FEDERAL DRUG OFFENSES

Departures from Sentencing Guidelines and Mandatory Minimum Sentences, Fiscal Years 1999-2001

What GAO Found

Generally, downward departures are defined as (1) substantial assistance departures, made at the prosecutor’s request because the offender provided substantial assistance to the government; and (2) other downward departures made for other reasons, such as a plea agreement, a judge’s consideration of mitigating factors, or early disposition, i.e., “fast track” programs initiated by prosecutors for low-level drug trafficking offenses.

Of federal sentences for drug-related offenses in fiscal years 1999-2001, the majority (56 percent) was within applicable guideline ranges. Downward sentencing departures were more frequently due to prosecutors’ substantial assistance motions (28 percent) than for any other reasons (16 percent).

For federal drug sentences that carried a mandatory minimum term of imprisonment, more than half of the drug sentences imposed fell below a mandatory minimum. Of these, half fell below a minimum due to prosecutors’ substantial assistance motions and half due to other reasons.

After adjusting for differences in offense and offender characteristics among judicial circuits and districts, our analysis showed variations among certain circuits and districts in the likelihood an offender received a substantial assistance departure, other downward departure, or a sentence falling below a mandatory minimum. However, these variations did not necessarily indicate unwarranted sentencing departures or misapplication of the guidelines because data were not available to fully compare the offenders and offenses for which they were convicted.

For drug sentences nationally, USSC receives 96 percent or more of the three key documents, including the statement of reasons (SOR), used to record sentence length and departures. For a small percentage of drug cases in USSC’s database, information is missing, incomplete, or too difficult for USSC to interpret, principally affecting sentencing analyses in districts where the missing or incomplete data are most prevalent.