONVICTION BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2007**

PRIMARY OFFENSE	TOTAL	National				South Dakota			
		PLEA		TRIAL		PLEA		TRIAL	
		n	%	n	%	n	%	n	%
TOTAL	72,759	69,687	95.8	3,072	4.2	421	94.4	25	5.6
Murder	81	57	70.4	24	29.6	1	100.0	0	0.0
Manslaughter	65	58	89.2	7	10.8	13	92.9	1	7.1
Kidnapping/Hostage Taking	48	46	95.8	2	4.2	0	--	0	--
Sexual Abuse	382	328	85.9	54	14.1	24	80.0	6	20.0
Assault	576	529	91.8	47	8.2	41	97.6	1	2.4
Robbery	1,120	1,075	96.0	45	4.0	4	100.0	0	0.0
Arson	78	67	85.9	11	14.1	0	--	0	--
Drugs - Trafficking	24,332	23,258	95.6	1,074	4.4	122	91.7	11	8.3
Drugs - Communication Facility	376	374	99.5	2	0.5	0	--	0	--
Drugs - Simple Possession	662	650	98.2	12	1.8	3	100.0	0	0.0
Firearms	8,359	7,736	92.5	623	7.5	28	96.6	1	3.4
Burglary/B&E	41	39	95.1	2	4.9	7	87.5	1	12.5
Auto Theft	64	60	93.8	4	6.3	0	--	0	--
Larceny	1,762	1,710	97.0	52	3.0	14	100.0	0	0.0
Fraud	7,767	7,378	95.0	389	5.0	34	94.4	2	5.6
Embezzlement	465	454	97.6	11	2.4	8	88.9	1	11.1
Forgery/Counterfeiting	1,157	1,137	98.3	20	1.7	6	100.0	0	0.0
Bribery	243	218	89.7	25	10.3	2	100.0	0	0.0
Tax	647	586	90.6	61	9.4	1	100.0	0	0.0
Money Laundering	918	845	92.0	73	8.0	0	--	0	--
Racketeering/Extortion	621	540	87.0	81	13.0	0	--	0	--
Gambling/Lottery	113	112	99.1	1	0.9	0	--	0	--
Civil Rights	64	54	84.4	10	15.6	0	--	0	--
Immigration	17,591	17,401	98.9	190	1.1	38	100.0	0	0.0
Pornography/Prostitution	1,445	1,377	95.3	68	4.7	9	100.0	0	0.0
Prison Offenses	316	304	96.2	12	3.8	6	85.7	1	14.3
Administration of Justice Offenses	1,016	945	93.0	71	7.0	4	100.0	0	0.0
Environmental/Wildlife	193	187	96.9	6	3.1	7	100.0	0	0.0
National Defense	32	29	90.6	3	9.4	0	--	0	--
Antitrust	15	15	100.0	0	0.0	0	--	0	--
Food & Drug	71	69	97.2	2	2.8	0	--	0	--
Other Miscellaneous Offenses	2,139	2,049	95.8	90	4.2	49	100.0	0	0.0

Of the 72,865 guideline cases, 106 cases were excluded due to one or both of the following reasons: missing primary offense category (100) or missing mode of conviction (104).

Of the 446 guideline cases from the District of South Dakota, no case was excluded.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 4
TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2007

National

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
TOTAL	72,061	61,498	85.3	2,226	3.1	2,789	3.9	5,548	7.7
Murder	81	80	98.8	1	1.2	0	0.0	0	0.0
Manslaughter	65	60	92.3	2	3.1	3	4.6	0	0.0
Kidnapping/Hostage Taking	48	48	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	381	358	94.0	10	2.6	6	1.6	7	1.8
Assault	567	450	79.4	27	4.8	30	5.3	60	10.6
Robbery	1,119	1,083	96.8	16	1.4	9	0.8	11	1.0
Arson	78	73	93.6	2	2.6	2	2.6	1	1.3
Drugs - Trafficking	24,304	23,081	95.0	561	2.3	305	1.3	357	1.5
Drugs - Communication Facility	372	304	81.7	9	2.4	24	6.5	35	9.4
Drugs - Simple Possession	599	248	41.4	9	1.5	28	4.7	314	52.4
Firearms	8,348	7,684	92.0	195	2.3	230	2.8	239	2.9
Burglary/B&E	41	33	80.5	4	9.8	0	0.0	4	9.8
Auto Theft	64	50	78.1	4	6.3	5	7.8	5	7.8
Larceny	1,621	618	38.1	80	4.9	249	15.4	674	41.6
Fraud	7,727	4,973	64.4	561	7.3	829	10.7	1,364	17.7
Embezzlement	462	155	33.5	64	13.9	77	16.7	166	35.9
Forgery/Counterfeiting	1,153	728	63.1	80	6.9	149	12.9	196	17.0
Bribery	243	152	62.6	23	9.5	35	14.4	33	13.6
Tax	642	313	48.8	73	11.4	110	17.1	146	22.7
Money Laundering	917	724	79.0	46	5.0	70	7.6	77	8.4
Racketeering/Extortion	620	557	89.8	9	1.5	27	4.4	27	4.4
Gambling/Lottery	112	21	18.8	6	5.4	50	44.6	35	31.3
Civil Rights	62	38	61.3	2	3.2	9	14.5	13	21.0
Immigration	17,574	16,683	94.9	280	1.6	169	1.0	442	2.5
Pornography/Prostitution	1,442	1,401	97.2	15	1.0	14	1.0	12	0.8
Prison Offenses	316	293	92.7	11	3.5	4	1.3	8	2.5
Administration of Justice Offenses	995	629	63.2	54	5.4	113	11.4	199	20.0
Environmental/Wildlife	159	25	15.7	13	8.2	32	20.1	89	56.0
National Defense	30	24	80.0	2	6.7	1	3.3	3	10.0
Antitrust	15	9	60.0	2	13.3	1	6.7	3	20.0
Food & Drug	62	17	27.4	2	3.2	3	4.8	40	64.5
Other Miscellaneous Offenses	1,842	586	31.8	63	3.4	205	11.1	988	53.6

Of the 72,865 guideline cases, 804 cases were excluded due to one or more of the following reasons: missing sentencing information (164), missing primary offense category (100), or cases in which the defendant received no imprisonment or probation (636).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2007**

South Dakota

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
TOTAL	442	335	75.8	13	2.9	34	7.7	60	13.6
Murder	1	1	100.0	0	0.0	0	0.0	0	0.0
Manslaughter	14	13	92.9	0	0.0	1	7.1	0	0.0
Kidnapping/Hostage Taking	0	0	--	0	--	0	--	0	--
Sexual Abuse	30	30	100.0	0	0.0	0	0.0	0	0.0
Assault	42	40	95.2	0	0.0	0	0.0	2	4.8
Robbery	4	4	100.0	0	0.0	0	0.0	0	0.0
Arson	0	0	--	0	--	0	--	0	--
Drugs - Trafficking	133	124	93.2	0	0.0	1	0.8	8	6.0
Drugs - Communication Facility	0	0	--	0	--	0	--	0	--
Drugs - Simple Possession	3	1	33.3	0	0.0	0	0.0	2	66.7
Firearms	29	27	93.1	1	3.4	0	0.0	1	3.4
Burglary/B&E	8	5	62.5	3	37.5	0	0.0	0	0.0
Auto Theft	0	0	--	0	--	0	--	0	--
Larceny	14	2	14.3	1	7.1	1	7.1	10	71.4
Fraud	36	20	55.6	3	8.3	6	16.7	7	19.4
Embezzlement	9	2	22.2	2	22.2	3	33.3	2	22.2
Forgery/Counterfeiting	6	4	66.7	0	0.0	2	33.3	0	0.0
Bribery	2	0	0.0	0	0.0	1	50.0	1	50.0
Tax	1	1	100.0	0	0.0	0	0.0	0	0.0
Money Laundering	0	0	--	0	--	0	--	0	--
Racketeering/Extortion	0	0	--	0	--	0	--	0	--
Gambling/Lottery	0	0	--	0	--	0	--	0	--
Civil Rights	0	0	--	0	--	0	--	0	--
Immigration	38	37	97.4	0	0.0	1	2.6	0	0.0
Pornography/Prostitution	9	8	88.9	0	0.0	1	11.1	0	0.0
Prison Offenses	7	6	85.7	0	0.0	1	14.3	0	0.0
Administration of Justice Offenses	4	2	50.0	0	0.0	1	25.0	1	25.0
Environmental/Wildlife	3	0	0.0	0	0.0	1	33.3	2	66.7
National Defense	0	0	--	0	--	0	--	0	--
Antitrust	0	0	--	0	--	0	--	0	--
Food & Drug	0	0	--	0	--	0	--	0	--
Other Miscellaneous Offenses	49	8	16.3	3	6.1	14	28.6	24	49.0

Of the 446 guideline cases from the District of South Dakota, four cases were excluded due to cases in which the defendant received no imprisonment or probation.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 6

**INCARCERATION RATE OF DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES
BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2007**

PRIMARY OFFENSE	TOTAL	National				South Dakota			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
TOTAL	11,585	6,337	54.7	5,248	45.3	56	44.8	69	55.2
Fraud	2,512	1,036	41.2	1,476	58.8	12	50.0	12	50.0
Larceny	996	191	19.2	805	80.8	0	0.0	11	100.0
Immigration	4,407	3,947	89.6	460	10.4	28	100.0	0	0.0
Embezzlement	257	60	23.3	197	76.7	2	33.3	4	66.7
Drugs - Trafficking	462	217	47.0	245	53.0	2	18.2	9	81.8
Drugs - Simple Possession	454	159	35.0	295	65.0	1	33.3	2	66.7
Firearms	297	117	39.4	180	60.6	0	0.0	1	100.0
Forgery/Counterfeiting	386	133	34.5	253	65.5	1	33.3	2	66.7
Other Miscellaneous Offenses	1,814	477	26.3	1,337	73.7	10	26.3	28	73.7

Of the 72,865 guideline cases, 61,280 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison alternatives (61,273), missing sentencing information (164) or missing primary offense category (100).

Of the 446 guideline cases from the District of South Dakota, 321 cases were excluded due to the defendant being ineligible for non-prison alternatives.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 7

**AVERAGE LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2007**

PRIMARY OFFENSE	National			South Dakota		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
TOTAL	59.3	36.0	62,973	67.9	41.0	348
Murder	258.3	235.0	81	--	--	1
Manslaughter	51.1	37.0	61	67.3	37.0	13
Kidnapping/Hostage Taking	169.0	156.5	48	--	--	0
Sexual Abuse	97.3	60.0	368	143.1	120.0	30
Assault	37.4	30.0	462	43.2	34.5	40
Robbery	86.5	70.0	1,099	97.3	51.0	4
Arson	83.5	60.0	75	--	--	0
Drugs - Trafficking	85.6	60.0	23,567	103.1	87.0	124
Drugs - Communication Facility	43.8	48.0	311	--	--	0
Drugs - Simple Possession	13.8	4.0	235	--	--	1
Firearms	85.0	59.0	7,851	50.7	33.0	28
Burglary/B&E	20.7	22.0	37	19.3	15.0	8
Auto Theft	69.7	24.0	54	--	--	0
Larceny	18.3	12.0	687	10.0	12.0	3
Fraud	25.8	16.0	5,409	13.5	6.0	23
Embezzlement	13.8	6.0	215	8.5	0.5	4
Forgery/Counterfeiting	19.6	15.0	798	36.5	30.0	4
Bribery	29.8	20.0	174	--	--	0
Tax	21.1	15.0	382	--	--	1
Money Laundering	42.1	30.0	759	--	--	0
Racketeering/Extortion	97.5	60.0	565	--	--	0
Gambling/Lottery	9.8	6.0	26	--	--	0
Civil Rights	41.9	25.5	40	--	--	0
Immigration	22.7	18.0	16,570	11.6	3.7	37
Pornography/Prostitution	111.7	78.0	1,413	71.1	75.0	8
Prison Offenses	19.6	15.0	303	7.5	6.0	6
Administration of Justice Offenses	28.3	15.0	670	--	--	2
Environmental/Wildlife	11.7	6.0	37	--	--	0
National Defense	48.9	22.5	26	--	--	0
Antitrust	19.2	9.0	11	--	--	0
Food & Drug	30.2	18.0	19	--	--	0
Other Miscellaneous Offenses	17.4	6.0	620	13.9	8.0	11

Of the 72,865 guideline cases, 9,892 cases were excluded for one or more of the following reasons: zero months prison ordered (9,091), missing primary offense category (100) or missing or indeterminable sentencing information (801).

Of the 446 guideline cases from the District of South Dakota, 98 cases were excluded due to one of the following reasons: zero prison months ordered (94) or missing or indeterminable sentencing information (4).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 8

**COMPARISON OF SENTENCE IMPOSED AND POSITION
RELATIVE TO THE GUIDELINE RANGE
Fiscal Year 2007**

	National		South Dakota	
	N	%	N	%
TOTAL CASES¹	69,893	100.0	442	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	42,504	60.8	332	75.1
CASES SENTENCED ABOVE GUIDELINE RANGE	1,060	1.5	19	4.3
DEPARTURE ABOVE GUIDELINE RANGE	467	0.7	9	2.1
Upward Departure From Guideline Range ²	324	0.5	6	1.4
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	143	0.2	3	0.7
OTHERWISE ABOVE GUIDELINE RANGE	593	0.8	10	2.2
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	491	0.7	9	2.0
All Remaining Cases Above Guideline Range ⁵	102	0.1	1	0.2
GOVERNMENT SPONSORED BELOW RANGE⁶	17,896	25.6	31	7.0
§5K1.1 Substantial Assistance Departure	10,049	14.4	15	3.4
§5K3.1 Early Disposition Program Departure	5,233	7.5	0	0.0
Other Government Sponsored Below Range	2,614	3.7	16	3.6
NON-GOVERNMENT SPONSORED BELOW RANGE	8,433	12.0	60	13.5
DEPARTURE BELOW GUIDELINE RANGE	2,770	3.9	24	5.4
Downward Departure From Guideline Range ²	1,757	2.5	16	3.6
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	1,013	1.4	8	1.8
OTHERWISE BELOW GUIDELINE RANGE	5,663	8.1	36	8.1
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	4,957	7.1	35	7.9
All Remaining Cases Below Guideline Range ⁵	706	1.0	1	0.2

¹This table reflects the 72,865 cases sentenced nationally in Fiscal Year 2007, 446 of which were from the District of South Dakota. Of these, 2,972 cases nationally and four cases from the District of South Dakota were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range.

²All cases with departures in which the court did not indicate as a reason either *U.S. v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

³All cases sentenced outside of the guideline range in which the court indicated both a departure (see footnote 2) and a reference to either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

⁴All cases sentenced outside of the guideline range in which no departure was indicated and in which the court cited *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing outside of the guideline system.

⁵All cases sentenced outside of the guideline range that could not be classified into any of the three previous outside of the range categories. This category includes cases in which no reason was provided for a sentence outside of the guideline range.

⁶Cases in which a reason for the sentence indicated that the prosecution initiated, proposed, or stipulated to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 9

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT
Fiscal Year 2007**

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
TOTAL	69,893	42,504	60.8	324	0.5	143	0.2	491	0.7	102	0.1
D.C. CIRCUIT	448	187	41.7	2	0.4	1	0.2	1	0.2	1	0.2
District of Columbia	448	187	41.7	2	0.4	1	0.2	1	0.2	1	0.2
FIRST CIRCUIT	1,918	1,314	68.5	11	0.6	3	0.2	7	0.4	2	0.1
Maine	191	131	68.6	1	0.5	0	0.0	0	0.0	0	0.0
Massachusetts	576	316	54.9	6	1.0	0	0.0	2	0.3	1	0.2
New Hampshire	239	122	51.0	3	1.3	0	0.0	2	0.8	0	0.0
Puerto Rico	770	653	84.8	0	0.0	2	0.3	2	0.3	1	0.1
Rhode Island	142	92	64.8	1	0.7	1	0.7	1	0.7	0	0.0
SECOND CIRCUIT	4,426	2,225	50.3	10	0.2	6	0.1	9	0.2	3	0.1
Connecticut	404	181	44.8	2	0.5	1	0.2	0	0.0	0	0.0
New York											
Eastern	1,043	433	41.5	3	0.3	5	0.5	3	0.3	2	0.2
Northern	435	229	52.6	0	0.0	0	0.0	2	0.5	0	0.0
Southern	1,647	874	53.1	2	0.1	0	0.0	4	0.2	0	0.0
Western	757	439	58.0	2	0.3	0	0.0	0	0.0	1	0.1
Vermont	140	69	49.3	1	0.7	0	0.0	0	0.0	0	0.0
THIRD CIRCUIT	3,075	1,618	52.6	4	0.1	4	0.1	23	0.7	2	0.1
Delaware	106	68	64.2	0	0.0	0	0.0	0	0.0	0	0.0
New Jersey	1,009	545	54.0	1	0.1	0	0.0	3	0.3	0	0.0
Pennsylvania											
Eastern	780	322	41.3	2	0.3	3	0.4	9	1.2	2	0.3
Middle	586	268	45.7	1	0.2	0	0.0	2	0.3	0	0.0
Western	489	345	70.6	0	0.0	1	0.2	6	1.2	0	0.0
Virgin Islands	105	70	66.7	0	0.0	0	0.0	3	2.9	0	0.0
FOURTH CIRCUIT	6,022	4,352	72.3	33	0.5	12	0.2	28	0.5	3	0.0
Maryland	653	336	51.5	2	0.3	3	0.5	0	0.0	1	0.2
North Carolina											
Eastern	584	365	62.5	9	1.5	1	0.2	7	1.2	1	0.2
Middle	421	328	77.9	1	0.2	1	0.2	1	0.2	0	0.0
Western	759	532	70.1	2	0.3	0	0.0	2	0.3	0	0.0
South Carolina	1,122	861	76.7	2	0.2	1	0.1	5	0.4	0	0.0
Virginia											
Eastern	1,342	1,071	79.8	8	0.6	3	0.2	9	0.7	0	0.0
Western	620	424	68.4	4	0.6	2	0.3	2	0.3	1	0.2
West Virginia											
Northern	267	214	80.1	3	1.1	0	0.0	2	0.7	0	0.0
Southern	254	221	87.0	2	0.8	1	0.4	0	0.0	0	0.0

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
TOTAL	10,049	14.4	5,233	7.5	2,614	3.7	1,757	2.5	1,013	1.4	4,957	7.1	706	1.0
D.C. CIRCUIT	152	33.9	0	0.0	40	8.9	3	0.7	15	3.3	39	8.7	7	1.6
District of Columbia	152	33.9	0	0.0	40	8.9	3	0.7	15	3.3	39	8.7	7	1.6
FIRST CIRCUIT	207	10.8	0	0.0	47	2.5	90	4.7	33	1.7	190	9.9	14	0.7
Maine	35	18.3	0	0.0	0	0.0	8	4.2	3	1.6	12	6.3	1	0.5
Massachusetts	62	10.8	0	0.0	17	3.0	42	7.3	15	2.6	109	18.9	6	1.0
New Hampshire	65	27.2	0	0.0	11	4.6	16	6.7	3	1.3	15	6.3	2	0.8
Puerto Rico	40	5.2	0	0.0	17	2.2	18	2.3	9	1.2	24	3.1	4	0.5
Rhode Island	5	3.5	0	0.0	2	1.4	6	4.2	3	2.1	30	21.1	1	0.7
SECOND CIRCUIT	955	21.6	2	0.0	104	2.3	240	5.4	182	4.1	620	14.0	70	1.6
Connecticut	73	18.1	0	0.0	9	2.2	54	13.4	30	7.4	53	13.1	1	0.2
New York														
Eastern	244	23.4	2	0.2	35	3.4	64	6.1	83	8.0	144	13.8	25	2.4
Northern	132	30.3	0	0.0	7	1.6	35	8.0	9	2.1	21	4.8	0	0.0
Southern	252	15.3	0	0.0	31	1.9	58	3.5	48	2.9	347	21.1	31	1.9
Western	226	29.9	0	0.0	19	2.5	9	1.2	2	0.3	46	6.1	13	1.7
Vermont	28	20.0	0	0.0	3	2.1	20	14.3	10	7.1	9	6.4	0	0.0
THIRD CIRCUIT	833	27.1	0	0.0	52	1.7	74	2.4	71	2.3	352	11.4	42	1.4
Delaware	9	8.5	0	0.0	4	3.8	0	0.0	1	0.9	20	18.9	4	3.8
New Jersey	283	28.0	0	0.0	8	0.8	31	3.1	8	0.8	121	12.0	9	0.9
Pennsylvania														
Eastern	262	33.6	0	0.0	10	1.3	10	1.3	28	3.6	115	14.7	17	2.2
Middle	208	35.5	0	0.0	24	4.1	9	1.5	11	1.9	56	9.6	7	1.2
Western	57	11.7	0	0.0	5	1.0	24	4.9	16	3.3	35	7.2	0	0.0
Virgin Islands	14	13.3	0	0.0	1	1.0	0	0.0	7	6.7	5	4.8	5	4.8
FOURTH CIRCUIT	1,011	16.8	0	0.0	60	1.0	99	1.6	98	1.6	284	4.7	42	0.7
Maryland	175	26.8	0	0.0	17	2.6	26	4.0	29	4.4	53	8.1	11	1.7
North Carolina														
Eastern	165	28.3	0	0.0	0	0.0	8	1.4	5	0.9	17	2.9	6	1.0
Middle	67	15.9	0	0.0	1	0.2	2	0.5	1	0.2	19	4.5	0	0.0
Western	173	22.8	0	0.0	12	1.6	5	0.7	6	0.8	21	2.8	6	0.8
South Carolina	170	15.2	0	0.0	14	1.2	18	1.6	3	0.3	44	3.9	4	0.4
Virginia														
Eastern	79	5.9	0	0.0	7	0.5	25	1.9	50	3.7	78	5.8	12	0.9
Western	140	22.6	0	0.0	7	1.1	8	1.3	1	0.2	29	4.7	2	0.3
West Virginia														
Northern	23	8.6	0	0.0	2	0.7	5	1.9	2	0.7	16	6.0	0	0.0
Southern	19	7.5	0	0.0	0	0.0	2	0.8	1	0.4	7	2.8	1	0.4

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
FIFTH CIRCUIT	14,953	10,738	71.8	79	0.5	46	0.3	171	1.1	26	0.2
Louisiana											
Eastern	423	328	77.5	4	0.9	7	1.7	7	1.7	0	0.0
Middle	166	126	75.9	3	1.8	1	0.6	1	0.6	0	0.0
Western	464	362	78.0	3	0.6	4	0.9	7	1.5	2	0.4
Mississippi											
Northern	187	99	52.9	1	0.5	0	0.0	3	1.6	0	0.0
Southern	401	321	80.0	4	1.0	1	0.2	6	1.5	3	0.7
Texas											
Eastern	978	786	80.4	1	0.1	0	0.0	0	0.0	1	0.1
Northern	1,048	767	73.2	11	1.0	14	1.3	54	5.2	1	0.1
Southern	5,576	3,382	60.7	31	0.6	2	0.0	23	0.4	9	0.2
Western	5,710	4,567	80.0	21	0.4	17	0.3	70	1.2	10	0.2
SIXTH CIRCUIT	5,178	2,925	56.5	16	0.3	9	0.2	26	0.5	12	0.2
Kentucky											
Eastern	577	292	50.6	2	0.3	2	0.3	2	0.3	0	0.0
Western	502	367	73.1	1	0.2	0	0.0	1	0.2	0	0.0
Michigan											
Eastern	756	416	55.0	0	0.0	1	0.1	2	0.3	3	0.4
Western	443	254	57.3	6	1.4	1	0.2	7	1.6	1	0.2
Ohio											
Northern	880	483	54.9	1	0.1	1	0.1	5	0.6	0	0.0
Southern	625	267	42.7	0	0.0	3	0.5	0	0.0	3	0.5
Tennessee											
Eastern	566	384	67.8	0	0.0	1	0.2	5	0.9	4	0.7
Middle	285	171	60.0	0	0.0	0	0.0	1	0.4	0	0.0
Western	544	291	53.5	6	1.1	0	0.0	3	0.6	1	0.2
SEVENTH CIRCUIT	2,908	1,736	59.7	9	0.3	7	0.2	25	0.9	3	0.1
Illinois											
Central	391	222	56.8	1	0.3	0	0.0	5	1.3	0	0.0
Northern	837	419	50.1	4	0.5	1	0.1	5	0.6	1	0.1
Southern	344	277	80.5	1	0.3	5	1.5	2	0.6	0	0.0
Indiana											
Northern	425	298	70.1	0	0.0	0	0.0	2	0.5	2	0.5
Southern	311	170	54.7	2	0.6	1	0.3	6	1.9	0	0.0
Wisconsin											
Eastern	406	182	44.8	0	0.0	0	0.0	3	0.7	0	0.0
Western	194	168	86.6	1	0.5	0	0.0	2	1.0	0	0.0
EIGHTH CIRCUIT	5,040	3,443	68.3	34	0.7	13	0.3	27	0.5	6	0.1
Arkansas											
Eastern	363	238	65.6	0	0.0	1	0.3	0	0.0	0	0.0
Western	180	137	76.1	0	0.0	0	0.0	1	0.6	0	0.0
Iowa											
Northern	454	319	70.3	12	2.6	1	0.2	5	1.1	2	0.4
Southern	371	220	59.3	5	1.3	2	0.5	0	0.0	0	0.0
Minnesota	539	281	52.1	1	0.2	1	0.2	0	0.0	0	0.0
Missouri											
Eastern	972	695	71.5	1	0.1	2	0.2	1	0.1	0	0.0
Western	806	594	73.7	1	0.1	3	0.4	3	0.4	1	0.1
Nebraska	703	503	71.6	7	1.0	0	0.0	8	1.1	2	0.3
North Dakota	210	124	59.0	1	0.5	0	0.0	0	0.0	0	0.0
South Dakota	442	332	75.1	6	1.4	3	0.7	9	2.0	1	0.2

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
FIFTH CIRCUIT	1,252	8.4	970	6.5	718	4.8	349	2.3	47	0.3	480	3.2	77	0.5
Louisiana														
Eastern	42	9.9	0	0.0	12	2.8	3	0.7	5	1.2	11	2.6	4	0.9
Middle	26	15.7	0	0.0	1	0.6	3	1.8	1	0.6	4	2.4	0	0.0
Western	61	13.1	0	0.0	1	0.2	4	0.9	4	0.9	11	2.4	5	1.1
Mississippi														
Northern	56	29.9	0	0.0	20	10.7	0	0.0	0	0.0	6	3.2	2	1.1
Southern	34	8.5	2	0.5	2	0.5	4	1.0	1	0.2	13	3.2	10	2.5
Texas														
Eastern	98	10.0	0	0.0	37	3.8	32	3.3	4	0.4	15	1.5	4	0.4
Northern	127	12.1	1	0.1	19	1.8	13	1.2	4	0.4	33	3.1	4	0.4
Southern	381	6.8	822	14.7	551	9.9	195	3.5	7	0.1	168	3.0	5	0.1
Western	427	7.5	145	2.5	75	1.3	95	1.7	21	0.4	219	3.8	43	0.8
SIXTH CIRCUIT	1,307	25.2	2	0.0	118	2.3	94	1.8	98	1.9	503	9.7	68	1.3
Kentucky														
Eastern	208	36.0	0	0.0	2	0.3	3	0.5	2	0.3	58	10.1	6	1.0
Western	62	12.4	0	0.0	26	5.2	7	1.4	3	0.6	29	5.8	6	1.2
Michigan														
Eastern	188	24.9	0	0.0	9	1.2	19	2.5	18	2.4	87	11.5	13	1.7
Western	85	19.2	0	0.0	7	1.6	9	2.0	3	0.7	66	14.9	4	0.9
Ohio														
Northern	215	24.4	0	0.0	23	2.6	24	2.7	19	2.2	94	10.7	15	1.7
Southern	223	35.7	2	0.3	19	3.0	15	2.4	32	5.1	57	9.1	4	0.6
Tennessee														
Eastern	129	22.8	0	0.0	2	0.4	5	0.9	1	0.2	27	4.8	8	1.4
Middle	57	20.0	0	0.0	7	2.5	7	2.5	8	2.8	29	10.2	5	1.8
Western	140	25.7	0	0.0	23	4.2	5	0.9	12	2.2	56	10.3	7	1.3
SEVENTH CIRCUIT	514	17.7	0	0.0	58	2.0	75	2.6	72	2.5	340	11.7	69	2.4
Illinois														
Central	79	20.2	0	0.0	12	3.1	9	2.3	9	2.3	51	13.0	3	0.8
Northern	168	20.1	0	0.0	17	2.0	42	5.0	45	5.4	94	11.2	41	4.9
Southern	19	5.5	0	0.0	3	0.9	7	2.0	9	2.6	16	4.7	5	1.5
Indiana														
Northern	91	21.4	0	0.0	5	1.2	1	0.2	1	0.2	18	4.2	7	1.6
Southern	64	20.6	0	0.0	9	2.9	10	3.2	2	0.6	47	15.1	0	0.0
Wisconsin														
Eastern	86	21.2	0	0.0	12	3.0	5	1.2	4	1.0	101	24.9	13	3.2
Western	7	3.6	0	0.0	0	0.0	1	0.5	2	1.0	13	6.7	0	0.0
EIGHTH CIRCUIT	740	14.7	31	0.6	132	2.6	136	2.7	69	1.4	368	7.3	41	0.8
Arkansas														
Eastern	78	21.5	0	0.0	8	2.2	7	1.9	6	1.7	23	6.3	2	0.6
Western	26	14.4	0	0.0	2	1.1	3	1.7	0	0.0	11	6.1	0	0.0
Iowa														
Northern	68	15.0	0	0.0	9	2.0	3	0.7	2	0.4	31	6.8	2	0.4
Southern	71	19.1	0	0.0	10	2.7	12	3.2	5	1.3	45	12.1	1	0.3
Minnesota	140	26.0	0	0.0	11	2.0	24	4.5	23	4.3	55	10.2	3	0.6
Missouri														
Eastern	136	14.0	0	0.0	22	2.3	23	2.4	11	1.1	72	7.4	9	0.9
Western	114	14.1	0	0.0	12	1.5	13	1.6	11	1.4	39	4.8	15	1.9
Nebraska	33	4.7	27	3.8	35	5.0	30	4.3	3	0.4	51	7.3	4	0.6
North Dakota	59	28.1	4	1.9	7	3.3	5	2.4	0	0.0	6	2.9	4	1.9
South Dakota	15	3.4	0	0.0	16	3.6	16	3.6	8	1.8	35	7.9	1	0.2

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
NINTH CIRCUIT	13,419	5,934	44.2	96	0.7	23	0.2	63	0.5	25	0.2
Alaska	124	91	73.4	0	0.0	1	0.8	0	0.0	0	0.0
Arizona	3,913	1,216	31.1	63	1.6	8	0.2	8	0.2	3	0.1
California											
Central	1,268	666	52.5	1	0.1	3	0.2	3	0.2	2	0.2
Eastern	944	504	53.4	3	0.3	3	0.3	3	0.3	0	0.0
Northern	650	337	51.8	3	0.5	3	0.5	4	0.6	2	0.3
Southern	3,155	1,311	41.6	3	0.1	1	0.0	13	0.4	7	0.2
Guam	67	41	61.2	1	1.5	0	0.0	0	0.0	1	1.5
Hawaii	354	162	45.8	0	0.0	1	0.3	4	1.1	0	0.0
Idaho	249	125	50.2	0	0.0	0	0.0	3	1.2	0	0.0
Montana	362	285	78.7	4	1.1	1	0.3	5	1.4	1	0.3
Nevada	650	442	68.0	2	0.3	1	0.2	4	0.6	3	0.5
Northern Mariana Islands	19	11	57.9	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	552	282	51.1	5	0.9	1	0.2	2	0.4	2	0.4
Washington											
Eastern	361	153	42.4	1	0.3	0	0.0	6	1.7	2	0.6
Western	751	308	41.0	10	1.3	0	0.0	8	1.1	2	0.3
TENTH CIRCUIT	5,614	3,365	59.9	13	0.2	5	0.1	51	0.9	10	0.2
Colorado	526	311	59.1	0	0.0	0	0.0	5	1.0	2	0.4
Kansas	643	395	61.4	1	0.2	0	0.0	32	5.0	1	0.2
New Mexico	2,510	1,421	56.6	3	0.1	1	0.0	1	0.0	2	0.1
Oklahoma											
Eastern	91	70	76.9	1	1.1	0	0.0	0	0.0	0	0.0
Northern	230	189	82.2	1	0.4	0	0.0	1	0.4	0	0.0
Western	319	231	72.4	3	0.9	0	0.0	7	2.2	0	0.0
Utah	913	479	52.5	4	0.4	3	0.3	4	0.4	4	0.4
Wyoming	382	269	70.4	0	0.0	1	0.3	1	0.3	1	0.3
ELEVENTH CIRCUIT	6,892	4,667	67.7	17	0.2	14	0.2	60	0.9	9	0.1
Alabama											
Middle	242	134	55.4	1	0.4	0	0.0	4	1.7	0	0.0
Northern	550	344	62.5	0	0.0	0	0.0	5	0.9	1	0.2
Southern	355	234	65.9	0	0.0	1	0.3	0	0.0	1	0.3
Florida											
Middle	1,601	952	59.5	2	0.1	1	0.1	5	0.3	2	0.1
Northern	419	291	69.5	2	0.5	5	1.2	4	1.0	0	0.0
Southern	2,204	1,581	71.7	4	0.2	4	0.2	13	0.6	1	0.0
Georgia											
Middle	392	290	74.0	2	0.5	0	0.0	5	1.3	1	0.3
Northern	593	394	66.4	3	0.5	3	0.5	5	0.8	3	0.5
Southern	536	447	83.4	3	0.6	0	0.0	19	3.5	0	0.0

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
NINTH CIRCUIT	1,341	10.0	3,712	27.7	701	5.2	301	2.2	185	1.4	849	6.3	189	1.4
Alaska	5	4.0	0	0.0	5	4.0	3	2.4	4	3.2	12	9.7	3	2.4
Arizona	246	6.3	2,027	51.8	112	2.9	50	1.3	45	1.2	101	2.6	34	0.9
California														
Central	212	16.7	76	6.0	83	6.5	35	2.8	35	2.8	104	8.2	48	3.8
Eastern	130	13.8	132	14.0	50	5.3	23	2.4	10	1.1	76	8.1	10	1.1
Northern	95	14.6	39	6.0	52	8.0	18	2.8	18	2.8	65	10.0	14	2.2
Southern	138	4.4	1,287	40.8	116	3.7	100	3.2	21	0.7	106	3.4	52	1.6
Guam	9	13.4	0	0.0	0	0.0	0	0.0	0	0.0	15	22.4	0	0.0
Hawaii	114	32.2	0	0.0	6	1.7	2	0.6	2	0.6	61	17.2	2	0.6
Idaho	51	20.5	28	11.2	5	2.0	1	0.4	4	1.6	27	10.8	5	2.0
Montana	39	10.8	0	0.0	0	0.0	4	1.1	1	0.3	21	5.8	1	0.3
Nevada	67	10.3	0	0.0	54	8.3	9	1.4	6	0.9	55	8.5	7	1.1
Northern Mariana Islands	4	21.1	0	0.0	2	10.5	0	0.0	1	5.3	1	5.3	0	0.0
Oregon	82	14.9	17	3.1	51	9.2	21	3.8	5	0.9	75	13.6	9	1.6
Washington														
Eastern	34	9.4	85	23.5	28	7.8	5	1.4	3	0.8	44	12.2	0	0.0
Western	115	15.3	21	2.8	137	18.2	30	4.0	30	4.0	86	11.5	4	0.5
TENTH CIRCUIT	510	9.1	486	8.7	518	9.2	198	3.5	69	1.2	349	6.2	40	0.7
Colorado	130	24.7	0	0.0	16	3.0	21	4.0	6	1.1	30	5.7	5	1.0
Kansas	116	18.0	0	0.0	52	8.1	2	0.3	0	0.0	42	6.5	2	0.3
New Mexico	83	3.3	316	12.6	379	15.1	107	4.3	33	1.3	152	6.1	12	0.5
Oklahoma														
Eastern	13	14.3	0	0.0	1	1.1	0	0.0	1	1.1	5	5.5	0	0.0
Northern	27	11.7	0	0.0	3	1.3	1	0.4	0	0.0	7	3.0	1	0.4
Western	23	7.2	0	0.0	1	0.3	4	1.3	0	0.0	46	14.4	4	1.3
Utah	82	9.0	170	18.6	49	5.4	44	4.8	19	2.1	41	4.5	14	1.5
Wyoming	36	9.4	0	0.0	17	4.5	19	5.0	10	2.6	26	6.8	2	0.5
ELEVENTH CIRCUIT	1,227	17.8	30	0.4	66	1.0	98	1.4	74	1.1	583	8.5	47	0.7
Alabama														
Middle	82	33.9	0	0.0	4	1.7	1	0.4	0	0.0	16	6.6	0	0.0
Northern	139	25.3	0	0.0	4	0.7	6	1.1	1	0.2	50	9.1	0	0.0
Southern	81	22.8	0	0.0	1	0.3	3	0.8	1	0.3	33	9.3	0	0.0
Florida														
Middle	393	24.5	30	1.9	15	0.9	30	1.9	18	1.1	142	8.9	11	0.7
Northern	87	20.8	0	0.0	0	0.0	4	1.0	5	1.2	20	4.8	1	0.2
Southern	246	11.2	0	0.0	26	1.2	22	1.0	34	1.5	245	11.1	28	1.3
Georgia														
Middle	72	18.4	0	0.0	2	0.5	5	1.3	1	0.3	13	3.3	1	0.3
Northern	82	13.8	0	0.0	12	2.0	20	3.4	14	2.4	51	8.6	6	1.0
Southern	45	8.4	0	0.0	2	0.4	7	1.3	0	0.0	13	2.4	0	0.0

Of the 72,865 cases, 2,972 were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Districts for which information needed to determine the relationship between the sentence imposed and the guideline range is missing in five percent or more of the cases received included: Western Oklahoma (42.2%), Middle Georgia (27.1%), Central California (25.5%), Eastern Virginia (24.1%), Arizona (17.1%), Western Washington (11.3%), Middle Tennessee (10.1%), Southern Mississippi (7.0%), Maryland (6.6%), Western Kentucky (6.3%), Alaska (6.1%), Northern Alabama (5.5%), Southern Florida (5.2%), and Northern Florida (5.0%).

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.

Table 10

**GUIDELINE DEPARTURE RATE BY PRIMARY OFFENSE CATEGORY
Fiscal Year 2007**

National

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
TOTAL	69,801	42,446	60.8	324	0.5	143	0.2	488	0.7	102	0.1
Robbery	1,109	733	66.1	7	0.6	5	0.5	12	1.1	1	0.1
Drugs - Trafficking	24,199	13,022	53.8	38	0.2	14	0.1	35	0.1	17	0.1
Drugs - Simple Possession	527	479	90.9	5	0.9	2	0.4	7	1.3	4	0.8
Firearms	8,328	5,826	70.0	48	0.6	29	0.3	60	0.7	13	0.2
Larceny	1,598	1,253	78.4	7	0.4	1	0.1	8	0.5	6	0.4
Fraud	7,160	4,627	64.6	33	0.5	25	0.3	77	1.1	15	0.2
Embezzlement	452	339	75.0	0	0.0	0	0.0	1	0.2	0	0.0
Forgery/Counterfeiting	1,115	814	73.0	8	0.7	4	0.4	9	0.8	2	0.2
Immigration	16,903	10,220	60.5	113	0.7	24	0.1	190	1.1	25	0.1
Other Miscellaneous Offenses	8,410	5,133	61.0	65	0.8	39	0.5	89	1.1	19	0.2

South Dakota

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		ABOVE RANGE DEPARTURE		ABOVE RANGE DEPARTURE W/BOOKER		ABOVE RANGE W/BOOKER		REMAINING ABOVE RANGE	
		n	%	n	%	n	%	n	%	n	%
TOTAL	442	332	75.1	6	1.4	3	0.7	9	2.0	1	0.2
Robbery	4	4	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	133	107	80.5	1	0.8	0	0.0	0	0.0	1	0.8
Drugs - Simple Possession	3	3	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	29	21	72.4	1	3.4	0	0.0	0	0.0	0	0.0
Larceny	14	13	92.9	0	0.0	0	0.0	0	0.0	0	0.0
Fraud	36	29	80.6	1	2.8	0	0.0	1	2.8	0	0.0
Embezzlement	9	6	66.7	0	0.0	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	6	5	83.3	0	0.0	1	16.7	0	0.0	0	0.0
Immigration	38	34	89.5	0	0.0	0	0.0	1	2.6	0	0.0
Other Miscellaneous Offenses	170	110	64.7	3	1.8	2	1.2	7	4.1	0	0.0

National

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
TOTAL	10,042	14.4	5,224	7.5	2,604	3.7	1,756	2.5	1,011	1.4	4,955	7.1	706	1.0
Robbery	131	11.8	1	0.1	34	3.1	51	4.6	22	2.0	103	9.3	9	0.8
Drugs - Trafficking	6,177	25.5	1,268	5.2	822	3.4	539	2.2	368	1.5	1,707	7.1	192	0.8
Drugs - Simple Possession	8	1.5	1	0.2	3	0.6	1	0.2	3	0.6	9	1.7	5	0.9
Firearms	992	11.9	38	0.5	223	2.7	226	2.7	162	1.9	641	7.7	70	0.8
Larceny	93	5.8	6	0.4	41	2.6	37	2.3	14	0.9	103	6.4	29	1.8
Fraud	1,109	15.5	5	0.1	166	2.3	189	2.6	122	1.7	665	9.3	127	1.8
Embezzlement	14	3.1	0	0.0	9	2.0	6	1.3	15	3.3	60	13.3	8	1.8
Forgery/Counterfeiting	136	12.2	1	0.1	17	1.5	15	1.3	14	1.3	78	7.0	17	1.5
Immigration	324	1.9	3,849	22.8	865	5.1	445	2.6	111	0.7	617	3.7	120	0.7
Other Miscellaneous Offenses	1,058	12.6	55	0.7	424	5.0	247	2.9	180	2.1	972	11.6	129	1.5

South Dakota

PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW RANGE DEPARTURE		BELOW RANGE DEPARTURE W/BOOKER		BELOW RANGE W/BOOKER		REMAINING BELOW RANGE	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
TOTAL	15	3.4	0	0.0	16	3.6	16	3.6	8	1.8	35	7.9	1	0.2
Robbery	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	10	7.5	0	0.0	1	0.8	4	3.0	3	2.3	6	4.5	0	0.0
Drugs - Simple Possession	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	2	6.9	0	0.0	1	3.4	2	6.9	0	0.0	2	6.9	0	0.0
Larceny	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1	7.1	0	0.0
Fraud	1	2.8	0	0.0	0	0.0	1	2.8	1	2.8	2	5.6	0	0.0
Embezzlement	1	11.1	0	0.0	0	0.0	1	11.1	0	0.0	1	11.1	0	0.0
Forgery/Counterfeiting	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	0	0.0	0	0.0	1	2.6	0	0.0	0	0.0	2	5.3	0	0.0
Other Miscellaneous Offenses	1	0.6	0	0.0	13	7.6	8	4.7	4	2.4	21	12.4	1	0.6

Of the 72,865 guideline cases, 3,064 cases were excluded due to one or both of the following reasons: missing information from the submitted documents that prevented the comparison of the sentence and the guideline range (2,972) or missing primary offense (100).

Of the 446 guideline cases from the District of South Dakota, four cases were excluded due to missing information needed to determine the relationship between the sentence imposed and the guideline range.

SOURCE: United States Sentencing Commission, Office of Policy Analysis, 2007 Datafile, OPAFY07.