

# United States Sentencing Commission



## *Statistical Information Packet*

*Fiscal Year 2010*

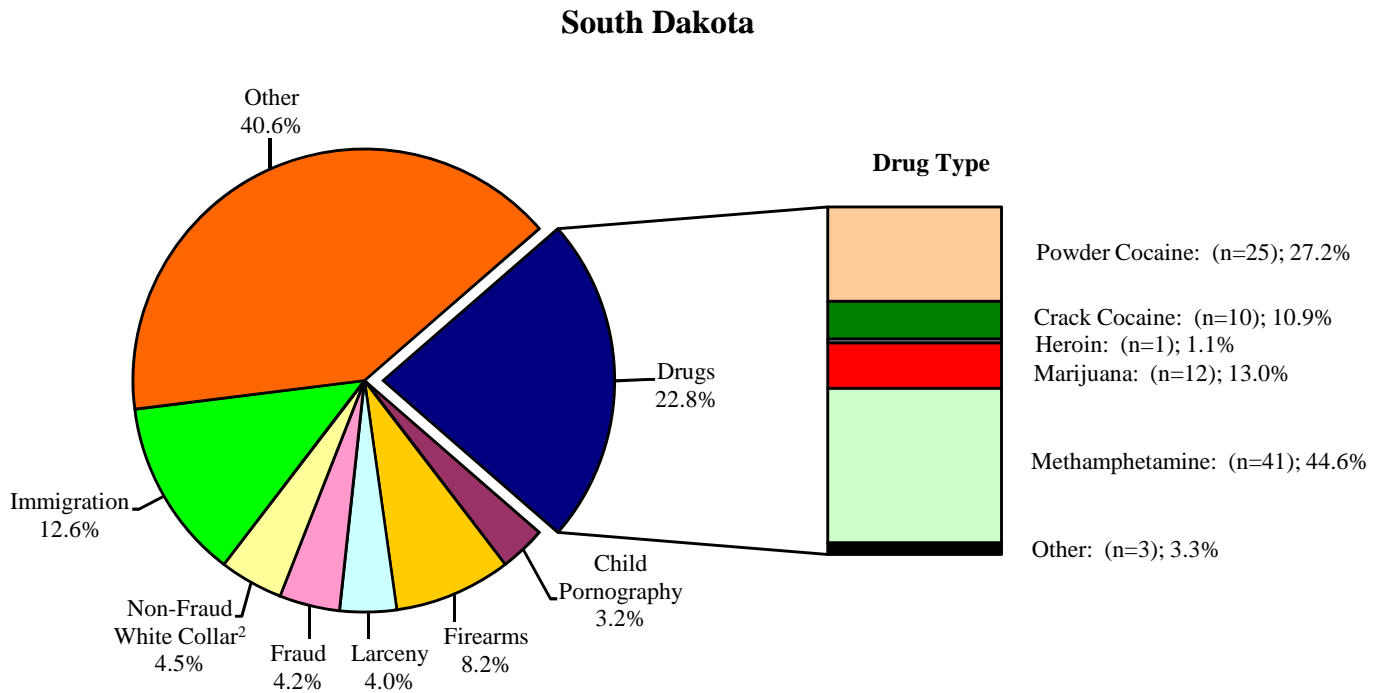
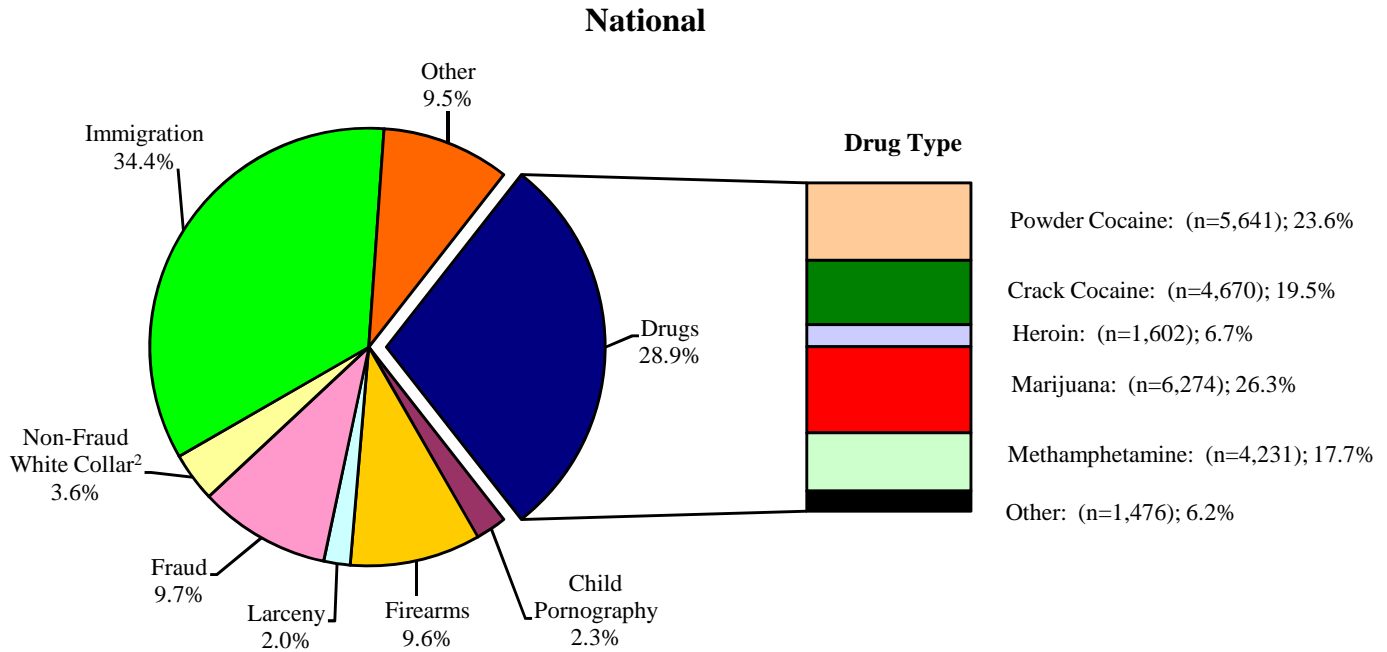
*District of South Dakota*

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**Figure A**

**OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Fiscal Year 2010**



<sup>1</sup> Of the 83,946 guideline cases, 1,149 cases were excluded due to missing drug type.  
 Of the 404 guideline cases from the District of South Dakota, no case was excluded.

<sup>2</sup> The Non-Fraud White Collar category includes the following offense types: embezzlement, forgery/counterfeiting, bribery, money laundering, and tax.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

**Table 1**

**DISTRIBUTION OF GUIDELINE OFFENDERS IN EACH  
PRIMARY OFFENSE CATEGORY  
Fiscal Year 2010**

PRIMARY OFFENSE	National		South Dakota	
	N	%	N	%
<b>TOTAL</b>	<b>83,946</b>	<b>100.0</b>	<b>404</b>	<b>100.0</b>
Murder	66	0.1	1	0.2
Manslaughter	64	0.1	10	2.5
Kidnapping/Hostage Taking	39	0.0	0	0.0
Sexual Abuse	384	0.5	29	7.2
Assault	631	0.8	50	12.4
Robbery	1,081	1.3	4	1.0
Arson	75	0.1	4	1.0
Drugs - Trafficking	23,506	28.0	89	22.0
Drugs - Communication Facility	512	0.6	0	0.0
Drugs - Simple Possession	1,025	1.2	3	0.7
Firearms	7,986	9.5	33	8.2
Burglary/B&E	36	0.0	5	1.2
Auto Theft	91	0.1	1	0.2
Larceny	1,621	1.9	16	4.0
Fraud	8,067	9.6	17	4.2
Embezzlement	435	0.5	6	1.5
Forgery/Counterfeiting	880	1.0	9	2.2
Bribery	224	0.3	2	0.5
Tax	665	0.8	0	0.0
Money Laundering	806	1.0	1	0.2
Racketeering/Extortion	675	0.8	0	0.0
Gambling/Lottery	76	0.1	0	0.0
Civil Rights	61	0.1	0	0.0
Immigration	28,504	34.0	51	12.6
Child Pornography	1,886	2.2	13	3.2
Prison Offenses	424	0.5	6	1.5
Administration of Justice Offenses	1,157	1.4	17	4.2
Environmental/Wildlife	188	0.2	2	0.5
National Defense	70	0.1	0	0.0
Antitrust	16	0.0	0	0.0
Food & Drug	84	0.1	0	0.0
Other Miscellaneous Offenses	2,611	3.1	35	8.7

Of the 83,946 guideline cases, no cases were excluded due to missing information on primary offense category.

Of the 404 guideline cases from the District of South Dakota, no case was excluded.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 2

**GUILTY PLEAS AND TRIALS IN EACH CIRCUIT AND DISTRICT  
Fiscal Year 2010**

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
<b>TOTAL</b>	<b>83,941</b>	<b>81,217</b>	<b>96.8</b>	<b>2,724</b>	<b>3.2</b>
<b>D.C. CIRCUIT</b>	<b>394</b>	<b>370</b>	<b>93.9</b>	<b>24</b>	<b>6.1</b>
District of Columbia	394	370	93.9	24	6.1
<b>FIRST CIRCUIT</b>	<b>1,889</b>	<b>1,780</b>	<b>94.2</b>	<b>109</b>	<b>5.8</b>
Maine	169	159	94.1	10	5.9
Massachusetts	449	415	92.4	34	7.6
New Hampshire	231	222	96.1	9	3.9
Puerto Rico	881	833	94.6	48	5.4
Rhode Island	159	151	95.0	8	5.0
<b>SECOND CIRCUIT</b>	<b>4,399</b>	<b>4,191</b>	<b>95.3</b>	<b>208</b>	<b>4.7</b>
Connecticut	428	406	94.9	22	5.1
New York					
Eastern	1,176	1,095	93.1	81	6.9
Northern	515	494	95.9	21	4.1
Southern	1,435	1,361	94.8	74	5.2
Western	667	658	98.7	9	1.3
Vermont	178	177	99.4	1	0.6
<b>THIRD CIRCUIT</b>	<b>2,954</b>	<b>2,766</b>	<b>93.6</b>	<b>188</b>	<b>6.4</b>
Delaware	131	120	91.6	11	8.4
New Jersey	818	791	96.7	27	3.3
Pennsylvania					
Eastern	936	850	90.8	86	9.2
Middle	495	463	93.5	32	6.5
Western	498	477	95.8	21	4.2
Virgin Islands	76	65	85.5	11	14.5
<b>FOURTH CIRCUIT</b>	<b>6,833</b>	<b>6,458</b>	<b>94.5</b>	<b>375</b>	<b>5.5</b>
Maryland	794	734	92.4	60	7.6
North Carolina					
Eastern	766	727	94.9	39	5.1
Middle	552	528	95.7	24	4.3
Western	502	471	93.8	31	6.2
South Carolina	1,250	1,197	95.8	53	4.2
Virginia					
Eastern	2,072	1,941	93.7	131	6.3
Western	369	348	94.3	21	5.7
West Virginia					
Northern	286	278	97.2	8	2.8
Southern	242	234	96.7	8	3.3

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
<b>FIFTH CIRCUIT</b>	<b>20,623</b>	<b>20,267</b>	<b>98.3</b>	<b>356</b>	<b>1.7</b>
Louisiana					
Eastern	414	400	96.6	14	3.4
Middle	202	190	94.1	12	5.9
Western	397	357	89.9	40	10.1
Mississippi					
Northern	172	156	90.7	16	9.3
Southern	332	322	97.0	10	3.0
Texas					
Eastern	848	827	97.5	21	2.5
Northern	931	877	94.2	54	5.8
Southern	8,494	8,393	98.8	101	1.2
Western	8,833	8,745	99.0	88	1.0
<b>SIXTH CIRCUIT</b>	<b>5,622</b>	<b>5,424</b>	<b>96.5</b>	<b>198</b>	<b>3.5</b>
Kentucky					
Eastern	637	614	96.4	23	3.6
Western	508	491	96.7	17	3.3
Michigan					
Eastern	750	720	96.0	30	4.0
Western	544	524	96.3	20	3.7
Ohio					
Northern	667	643	96.4	24	3.6
Southern	682	662	97.1	20	2.9
Tennessee					
Eastern	847	810	95.6	37	4.4
Middle	309	301	97.4	8	2.6
Western	678	659	97.2	19	2.8
<b>SEVENTH CIRCUIT</b>	<b>3,053</b>	<b>2,884</b>	<b>94.5</b>	<b>169</b>	<b>5.5</b>
Illinois					
Central	376	351	93.4	25	6.6
Northern	882	805	91.3	77	8.7
Southern	318	303	95.3	15	4.7
Indiana					
Northern	464	448	96.6	16	3.4
Southern	331	315	95.2	16	4.8
Wisconsin					
Eastern	472	458	97.0	14	3.0
Western	210	204	97.1	6	2.9
<b>EIGHTH CIRCUIT</b>	<b>4,929</b>	<b>4,748</b>	<b>96.3</b>	<b>181</b>	<b>3.7</b>
Arkansas					
Eastern	392	379	96.7	13	3.3
Western	258	251	97.3	7	2.7
Iowa					
Northern	344	330	95.9	14	4.1
Southern	456	423	92.8	33	7.2
Minnesota	505	486	96.2	19	3.8
Missouri					
Eastern	1,048	1,028	98.1	20	1.9
Western	659	640	97.1	19	2.9
Nebraska	602	582	96.7	20	3.3
North Dakota	261	245	93.9	16	6.1
South Dakota	404	384	95.0	20	5.0

CIRCUIT District	TOTAL	PLEA		TRIAL	
		N	%	N	%
<b>NINTH CIRCUIT</b>	<b>19,014</b>	<b>18,593</b>	<b>97.8</b>	<b>421</b>	<b>2.2</b>
Alaska	158	144	91.1	14	8.9
Arizona	6,792	6,745	99.3	47	0.7
California					
Central	2,127	2,032	95.5	95	4.5
Eastern	1,004	966	96.2	38	3.8
Northern	884	863	97.6	21	2.4
Southern	4,586	4,512	98.4	74	1.6
Guam	58	53	91.4	5	8.6
Hawaii	166	160	96.4	6	3.6
Idaho	301	292	97.0	9	3.0
Montana	378	346	91.5	32	8.5
Nevada	620	594	95.8	26	4.2
Northern Mariana Islands	28	23	82.1	5	17.9
Oregon	633	620	97.9	13	2.1
Washington					
Eastern	404	398	98.5	6	1.5
Western	875	845	96.6	30	3.4
<b>TENTH CIRCUIT</b>	<b>6,986</b>	<b>6,850</b>	<b>98.1</b>	<b>136</b>	<b>1.9</b>
Colorado	531	515	97.0	16	3.0
Kansas	728	694	95.3	34	4.7
New Mexico	3,723	3,708	99.6	15	0.4
Oklahoma					
Eastern	113	106	93.8	7	6.2
Northern	155	142	91.6	13	8.4
Western	419	402	95.9	17	4.1
Utah	900	878	97.6	22	2.4
Wyoming	417	405	97.1	12	2.9
<b>ELEVENTH CIRCUIT</b>	<b>7,245</b>	<b>6,886</b>	<b>95.0</b>	<b>359</b>	<b>5.0</b>
Alabama					
Middle	243	225	92.6	18	7.4
Northern	432	416	96.3	16	3.7
Southern	307	291	94.8	16	5.2
Florida					
Middle	1,678	1,594	95.0	84	5.0
Northern	396	356	89.9	40	10.1
Southern	2,355	2,237	95.0	118	5.0
Georgia					
Middle	421	414	98.3	7	1.7
Northern	703	654	93.0	49	7.0
Southern	710	699	98.5	11	1.5

Of the 83,946 guideline cases, five cases were excluded due to missing information on mode of conviction.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

**Table 3**

**GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY  
Fiscal Year 2010**

PRIMARY OFFENSE	TOTAL	National				South Dakota			
		PLEA		TRIAL		PLEA		TRIAL	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>83,941</b>	<b>81,217</b>	<b>96.8</b>	<b>2,724</b>	<b>3.2</b>	<b>384</b>	<b>95.0</b>	<b>20</b>	<b>5.0</b>
<b>Murder</b>	<b>66</b>	45	68.2	21	31.8	1	100.0	0	0.0
<b>Manslaughter</b>	<b>64</b>	60	93.8	4	6.3	9	90.0	1	10.0
<b>Kidnapping/Hostage Taking</b>	<b>39</b>	36	92.3	3	7.7	0	--	0	--
<b>Sexual Abuse</b>	<b>384</b>	336	87.5	48	12.5	25	86.2	4	13.8
<b>Assault</b>	<b>631</b>	568	90.0	63	10.0	47	94.0	3	6.0
<b>Robbery</b>	<b>1,081</b>	1,040	96.2	41	3.8	4	100.0	0	0.0
<b>Arson</b>	<b>75</b>	65	86.7	10	13.3	4	100.0	0	0.0
<b>Drugs - Trafficking</b>	<b>23,506</b>	22,649	96.4	857	3.6	84	94.4	5	5.6
<b>Drugs - Communication Facility</b>	<b>512</b>	511	99.8	1	0.2	0	--	0	--
<b>Drugs - Simple Possession</b>	<b>1,024</b>	1,004	98.0	20	2.0	3	100.0	0	0.0
<b>Firearms</b>	<b>7,986</b>	7,485	93.7	501	6.3	31	93.9	2	6.1
<b>Burglary/B&amp;E</b>	<b>36</b>	36	100.0	0	0.0	5	100.0	0	0.0
<b>Auto Theft</b>	<b>91</b>	89	97.8	2	2.2	1	100.0	0	0.0
<b>Larceny</b>	<b>1,621</b>	1,579	97.4	42	2.6	16	100.0	0	0.0
<b>Fraud</b>	<b>8,067</b>	7,675	95.1	392	4.9	17	100.0	0	0.0
<b>Embezzlement</b>	<b>435</b>	417	95.9	18	4.1	6	100.0	0	0.0
<b>Forgery/Counterfeiting</b>	<b>880</b>	873	99.2	7	0.8	9	100.0	0	0.0
<b>Bribery</b>	<b>224</b>	204	91.1	20	8.9	2	100.0	0	0.0
<b>Tax</b>	<b>665</b>	602	90.5	63	9.5	0	--	0	--
<b>Money Laundering</b>	<b>806</b>	750	93.1	56	6.9	1	100.0	0	0.0
<b>Racketeering/Extortion</b>	<b>675</b>	623	92.3	52	7.7	0	--	0	--
<b>Gambling/Lottery</b>	<b>76</b>	73	96.1	3	3.9	0	--	0	--
<b>Civil Rights</b>	<b>61</b>	51	83.6	10	16.4	0	--	0	--
<b>Immigration</b>	<b>28,504</b>	28,321	99.4	183	0.6	50	98.0	1	2.0
<b>Child Pornography</b>	<b>1,886</b>	1,801	95.5	85	4.5	11	84.6	2	15.4
<b>Prison Offenses</b>	<b>424</b>	419	98.8	5	1.2	6	100.0	0	0.0
<b>Administration of Justice Offenses</b>	<b>1,157</b>	1,090	94.2	67	5.8	16	94.1	1	5.9
<b>Environmental/Wildlife</b>	<b>188</b>	176	93.6	12	6.4	1	50.0	1	50.0
<b>National Defense</b>	<b>70</b>	64	91.4	6	8.6	0	--	0	--
<b>Antitrust</b>	<b>16</b>	15	93.8	1	6.3	0	--	0	--
<b>Food &amp; Drug</b>	<b>84</b>	80	95.2	4	4.8	0	--	0	--
<b>Other Miscellaneous Offenses</b>	<b>2,607</b>	2,480	95.1	127	4.9	35	100.0	0	0.0

Of the 83,946 guideline cases, five cases were excluded due to missing mode of conviction.

Of the 404 guideline cases from the District of South Dakota, no case was excluded.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.



**Table 4**  
**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2010**

**National**

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>83,120</b>	<b>72,615</b>	<b>87.4</b>	<b>2,045</b>	<b>2.5</b>	<b>2,356</b>	<b>2.8</b>	<b>6,104</b>	<b>7.3</b>
Murder	66	64	97.0	1	1.5	0	0.0	1	1.5
Manslaughter	64	61	95.3	2	3.1	1	1.6	0	0.0
Kidnapping/Hostage Taking	38	38	100.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	383	364	95.0	7	1.8	7	1.8	5	1.3
Assault	622	492	79.1	26	4.2	23	3.7	81	13.0
Robbery	1,080	1,002	92.8	35	3.2	20	1.9	23	2.1
Arson	75	68	90.7	4	5.3	1	1.3	2	2.7
Drugs - Trafficking	23,499	22,081	94.0	582	2.5	319	1.4	517	2.2
Drugs - Communication Facility	512	413	80.7	10	2.0	29	5.7	60	11.7
Drugs - Simple Possession	986	676	68.6	1	0.1	24	2.4	285	28.9
Firearms	7,976	7,344	92.1	187	2.3	186	2.3	259	3.2
Burglary/B&E	36	27	75.0	0	0.0	5	13.9	4	11.1
Auto Theft	91	68	74.7	2	2.2	8	8.8	13	14.3
Larceny	1,506	542	36.0	70	4.6	225	14.9	669	44.4
Fraud	8,028	5,766	71.8	467	5.8	625	7.8	1,170	14.6
Embezzlement	423	149	35.2	41	9.7	52	12.3	181	42.8
Forgery/Counterfeiting	879	581	66.1	53	6.0	80	9.1	165	18.8
Bribery	223	148	66.4	15	6.7	26	11.7	34	15.2
Tax	661	355	53.7	61	9.2	115	17.4	130	19.7
Money Laundering	806	584	72.5	36	4.5	53	6.6	133	16.5
Racketeering/Extortion	674	589	87.4	18	2.7	17	2.5	50	7.4
Gambling/Lottery	76	23	30.3	1	1.3	19	25.0	33	43.4
Civil Rights	59	40	67.8	1	1.7	8	13.6	10	16.9
Immigration	28,499	27,258	95.6	223	0.8	170	0.6	848	3.0
Child Pornography	1,884	1,821	96.7	36	1.9	11	0.6	16	0.8
Prison Offenses	423	383	90.5	20	4.7	6	1.4	14	3.3
Administration of Justice Offenses	1,137	747	65.7	65	5.7	88	7.7	237	20.8
Environmental/Wildlife	143	36	25.2	7	4.9	14	9.8	86	60.1
National Defense	69	60	87.0	1	1.4	3	4.3	5	7.2
Antitrust	15	10	66.7	2	13.3	1	6.7	2	13.3
Food & Drug	73	21	28.8	5	6.8	5	6.8	42	57.5
Other Miscellaneous Offenses	2,114	804	38.0	66	3.1	215	10.2	1,029	48.7

Of the 83,946 guideline cases, 826 cases were excluded due to one or more of the following reasons: missing sentencing information (12), or cases in which the defendant received no imprisonment or probation (814).

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

Table 5

**TYPE OF SENTENCE IMPOSED BY PRIMARY OFFENSE CATEGORY**  
**Fiscal Year 2010**

**South Dakota**

PRIMARY OFFENSE	TOTAL	Prison		Prison/Community Split Sentence		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>402</b>	<b>311</b>	<b>77.4</b>	<b>14</b>	<b>3.5</b>	<b>32</b>	<b>8.0</b>	<b>45</b>	<b>11.2</b>
Murder	1	1	100.0	0	0.0	0	0.0	0	0.0
Manslaughter	10	10	100.0	0	0.0	0	0.0	0	0.0
Kidnapping/Hostage Taking	0	0	--	0	--	0	--	0	--
Sexual Abuse	29	28	96.6	0	0.0	1	3.4	0	0.0
Assault	50	45	90.0	2	4.0	1	2.0	2	4.0
Robbery	4	3	75.0	0	0.0	0	0.0	1	25.0
Arson	4	3	75.0	1	25.0	0	0.0	0	0.0
Drugs - Trafficking	89	84	94.4	2	2.2	2	2.2	1	1.1
Drugs - Communication Facility	0	0	--	0	--	0	--	0	--
Drugs - Simple Possession	3	0	0.0	0	0.0	1	33.3	2	66.7
Firearms	32	24	75.0	1	3.1	3	9.4	4	12.5
Burglary/B&E	5	4	80.0	0	0.0	1	20.0	0	0.0
Auto Theft	1	0	0.0	0	0.0	1	100.0	0	0.0
Larceny	15	5	33.3	1	6.7	4	26.7	5	33.3
Fraud	17	8	47.1	3	17.6	1	5.9	5	29.4
Embezzlement	6	2	33.3	0	0.0	0	0.0	4	66.7
Forgery/Counterfeiting	9	3	33.3	1	11.1	1	11.1	4	44.4
Bribery	2	2	100.0	0	0.0	0	0.0	0	0.0
Tax	0	0	--	0	--	0	--	0	--
Money Laundering	1	0	0.0	0	0.0	0	0.0	1	100.0
Racketeering/Extortion	0	0	--	0	--	0	--	0	--
Gambling/Lottery	0	0	--	0	--	0	--	0	--
Civil Rights	0	0	--	0	--	0	--	0	--
Immigration	51	51	100.0	0	0.0	0	0.0	0	0.0
Child Pornography	13	12	92.3	1	7.7	0	0.0	0	0.0
Prison Offenses	6	5	83.3	1	16.7	0	0.0	0	0.0
Administration of Justice Offenses	17	11	64.7	1	5.9	4	23.5	1	5.9
Environmental/Wildlife	2	1	50.0	0	0.0	1	50.0	0	0.0
National Defense	0	0	--	0	--	0	--	0	--
Antitrust	0	0	--	0	--	0	--	0	--
Food & Drug	0	0	--	0	--	0	--	0	--
Other Miscellaneous Offenses	35	9	25.7	0	0.0	11	31.4	15	42.9

Of the 404 guideline cases from the District of South Dakota, two cases were excluded due to cases in which the defendant received no imprisonment or probation.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

**Table 6**

**INCARCERATION RATE OF U.S. CITIZEN DEFENDANTS ELIGIBLE FOR NON-PRISON SENTENCES  
BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2010**

PRIMARY OFFENSE	TOTAL	National				South Dakota			
		Prison Sentence		Non-Prison Sentence		Prison Sentence		Non-Prison Sentence	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>4,958</b>	<b>1,434</b>	<b>28.9</b>	<b>3,524</b>	<b>71.1</b>	<b>14</b>	<b>22.2</b>	<b>49</b>	<b>77.8</b>
<b>Fraud</b>	<b>1,260</b>	367	29.1	893	70.9	4	50.0	4	50.0
<b>Larceny</b>	<b>724</b>	140	19.3	584	80.7	1	10.0	9	90.0
<b>Immigration</b>	<b>336</b>	161	47.9	175	52.1	0	--	0	--
<b>Embezzlement</b>	<b>220</b>	25	11.4	195	88.6	0	0.0	3	100.0
<b>Drugs - Trafficking</b>	<b>340</b>	118	34.7	222	65.3	0	0.0	3	100.0
<b>Drugs - Simple Possession</b>	<b>275</b>	115	41.8	160	58.2	0	0.0	3	100.0
<b>Firearms</b>	<b>195</b>	79	40.5	116	59.5	2	28.6	5	71.4
<b>Forgery/Counterfeiting</b>	<b>263</b>	99	37.6	164	62.4	1	16.7	5	83.3
<b>Other Miscellaneous Offenses</b>	<b>1,345</b>	330	24.5	1,015	75.5	6	26.1	17	73.9

Of the 83,946 guideline cases, a U.S. Citizen was the defendant in 42,685 cases. Of these, 37,727 cases were excluded due to one or more of the following reasons: defendant ineligible for non-prison sentence (37,727), or missing sentencing information (7).

Of the 404 guideline cases from the District of South Dakota, a U.S. Citizen was the defendant in 334 cases. Of these, 271 cases were excluded because the defendant was ineligible for a non-prison sentence.

This table was limited to U.S. Citizens beginning in Fiscal Year 2010.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

**Table 7**

**LENGTH OF IMPRISONMENT BY PRIMARY OFFENSE CATEGORY  
Fiscal Year 2010**

PRIMARY OFFENSE	National			South Dakota		
	Mean Months	Median Months	Number	Mean Months	Median Months	Number
<b>TOTAL</b>	<b>51.1</b>	<b>30.0</b>	<b>72,170</b>	<b>47.5</b>	<b>36.0</b>	<b>320</b>
<b>Murder</b>	284.7	262.0	64	--	--	1
<b>Manslaughter</b>	73.5	46.0	63	36.0	31.5	10
<b>Kidnapping/Hostage Taking</b>	167.0	147.5	38	--	--	0
<b>Sexual Abuse</b>	113.1	108.0	368	61.9	36.0	28
<b>Assault</b>	47.0	30.0	499	34.8	30.0	45
<b>Robbery</b>	80.3	63.0	1,030	27.3	18.0	3
<b>Arson</b>	81.3	60.0	72	40.0	41.0	4
<b>Drugs - Trafficking</b>	78.4	60.0	22,355	77.7	60.0	85
<b>Drugs - Communication Facility</b>	41.2	40.0	419	--	--	0
<b>Drugs - Simple Possession</b>	5.4	4.0	632	--	--	0
<b>Firearms</b>	90.7	60.0	7,455	70.4	51.0	25
<b>Burglary/B&amp;E</b>	22.1	22.5	26	14.3	13.5	4
<b>Auto Theft</b>	65.7	31.0	70	--	--	0
<b>Larceny</b>	18.0	12.0	594	34.7	24.0	6
<b>Fraud</b>	30.5	18.0	5,926	8.3	10.0	11
<b>Embezzlement</b>	15.5	12.0	183	--	--	2
<b>Forgery/Counterfeiting</b>	19.8	15.0	603	14.8	10.0	4
<b>Bribery</b>	25.8	20.0	160	--	--	2
<b>Tax</b>	23.5	18.0	410	--	--	0
<b>Money Laundering</b>	39.7	24.0	606	--	--	0
<b>Racketeering/Extortion</b>	86.4	51.0	596	--	--	0
<b>Gambling/Lottery</b>	14.1	12.0	24	--	--	0
<b>Civil Rights</b>	32.5	18.0	41	--	--	0
<b>Immigration</b>	18.3	12.0	25,954	12.0	3.0	50
<b>Child Pornography</b>	120.1	82.0	1,849	49.3	60.0	13
<b>Prison Offenses</b>	16.3	12.0	394	5.6	5.5	6
<b>Administration of Justice Offenses</b>	25.9	18.0	778	17.0	18.0	11
<b>Environmental/Wildlife</b>	11.4	10.0	38	--	--	1
<b>National Defense</b>	62.0	46.0	59	--	--	0
<b>Antitrust</b>	7.8	9.0	12	--	--	0
<b>Food &amp; Drug</b>	33.0	13.0	25	--	--	0
<b>Other Miscellaneous Offenses</b>	31.3	12.0	827	32.1	24.0	9

Of the 83,946 guideline cases, 11,776 cases were excluded for one or more of the following reasons: zero months prison ordered (10,934), or missing or indeterminable sentencing information (842).

Of the 404 guideline cases from the District of South Dakota, 84 cases were excluded due to one of the following reasons: zero months prison ordered (82) or missing or indeterminable sentencing information (2).

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

**Table 8**

**COMPARISON OF SENTENCE IMPOSED AND POSITION  
RELATIVE TO THE GUIDELINE RANGE  
Fiscal Year 2010**

	National		South Dakota	
	N	%	N	%
<b>TOTAL CASES<sup>1</sup></b>	<b>81,859</b>	<b>100.0</b>	<b>403</b>	<b>100.0</b>
<b>CASES SENTENCED WITHIN GUIDELINE RANGE</b>	<b>45,028</b>	<b>55.0</b>	<b>283</b>	<b>70.2</b>
<b>CASES SENTENCED ABOVE GUIDELINE RANGE</b>	<b>1,512</b>	<b>1.8</b>	<b>17</b>	<b>4.2</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>469</b>	<b>0.6</b>	<b>11</b>	<b>2.7</b>
Upward Departure From Guideline Range <sup>2</sup>	350	0.4	9	2.2
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	119	0.1	2	0.5
<b>OTHERWISE ABOVE GUIDELINE RANGE</b>	<b>1,043</b>	<b>1.3</b>	<b>6</b>	<b>1.5</b>
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	916	1.1	6	1.5
All Remaining Cases Above Guideline Range <sup>5</sup>	127	0.2	0	0.0
<b>GOVERNMENT SPONSORED BELOW RANGE<sup>6</sup></b>	<b>20,754</b>	<b>25.4</b>	<b>15</b>	<b>3.7</b>
§5K1.1 Substantial Assistance Departure	9,421	11.5	7	1.7
§5K3.1 Early Disposition Program Departure	8,119	9.9	0	0.0
Other Government Sponsored Below Range	3,214	3.9	8	2.0
<b>NON-GOVERNMENT SPONSORED BELOW RANGE</b>	<b>14,565</b>	<b>17.8</b>	<b>88</b>	<b>21.8</b>
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>2,552</b>	<b>3.1</b>	<b>23</b>	<b>5.7</b>
Downward Departure From Guideline Range <sup>2</sup>	1,687	2.1	11	2.7
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	865	1.1	12	3.0
<b>OTHERWISE BELOW GUIDELINE RANGE</b>	<b>12,013</b>	<b>14.7</b>	<b>65</b>	<b>16.1</b>
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	11,116	13.6	63	15.6
All Remaining Cases Below Guideline Range <sup>5</sup>	897	1.1	2	0.5

<sup>1</sup> This table reflects the 83,946 cases sentenced nationally in Fiscal Year 2010, 404 of which were from the District of South Dakota. Of these, 2,087 cases nationally and one case 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.

<sup>2</sup> All cases with departures in which the court did not indicate as a reason either *United States 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*.

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

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

<sup>5</sup> All 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.

<sup>6</sup> Cases 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: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

**Table 9**

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT  
Fiscal Year 2010**

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	%
<b>TOTAL</b>	<b>81,859</b>	<b>45,028</b>	<b>55.0</b>	<b>350</b>	<b>0.4</b>	<b>119</b>	<b>0.1</b>	<b>916</b>	<b>1.1</b>	<b>127</b>	<b>0.2</b>
<b>D.C. CIRCUIT</b>	<b>380</b>	<b>127</b>	<b>33.4</b>	<b>4</b>	<b>1.1</b>	<b>2</b>	<b>0.5</b>	<b>3</b>	<b>0.8</b>	<b>0</b>	<b>0.0</b>
District of Columbia	380	127	33.4	4	1.1	2	0.5	3	0.8	0	0.0
<b>FIRST CIRCUIT</b>	<b>1,880</b>	<b>1,029</b>	<b>54.7</b>	<b>5</b>	<b>0.3</b>	<b>1</b>	<b>0.1</b>	<b>17</b>	<b>0.9</b>	<b>7</b>	<b>0.4</b>
Maine	169	75	44.4	0	0.0	1	0.6	2	1.2	0	0.0
Massachusetts	442	142	32.1	3	0.7	0	0.0	5	1.1	3	0.7
New Hampshire	231	98	42.4	1	0.4	0	0.0	5	2.2	0	0.0
Puerto Rico	879	642	73.0	1	0.1	0	0.0	4	0.5	4	0.5
Rhode Island	159	72	45.3	0	0.0	0	0.0	1	0.6	0	0.0
<b>SECOND CIRCUIT</b>	<b>4,380</b>	<b>1,743</b>	<b>39.8</b>	<b>11</b>	<b>0.3</b>	<b>3</b>	<b>0.1</b>	<b>25</b>	<b>0.6</b>	<b>5</b>	<b>0.1</b>
Connecticut	425	159	37.4	1	0.2	1	0.2	4	0.9	0	0.0
New York											
Eastern	1,175	372	31.7	2	0.2	0	0.0	13	1.1	1	0.1
Northern	505	304	60.2	1	0.2	0	0.0	0	0.0	1	0.2
Southern	1,431	467	32.6	1	0.1	1	0.1	5	0.3	1	0.1
Western	667	362	54.3	5	0.7	1	0.1	3	0.4	2	0.3
Vermont	177	79	44.6	1	0.6	0	0.0	0	0.0	0	0.0
<b>THIRD CIRCUIT</b>	<b>2,936</b>	<b>1,301</b>	<b>44.3</b>	<b>8</b>	<b>0.3</b>	<b>2</b>	<b>0.1</b>	<b>22</b>	<b>0.7</b>	<b>5</b>	<b>0.2</b>
Delaware	131	42	32.1	0	0.0	0	0.0	6	4.6	0	0.0
New Jersey	818	402	49.1	2	0.2	0	0.0	5	0.6	0	0.0
Pennsylvania											
Eastern	928	346	37.3	1	0.1	0	0.0	5	0.5	2	0.2
Middle	494	210	42.5	4	0.8	1	0.2	1	0.2	0	0.0
Western	492	261	53.0	0	0.0	0	0.0	4	0.8	3	0.6
Virgin Islands	73	40	54.8	1	1.4	1	1.4	1	1.4	0	0.0
<b>FOURTH CIRCUIT</b>	<b>6,621</b>	<b>4,090</b>	<b>61.8</b>	<b>42</b>	<b>0.6</b>	<b>15</b>	<b>0.2</b>	<b>91</b>	<b>1.4</b>	<b>6</b>	<b>0.1</b>
Maryland	732	338	46.2	11	1.5	4	0.5	12	1.6	3	0.4
North Carolina											
Eastern	739	396	53.6	9	1.2	3	0.4	3	0.4	0	0.0
Middle	552	404	73.2	1	0.2	1	0.2	14	2.5	0	0.0
Western	502	285	56.8	3	0.6	0	0.0	5	1.0	0	0.0
South Carolina	1,237	750	60.6	7	0.6	2	0.2	10	0.8	3	0.2
Virginia											
Eastern	1,971	1,453	73.7	8	0.4	4	0.2	25	1.3	0	0.0
Western	363	181	49.9	0	0.0	1	0.3	18	5.0	0	0.0
West Virginia											
Northern	283	155	54.8	1	0.4	0	0.0	3	1.1	0	0.0
Southern	242	128	52.9	2	0.8	0	0.0	1	0.4	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	%
<b>TOTAL</b>	<b>9,421</b>	<b>11.5</b>	<b>8,119</b>	<b>9.9</b>	<b>3,214</b>	<b>3.9</b>	<b>1,687</b>	<b>2.1</b>	<b>865</b>	<b>1.1</b>	<b>11,116</b>	<b>13.6</b>	<b>897</b>	<b>1.1</b>
<b>D.C. CIRCUIT</b>	<b>115</b>	<b>30.3</b>	<b>0</b>	<b>0.0</b>	<b>47</b>	<b>12.4</b>	<b>10</b>	<b>2.6</b>	<b>8</b>	<b>2.1</b>	<b>57</b>	<b>15.0</b>	<b>7</b>	<b>1.8</b>
District of Columbia	115	30.3	0	0.0	47	12.4	10	2.6	8	2.1	57	15.0	7	1.8
<b>FIRST CIRCUIT</b>	<b>254</b>	<b>13.5</b>	<b>31</b>	<b>1.6</b>	<b>131</b>	<b>7.0</b>	<b>30</b>	<b>1.6</b>	<b>21</b>	<b>1.1</b>	<b>338</b>	<b>18.0</b>	<b>16</b>	<b>0.9</b>
Maine	61	36.1	0	0.0	1	0.6	2	1.2	0	0.0	27	16.0	0	0.0
Massachusetts	49	11.1	0	0.0	82	18.6	13	2.9	8	1.8	133	30.1	4	0.9
New Hampshire	61	26.4	0	0.0	22	9.5	2	0.9	4	1.7	36	15.6	2	0.9
Puerto Rico	66	7.5	31	3.5	25	2.8	13	1.5	7	0.8	76	8.6	10	1.1
Rhode Island	17	10.7	0	0.0	1	0.6	0	0.0	2	1.3	66	41.5	0	0.0
<b>SECOND CIRCUIT</b>	<b>846</b>	<b>19.3</b>	<b>0</b>	<b>0.0</b>	<b>115</b>	<b>2.6</b>	<b>120</b>	<b>2.7</b>	<b>122</b>	<b>2.8</b>	<b>1,315</b>	<b>30.0</b>	<b>75</b>	<b>1.7</b>
Connecticut	67	15.8	0	0.0	10	2.4	33	7.8	23	5.4	123	28.9	4	0.9
New York														
Eastern	263	22.4	0	0.0	30	2.6	47	4.0	45	3.8	382	32.5	20	1.7
Northern	103	20.4	0	0.0	9	1.8	7	1.4	6	1.2	73	14.5	1	0.2
Southern	228	15.9	0	0.0	27	1.9	21	1.5	37	2.6	600	41.9	43	3.0
Western	164	24.6	0	0.0	31	4.6	3	0.4	2	0.3	88	13.2	6	0.9
Vermont	21	11.9	0	0.0	8	4.5	9	5.1	9	5.1	49	27.7	1	0.6
<b>THIRD CIRCUIT</b>	<b>733</b>	<b>25.0</b>	<b>0</b>	<b>0.0</b>	<b>94</b>	<b>3.2</b>	<b>47</b>	<b>1.6</b>	<b>50</b>	<b>1.7</b>	<b>634</b>	<b>21.6</b>	<b>40</b>	<b>1.4</b>
Delaware	24	18.3	0	0.0	1	0.8	1	0.8	1	0.8	52	39.7	4	3.1
New Jersey	225	27.5	0	0.0	13	1.6	15	1.8	7	0.9	142	17.4	7	0.9
Pennsylvania														
Eastern	297	32.0	0	0.0	22	2.4	8	0.9	19	2.0	209	22.5	19	2.0
Middle	97	19.6	0	0.0	47	9.5	12	2.4	11	2.2	110	22.3	1	0.2
Western	75	15.2	0	0.0	7	1.4	10	2.0	12	2.4	115	23.4	5	1.0
Virgin Islands	15	20.5	0	0.0	4	5.5	1	1.4	0	0.0	6	8.2	4	5.5
<b>FOURTH CIRCUIT</b>	<b>1,012</b>	<b>15.3</b>	<b>0</b>	<b>0.0</b>	<b>207</b>	<b>3.1</b>	<b>92</b>	<b>1.4</b>	<b>46</b>	<b>0.7</b>	<b>949</b>	<b>14.3</b>	<b>71</b>	<b>1.1</b>
Maryland	163	22.3	0	0.0	69	9.4	12	1.6	15	2.0	96	13.1	9	1.2
North Carolina														
Eastern	262	35.5	0	0.0	2	0.3	3	0.4	1	0.1	54	7.3	6	0.8
Middle	60	10.9	0	0.0	1	0.2	4	0.7	2	0.4	62	11.2	3	0.5
Western	140	27.9	0	0.0	6	1.2	7	1.4	1	0.2	51	10.2	4	0.8
South Carolina	190	15.4	0	0.0	42	3.4	17	1.4	7	0.6	192	15.5	17	1.4
Virginia														
Eastern	81	4.1	0	0.0	39	2.0	42	2.1	18	0.9	273	13.9	28	1.4
Western	64	17.6	0	0.0	16	4.4	5	1.4	2	0.6	74	20.4	2	0.6
West Virginia														
Northern	26	9.2	0	0.0	32	11.3	1	0.4	0	0.0	63	22.3	2	0.7
Southern	26	10.7	0	0.0	0	0.0	1	0.4	0	0.0	84	34.7	0	0.0

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	%
<b>FIFTH CIRCUIT</b>	<b>19,869</b>	<b>14,170</b>	<b>71.3</b>	<b>85</b>	<b>0.4</b>	<b>30</b>	<b>0.2</b>	<b>301</b>	<b>1.5</b>	<b>27</b>	<b>0.1</b>
<b>Louisiana</b>											
Eastern	413	285	69.0	2	0.5	7	1.7	10	2.4	0	0.0
Middle	202	121	59.9	8	4.0	1	0.5	4	2.0	0	0.0
Western	368	262	71.2	4	1.1	5	1.4	9	2.4	6	1.6
<b>Mississippi</b>											
Northern	169	102	60.4	0	0.0	0	0.0	13	7.7	0	0.0
Southern	324	234	72.2	0	0.0	0	0.0	7	2.2	1	0.3
<b>Texas</b>											
Eastern	848	663	78.2	4	0.5	0	0.0	4	0.5	2	0.2
Northern	931	596	64.0	15	1.6	10	1.1	44	4.7	3	0.3
Southern	8,479	5,481	64.6	36	0.4	4	0.0	79	0.9	4	0.0
Western	8,135	6,426	79.0	16	0.2	3	0.0	131	1.6	11	0.1
<b>SIXTH CIRCUIT</b>	<b>5,577</b>	<b>2,779</b>	<b>49.8</b>	<b>24</b>	<b>0.4</b>	<b>11</b>	<b>0.2</b>	<b>69</b>	<b>1.2</b>	<b>7</b>	<b>0.1</b>
<b>Kentucky</b>											
Eastern	636	274	43.1	2	0.3	1	0.2	11	1.7	0	0.0
Western	505	270	53.5	1	0.2	0	0.0	3	0.6	0	0.0
<b>Michigan</b>											
Eastern	749	333	44.5	2	0.3	0	0.0	5	0.7	0	0.0
Western	541	320	59.1	11	2.0	3	0.6	14	2.6	0	0.0
<b>Ohio</b>											
Northern	665	371	55.8	1	0.2	1	0.2	12	1.8	4	0.6
Southern	679	265	39.0	0	0.0	3	0.4	9	1.3	2	0.3
<b>Tennessee</b>											
Eastern	839	477	56.9	1	0.1	2	0.2	6	0.7	1	0.1
Middle	294	127	43.2	5	1.7	1	0.3	4	1.4	0	0.0
Western	669	342	51.1	1	0.1	0	0.0	5	0.7	0	0.0
<b>SEVENTH CIRCUIT</b>	<b>3,043</b>	<b>1,458</b>	<b>47.9</b>	<b>20</b>	<b>0.7</b>	<b>13</b>	<b>0.4</b>	<b>53</b>	<b>1.7</b>	<b>8</b>	<b>0.3</b>
<b>Illinois</b>											
Central	375	207	55.2	1	0.3	0	0.0	3	0.8	0	0.0
Northern	880	364	41.4	7	0.8	2	0.2	15	1.7	1	0.1
Southern	318	215	67.6	9	2.8	9	2.8	5	1.6	1	0.3
<b>Indiana</b>											
Northern	460	258	56.1	1	0.2	0	0.0	9	2.0	5	1.1
Southern	329	167	50.8	1	0.3	1	0.3	11	3.3	0	0.0
<b>Wisconsin</b>											
Eastern	471	140	29.7	0	0.0	0	0.0	9	1.9	1	0.2
Western	210	107	51.0	1	0.5	1	0.5	1	0.5	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>4,907</b>	<b>2,614</b>	<b>53.3</b>	<b>39</b>	<b>0.8</b>	<b>8</b>	<b>0.2</b>	<b>70</b>	<b>1.4</b>	<b>5</b>	<b>0.1</b>
<b>Arkansas</b>											
Eastern	391	242	61.9	3	0.8	1	0.3	10	2.6	0	0.0
Western	258	194	75.2	0	0.0	0	0.0	1	0.4	0	0.0
<b>Iowa</b>											
Northern	344	192	55.8	9	2.6	2	0.6	11	3.2	2	0.6
Southern	452	190	42.0	3	0.7	0	0.0	5	1.1	0	0.0
Minnesota	504	149	29.6	2	0.4	2	0.4	4	0.8	0	0.0
<b>Missouri</b>											
Eastern	1,039	492	47.4	8	0.8	0	0.0	9	0.9	0	0.0
Western	654	343	52.4	2	0.3	0	0.0	21	3.2	1	0.2
Nebraska	601	360	59.9	3	0.5	0	0.0	2	0.3	1	0.2
North Dakota	261	169	64.8	0	0.0	1	0.4	1	0.4	1	0.4
South Dakota	403	283	70.2	9	2.2	2	0.5	6	1.5	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	%
<b>FIFTH CIRCUIT</b>	<b>1,224</b>	<b>6.2</b>	<b>1,139</b>	<b>5.7</b>	<b>315</b>	<b>1.6</b>	<b>696</b>	<b>3.5</b>	<b>63</b>	<b>0.3</b>	<b>1,628</b>	<b>8.2</b>	<b>191</b>	<b>1.0</b>
<b>Louisiana</b>														
Eastern	28	6.8	0	0.0	8	1.9	6	1.5	4	1.0	55	13.3	8	1.9
Middle	28	13.9	0	0.0	0	0.0	0	0.0	1	0.5	38	18.8	1	0.5
Western	33	9.0	0	0.0	3	0.8	4	1.1	6	1.6	22	6.0	14	3.8
<b>Mississippi</b>														
Northern	39	23.1	0	0.0	1	0.6	0	0.0	1	0.6	9	5.3	4	2.4
Southern	34	10.5	0	0.0	4	1.2	2	0.6	1	0.3	33	10.2	8	2.5
<b>Texas</b>														
Eastern	59	7.0	0	0.0	48	5.7	14	1.7	4	0.5	45	5.3	5	0.6
Northern	130	14.0	0	0.0	8	0.9	5	0.5	5	0.5	110	11.8	5	0.5
Southern	403	4.8	1,084	12.8	125	1.5	495	5.8	13	0.2	727	8.6	28	0.3
Western	470	5.8	55	0.7	118	1.5	170	2.1	28	0.3	589	7.2	118	1.5
<b>SIXTH CIRCUIT</b>	<b>1,276</b>	<b>22.9</b>	<b>2</b>	<b>0.0</b>	<b>208</b>	<b>3.7</b>	<b>78</b>	<b>1.4</b>	<b>105</b>	<b>1.9</b>	<b>945</b>	<b>16.9</b>	<b>73</b>	<b>1.3</b>
<b>Kentucky</b>														
Eastern	259	40.7	0	0.0	11	1.7	3	0.5	2	0.3	70	11.0	3	0.5
Western	110	21.8	0	0.0	47	9.3	3	0.6	2	0.4	64	12.7	5	1.0
<b>Michigan</b>														
Eastern	169	22.6	1	0.1	19	2.5	11	1.5	14	1.9	191	25.5	4	0.5
Western	70	12.9	0	0.0	1	0.2	12	2.2	9	1.7	96	17.7	5	0.9
<b>Ohio</b>														
Northern	112	16.8	1	0.2	9	1.4	13	2.0	13	2.0	117	17.6	11	1.7
Southern	177	26.1	0	0.0	64	9.4	17	2.5	30	4.4	90	13.3	22	3.2
<b>Tennessee</b>														
Eastern	209	24.9	0	0.0	6	0.7	6	0.7	4	0.5	115	13.7	12	1.4
Middle	42	14.3	0	0.0	32	10.9	6	2.0	9	3.1	66	22.4	2	0.7
Western	128	19.1	0	0.0	19	2.8	7	1.0	22	3.3	136	20.3	9	1.3
<b>SEVENTH CIRCUIT</b>	<b>462</b>	<b>15.2</b>	<b>1</b>	<b>0.0</b>	<b>124</b>	<b>4.1</b>	<b>63</b>	<b>2.1</b>	<b>97</b>	<b>3.2</b>	<b>694</b>	<b>22.8</b>	<b>50</b>	<b>1.6</b>
<b>Illinois</b>														
Central	72	19.2	0	0.0	8	2.1	6	1.6	4	1.1	71	18.9	3	0.8
Northern	124	14.1	1	0.1	10	1.1	24	2.7	68	7.7	252	28.6	12	1.4
Southern	16	5.0	0	0.0	6	1.9	8	2.5	10	3.1	28	8.8	11	3.5
<b>Indiana</b>														
Northern	84	18.3	0	0.0	21	4.6	10	2.2	7	1.5	59	12.8	6	1.3
Southern	52	15.8	0	0.0	25	7.6	4	1.2	1	0.3	65	19.8	2	0.6
<b>Wisconsin</b>														
Eastern	99	21.0	0	0.0	54	11.5	7	1.5	3	0.6	142	30.1	16	3.4
Western	15	7.1	0	0.0	0	0.0	4	1.9	4	1.9	77	36.7	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>760</b>	<b>15.5</b>	<b>31</b>	<b>0.6</b>	<b>194</b>	<b>4.0</b>	<b>63</b>	<b>1.3</b>	<b>66</b>	<b>1.3</b>	<b>1,007</b>	<b>20.5</b>	<b>50</b>	<b>1.0</b>
<b>Arkansas</b>														
Eastern	38	9.7	0	0.0	19	4.9	10	2.6	3	0.8	57	14.6	8	2.0
Western	26	10.1	0	0.0	0	0.0	1	0.4	2	0.8	33	12.8	1	0.4
<b>Iowa</b>														
Northern	76	22.1	0	0.0	8	2.3	1	0.3	2	0.6	41	11.9	0	0.0
Southern	103	22.8	0	0.0	32	7.1	1	0.2	3	0.7	113	25.0	2	0.4
Minnesota	123	24.4	0	0.0	9	1.8	12	2.4	22	4.4	179	35.5	2	0.4
<b>Missouri</b>														
Eastern	198	19.1	0	0.0	48	4.6	2	0.2	12	1.2	258	24.8	12	1.2
Western	125	19.1	0	0.0	25	3.8	6	0.9	3	0.5	119	18.2	9	1.4
Nebraska	17	2.8	31	5.2	37	6.2	12	2.0	4	0.7	123	20.5	11	1.8
North Dakota	47	18.0	0	0.0	8	3.1	7	2.7	3	1.1	21	8.0	3	1.1
South Dakota	7	1.7	0	0.0	8	2.0	11	2.7	12	3.0	63	15.6	2	0.5

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	%
<b>NINTH CIRCUIT</b>	<b>18,330</b>	<b>7,357</b>	<b>40.1</b>	<b>71</b>	<b>0.4</b>	<b>18</b>	<b>0.1</b>	<b>113</b>	<b>0.6</b>	<b>29</b>	<b>0.2</b>
Alaska	156	64	41.0	2	1.3	0	0.0	0	0.0	0	0.0
Arizona	6,198	2,698	43.5	44	0.7	5	0.1	25	0.4	4	0.1
California											
Central	2,110	721	34.2	3	0.1	5	0.2	19	0.9	7	0.3
Eastern	995	403	40.5	1	0.1	2	0.2	12	1.2	3	0.3
Northern	876	432	49.3	3	0.3	1	0.1	10	1.1	5	0.6
Southern	4,580	1,396	30.5	4	0.1	1	0.0	5	0.1	8	0.2
Guam	55	39	70.9	0	0.0	2	3.6	0	0.0	0	0.0
Hawaii	166	62	37.3	0	0.0	0	0.0	3	1.8	0	0.0
Idaho	300	128	42.7	0	0.0	0	0.0	1	0.3	0	0.0
Montana	376	259	68.9	2	0.5	0	0.0	11	2.9	1	0.3
Nevada	618	385	62.3	4	0.6	0	0.0	8	1.3	1	0.2
Northern Mariana Islands	28	21	75.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	609	246	40.4	0	0.0	0	0.0	7	1.1	0	0.0
Washington											
Eastern	403	145	36.0	2	0.5	2	0.5	7	1.7	0	0.0
Western	860	358	41.6	6	0.7	0	0.0	5	0.6	0	0.0
<b>TENTH CIRCUIT</b>	<b>6,947</b>	<b>4,110</b>	<b>59.2</b>	<b>21</b>	<b>0.3</b>	<b>3</b>	<b>0.0</b>	<b>45</b>	<b>0.6</b>	<b>13</b>	<b>0.2</b>
Colorado	523	301	57.6	0	0.0	1	0.2	6	1.1	1	0.2
Kansas	708	389	54.9	6	0.8	2	0.3	18	2.5	1	0.1
New Mexico	3,719	2,284	61.4	9	0.2	0	0.0	4	0.1	6	0.2
Oklahoma											
Eastern	113	72	63.7	0	0.0	0	0.0	1	0.9	0	0.0
Northern	155	101	65.2	0	0.0	0	0.0	1	0.6	0	0.0
Western	415	295	71.1	0	0.0	0	0.0	8	1.9	0	0.0
Utah	897	407	45.4	5	0.6	0	0.0	4	0.4	3	0.3
Wyoming	417	261	62.6	1	0.2	0	0.0	3	0.7	2	0.5
<b>ELEVENTH CIRCUIT</b>	<b>6,989</b>	<b>4,250</b>	<b>60.8</b>	<b>20</b>	<b>0.3</b>	<b>13</b>	<b>0.2</b>	<b>107</b>	<b>1.5</b>	<b>15</b>	<b>0.2</b>
Alabama											
Middle	243	141	58.0	0	0.0	0	0.0	4	1.6	0	0.0
Northern	423	268	63.4	1	0.2	1	0.2	4	0.9	1	0.2
Southern	307	185	60.3	0	0.0	2	0.7	6	2.0	1	0.3
Florida											
Middle	1,677	877	52.3	4	0.2	1	0.1	29	1.7	2	0.1
Northern	390	262	67.2	1	0.3	2	0.5	4	1.0	1	0.3
Southern	2,269	1,432	63.1	4	0.2	3	0.1	25	1.1	8	0.4
Georgia											
Middle	298	221	74.2	2	0.7	2	0.7	8	2.7	2	0.7
Northern	673	321	47.7	2	0.3	2	0.3	8	1.2	0	0.0
Southern	709	543	76.6	6	0.8	0	0.0	19	2.7	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	%
<b>NINTH CIRCUIT</b>	<b>1,328</b>	<b>7.2</b>	<b>6,050</b>	<b>33.0</b>	<b>1,016</b>	<b>5.5</b>	<b>288</b>	<b>1.6</b>	<b>169</b>	<b>0.9</b>	<b>1,638</b>	<b>8.9</b>	<b>253</b>	<b>1.4</b>
Alaska	20	12.8	1	0.6	23	14.7	2	1.3	5	3.2	36	23.1	3	1.9
Arizona	176	2.8	2,660	42.9	143	2.3	77	1.2	31	0.5	290	4.7	45	0.7
<b>California</b>														
Central	243	11.5	419	19.9	179	8.5	57	2.7	51	2.4	315	14.9	91	4.3
Eastern	95	9.5	309	31.1	49	4.9	15	1.5	5	0.5	93	9.3	8	0.8
Northern	65	7.4	94	10.7	96	11.0	13	1.5	22	2.5	128	14.6	7	0.8
Southern	276	6.0	2,386	52.1	106	2.3	91	2.0	27	0.6	231	5.0	49	1.1
Guam	7	12.7	0	0.0	2	3.6	0	0.0	0	0.0	4	7.3	1	1.8
Hawaii	49	29.5	0	0.0	3	1.8	0	0.0	0	0.0	48	28.9	1	0.6
Idaho	74	24.7	33	11.0	6	2.0	1	0.3	3	1.0	49	16.3	5	1.7
Montana	48	12.8	0	0.0	8	2.1	4	1.1	3	0.8	39	10.4	1	0.3
Nevada	50	8.1	0	0.0	43	7.0	7	1.1	1	0.2	99	16.0	20	3.2
Northern Mariana Islands	1	3.6	0	0.0	1	3.6	0	0.0	2	7.1	3	10.7	0	0.0
Oregon	92	15.1	43	7.1	102	16.7	6	1.0	8	1.3	96	15.8	9	1.5
<b>Washington</b>														
Eastern	50	12.4	67	16.6	35	8.7	7	1.7	3	0.7	81	20.1	4	1.0
Western	82	9.5	38	4.4	220	25.6	8	0.9	8	0.9	126	14.7	9	1.0
<b>TENTH CIRCUIT</b>	<b>421</b>	<b>6.1</b>	<b>865</b>	<b>12.5</b>	<b>638</b>	<b>9.2</b>	<b>122</b>	<b>1.8</b>	<b>47</b>	<b>0.7</b>	<b>639</b>	<b>9.2</b>	<b>23</b>	<b>0.3</b>
Colorado	82	15.7	0	0.0	21	4.0	15	2.9	5	1.0	87	16.6	4	0.8
Kansas	122	17.2	0	0.0	93	13.1	1	0.1	1	0.1	74	10.5	1	0.1
New Mexico	70	1.9	659	17.7	439	11.8	72	1.9	20	0.5	148	4.0	8	0.2
<b>Oklahoma</b>														
Eastern	25	22.1	0	0.0	1	0.9	0	0.0	0	0.0	14	12.4	0	0.0
Northern	25	16.1	0	0.0	0	0.0	0	0.0	0	0.0	28	18.1	0	0.0
Western	31	7.5	0	0.0	4	1.0	0	0.0	4	1.0	72	17.3	1	0.2
Utah	32	3.6	203	22.6	45	5.0	26	2.9	8	0.9	158	17.6	6	0.7
Wyoming	34	8.2	3	0.7	35	8.4	8	1.9	9	2.2	58	13.9	3	0.7
<b>ELEVENTH CIRCUIT</b>	<b>990</b>	<b>14.2</b>	<b>0</b>	<b>0.0</b>	<b>125</b>	<b>1.8</b>	<b>78</b>	<b>1.1</b>	<b>71</b>	<b>1.0</b>	<b>1,272</b>	<b>18.2</b>	<b>48</b>	<b>0.7</b>
<b>Alabama</b>														
Middle	62	25.5	0	0.0	6	2.5	0	0.0	1	0.4	29	11.9	0	0.0
Northern	85	20.1	0	0.0	4	0.9	1	0.2	0	0.0	56	13.2	2	0.5
Southern	50	16.3	0	0.0	4	1.3	2	0.7	1	0.3	53	17.3	3	1.0
<b>Florida</b>														
Middle	323	19.3	0	0.0	27	1.6	16	1.0	23	1.4	364	21.7	11	0.7
Northern	65	16.7	0	0.0	1	0.3	5	1.3	5	1.3	44	11.3	0	0.0
Southern	195	8.6	0	0.0	38	1.7	22	1.0	27	1.2	489	21.6	26	1.1
<b>Georgia</b>														
Middle	41	13.8	0	0.0	8	2.7	0	0.0	1	0.3	12	4.0	1	0.3
Northern	97	14.4	0	0.0	28	4.2	25	3.7	13	1.9	173	25.7	4	0.6
Southern	72	10.2	0	0.0	9	1.3	7	1.0	0	0.0	52	7.3	1	0.1

Of the 83,946 cases, 2,087 were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. The information needed to determine the relationship between the sentence imposed and the guideline range was missing in five percent or more of the cases received from: Middle Georgia (29.2%), Arizona (8.7%), Western Texas (7.9%), Maryland (7.8%), Western Louisiana (7.3%), Guam (5.2%), and Eastern Virginia (5.0%).

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.

**Table 10**

**SENTENCES RELATIVE TO THE GUIDELINE RANGE  
BY SELECTED PRIMARY OFFENSE CATEGORY  
Fiscal Year 2010**

**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	%
<b>TOTAL</b>	<b>81,859</b>	<b>45,028</b>	<b>55.0</b>	<b>350</b>	<b>0.4</b>	<b>119</b>	<b>0.1</b>	<b>916</b>	<b>1.1</b>	<b>127</b>	<b>0.2</b>
Robbery	1,079	621	57.6	15	1.4	5	0.5	30	2.8	5	0.5
Drugs - Trafficking	23,458	10,530	44.9	63	0.3	16	0.1	110	0.5	23	0.1
Drugs - Simple Possession	746	708	94.9	5	0.7	1	0.1	4	0.5	0	0.0
Firearms	7,969	4,667	58.6	71	0.9	24	0.3	169	2.1	33	0.4
Larceny	1,541	1,097	71.2	6	0.4	4	0.3	21	1.4	6	0.4
Fraud	7,471	4,149	55.5	24	0.3	19	0.3	112	1.5	16	0.2
Embezzlement	432	301	69.7	1	0.2	0	0.0	0	0.0	1	0.2
Forgery/Counterfeiting	877	577	65.8	8	0.9	3	0.3	22	2.5	1	0.1
Immigration	27,922	16,763	60.0	77	0.3	19	0.1	272	1.0	23	0.1
Other Miscellaneous Offenses	10,364	5,615	54.2	80	0.8	28	0.3	176	1.7	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	%
<b>TOTAL</b>	<b>403</b>	<b>283</b>	<b>70.2</b>	<b>9</b>	<b>2.2</b>	<b>2</b>	<b>0.5</b>	<b>6</b>	<b>1.5</b>	<b>0</b>	<b>0.0</b>
Robbery	4	2	50.0	0	0.0	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	89	64	71.9	1	1.1	0	0.0	0	0.0	0	0.0
Drugs - Simple Possession	3	3	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Firearms	33	24	72.7	1	3.0	0	0.0	0	0.0	0	0.0
Larceny	16	12	75.0	2	12.5	1	6.3	0	0.0	0	0.0
Fraud	17	10	58.8	0	0.0	0	0.0	1	5.9	0	0.0
Embezzlement	6	4	66.7	1	16.7	0	0.0	0	0.0	0	0.0
Forgery/Counterfeiting	9	7	77.8	0	0.0	0	0.0	0	0.0	0	0.0
Immigration	51	46	90.2	2	3.9	0	0.0	1	2.0	0	0.0
Other Miscellaneous Offenses	175	111	63.4	2	1.1	1	0.6	4	2.3	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	%
<b>TOTAL</b>	<b>9,421</b>	<b>11.5</b>	<b>8,119</b>	<b>9.9</b>	<b>3,214</b>	<b>3.9</b>	<b>1,687</b>	<b>2.1</b>	<b>865</b>	<b>1.1</b>	<b>11,116</b>	<b>13.6</b>	<b>897</b>	<b>1.1</b>
Robbery	100	9.3	2	0.2	39	3.6	36	3.3	31	2.9	188	17.4	7	0.6
Drugs - Trafficking	5,768	24.6	1,336	5.7	986	4.2	361	1.5	296	1.3	3,764	16.0	205	0.9
Drugs - Simple Possession	7	0.9	3	0.4	4	0.5	1	0.1	0	0.0	7	0.9	6	0.8
Firearms	911	11.4	9	0.1	384	4.8	132	1.7	98	1.2	1,368	17.2	103	1.3
Larceny	81	5.3	3	0.2	41	2.7	21	1.4	10	0.6	218	14.1	33	2.1
Fraud	1,196	16.0	4	0.1	286	3.8	120	1.6	106	1.4	1,322	17.7	117	1.6
Embezzlement	15	3.5	3	0.7	19	4.4	7	1.6	7	1.6	70	16.2	8	1.9
Forgery/Counterfeiting	84	9.6	2	0.2	25	2.9	12	1.4	8	0.9	121	13.8	14	1.6
Immigration	288	1.0	6,716	24.1	672	2.4	782	2.8	128	0.5	1,947	7.0	235	0.8
Other Miscellaneous Offenses	971	9.4	41	0.4	758	7.3	215	2.1	181	1.7	2,111	20.4	169	1.6

### 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	%
<b>TOTAL</b>	<b>7</b>	<b>1.7</b>	<b>0</b>	<b>0.0</b>	<b>8</b>	<b>2.0</b>	<b>11</b>	<b>2.7</b>	<b>12</b>	<b>3.0</b>	<b>63</b>	<b>15.6</b>	<b>2</b>	<b>0.5</b>
Robbery	1	25.0	0	0.0	0	0.0	0	0.0	0	0.0	1	25.0	0	0.0
Drugs - Trafficking	4	4.5	0	0.0	3	3.4	3	3.4	1	1.1	13	14.6	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	0	0.0	0	0.0	0	0.0	1	3.0	1	3.0	6	18.2	0	0.0
Larceny	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1	6.3	0	0.0
Fraud	1	5.9	0	0.0	2	11.8	0	0.0	1	5.9	2	11.8	0	0.0
Embezzlement	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1	16.7	0	0.0
Forgery/Counterfeiting	0	0.0	0	0.0	0	0.0	0	0.0	1	11.1	1	11.1	0	0.0
Immigration	0	0.0	0	0.0	0	0.0	0	0.0	1	2.0	1	2.0	0	0.0
Other Miscellaneous Offenses	1	0.6	0	0.0	3	1.7	7	4.0	7	4.0	37	21.1	2	1.1

Of the 83,946 guideline cases, 2,087 cases were excluded due to missing information from the submitted documents that prevented the comparison of the sentence and the guideline range.

Of the 404 guideline cases from the District of South Dakota, one case was excluded due to missing information from the from the submitted documents that prevented the comparison of the sentence and the guideline range.

SOURCE: U.S. Sentencing Commission, 2010 Datafile, OPAFY10.