

United States General Accounting Office

Report to the Committee on Crime and Delinquency of the U.S. Senate

RECENT DEVELOPMENTS

... ..
... ..
... ..
... ..
... ..



146630

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this material has been granted by

Public Domain

U.S. General Accounting Office

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the owner.

General Government Division

B-253076

August 10, 1993

The Honorable Joseph R. Biden, Jr.
Chairman, Committee on the Judiciary
United States Senate

Dear Mr. Chairman:

This report provides information you requested on the status of civil and criminal enforcement actions that the federal government has taken against suspected and actual wrongdoing in failed thrifts under the control of the Resolution Trust Corporation (RTC). Specifically, it contains information on the number of (1) civil actions initiated by the federal government with respect to those thrifts, including recoveries received from professional liability suits and settlements; (2) referrals filed with the Department of Justice concerning suspected criminal activity in RTC thrifts;¹ and (3) sentences imposed on convicted criminal wrongdoers, including the amount of fines and restitution both ordered and collected. Unless otherwise noted, we are reporting on the status of federal enforcement actions as of September 30, 1992. Limitations to both RTC and Justice data restricted our ability to determine with complete certainty the total enforcement effort in RTC thrifts. Those methodological limitations are further discussed in the scope and methodology section of this report (see pp. 22 and 23).

Background

RTC, established by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA),² is responsible for resolving³ thrifts that failed between January 1, 1989, and September 30, 1993.⁴ Among other things, FIRREA authorized RTC to bring civil proceedings against persons whose actions or inactions caused losses to financial institutions. As of September 30, 1992, RTC controlled 723 thrifts that failed between February 7, 1989, and August 28, 1992. We testified in March 1993 that RTC had used nearly \$85 billion of taxpayer funds to cover losses emanating

¹For the purpose of this report, the term "RTC thrifts" is used to refer to failed thrifts placed under the control of RTC.

²Public Law 101-73, 103 Stat. 183.

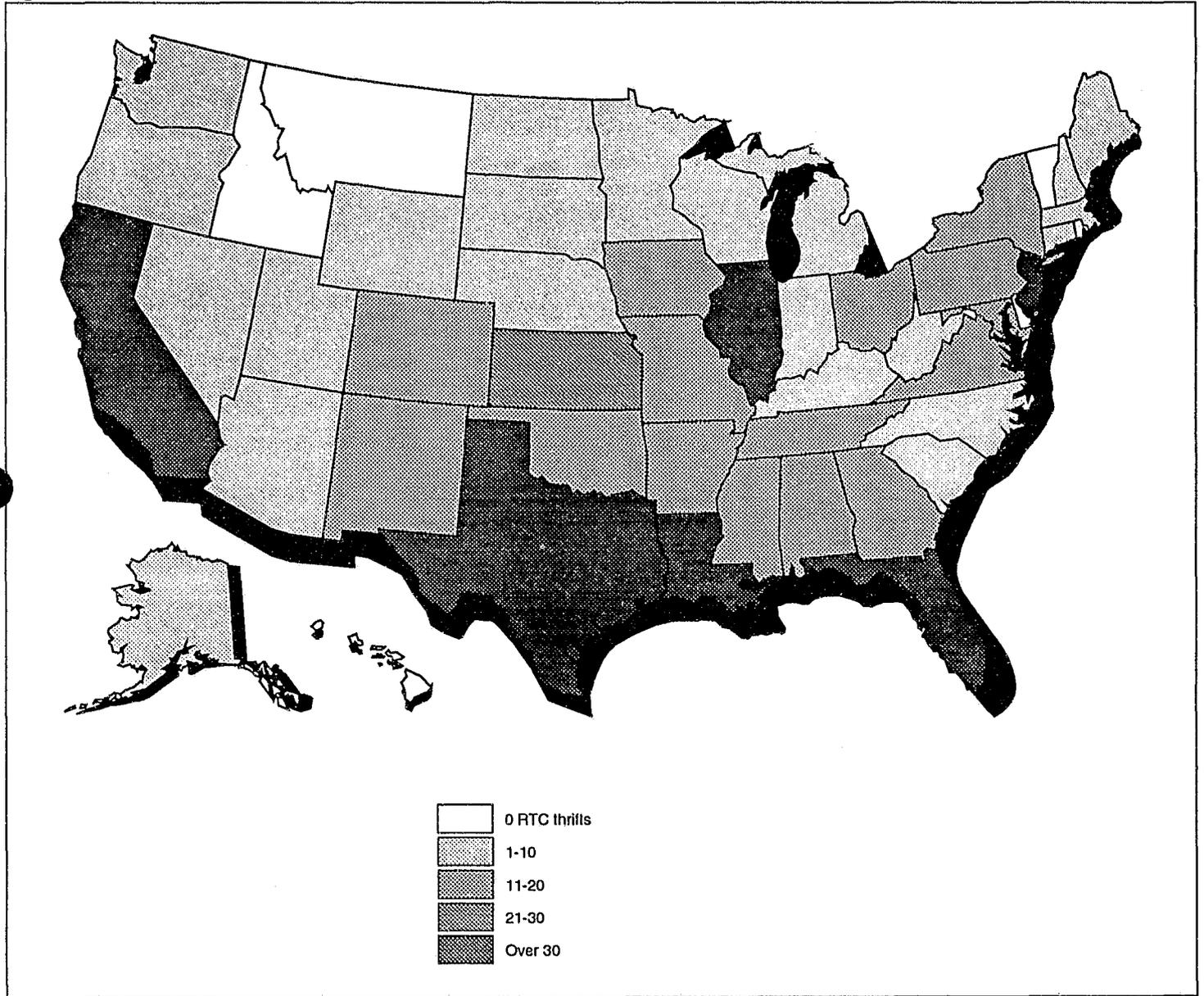
³"Resolving" means disposing of an institution by such methods as sale of the institution, transfer of its deposits and assets, or payouts of insured deposits.

⁴RTC is to cease operating by December 31, 1996. The Federal Deposit Insurance Corporation (FDIC) will generally become responsible for resolving thrifts that fail after September 30, 1993, and completing the resolution of thrifts remaining in RTC's workload. According to FDIC officials, FDIC is responsible for resolving 286 thrifts that failed prior to 1989.

from thrift resolutions.⁵ RTC has also estimated that \$25 billion in additional loss funds would be needed to resolve thrifts that were expected to fail through September 30, 1993. Figure 1 shows the nationwide distribution of RTC thrifts (see app. I for detailed information on the number of RTC thrifts in each jurisdiction).

⁵Resolution Trust Corporation: Funding, Organization, and Performance (GAO/T-GGD-93-13, Mar. 18, 1993).

Figure 1: Nationwide Distribution of RTC Thrifts



Note: In addition, one RTC thrift was located in the District of Columbia, and one was located in Puerto Rico.

Source: GAO analysis of RTC data.

When RTC takes over a federally insured thrift, it reserves the right to pursue claims against individuals who caused losses to the thrift. RTC pursues claims by filing a civil professional liability claim.⁶

RTC investigators and attorneys work collectively to develop civil professional liability claims. The goal of these investigators and attorneys is to pursue claims where a sufficient factual and legal basis exists to demonstrate liability and when the expected recovery exceeds the cost of the suit. In addition, RTC attorneys must decide whether to file claims in thrifts before expiration of the statute of limitations.⁷

RTC files professional liability claims against directors, officers, attorneys, appraisers, accountants, securities and commodities brokers, and insurance brokers, among others. The most common claim is for participation in unsafe or unsound banking practices; in particular, for approval of loans that were patently bad at inception. For example, in June 1991 RTC filed a lawsuit in excess of \$31 million against 14 former officers and directors of a Massachusetts thrift for their breach of fiduciary duty, breach of contract, negligence, and gross negligence for their participation in, or failure to control, certain loan underwriting practices of the thrift. Other typical abuses that RTC takes legal action against include improper insider loans and fraudulently contrived loans that permit funds to be funneled to friends of the directors or officers.

Claim amounts are primarily based on the losses that a defendant is alleged to have caused by specific actions named in a lawsuit. In appropriate cases, claim amounts may also include other items, such as attorneys' fees and expenses and punitive damages. Recoveries can come

⁶Civil professional liability claims are not the only civil actions the federal government can take against professionals whose wrongdoing contributed to the failure of a thrift. The Office of Thrift Supervision (OTS), which took over the Federal Home Loan Bank Board's responsibilities as thrift regulator in 1989, may take administrative enforcement actions against financial institutions or institution-affiliated parties (directors, officers, employees, and independent contractors such as attorneys, appraisers, and accountants) for engaging in unsafe or unsound practices or violations of law or other regulatory guidelines. Examples of actions OTS may take both before and after a thrift fails include (1) barring the individual from participating, in any manner, in the conduct of the affairs of any federally insured institution; (2) assessing civil money penalties (the proceeds of which go to the U.S. Treasury); and (3) requiring affirmative action, such as restitution or providing reimbursement, to correct conditions resulting from violations or unsafe or unsound practices. This report, however, is limited to civil enforcement actions pursued by Justice and RTC's professional liability program.

⁷FIRREA's 3-year statute of limitations for tort claims begins to run either on the date that RTC takes control of an institution or on the date that the cause of action accrues, whichever is later. RTC may also bring actions beyond this 3-year period by entering into a "tolling agreement" with potential defendants. RTC has reported that it will execute tolling agreements typically because settlement negotiations were ongoing with potential defendants. Such agreements, which suspend the running of the 3-year statute of limitations, would permit settlement negotiations to continue without commencing a lawsuit.

directly from the assets of the individuals or from insurance policies covering professional misconduct. Ultimately, the recoveries are to help cover the cost of resolving the failed institution.

The Justice Department can also investigate and file civil actions to recover monetary penalties in appropriate cases. Attorneys in Justice's Civil Division share subject matter jurisdiction with Assistant U.S. Attorneys for such potential civil penalty actions. According to Justice officials, Justice and RTC seek to maximize the recovery of assets in pursuing civil enforcement matters.⁸

When criminal activity is suspected, staff from the financial institutions and their federal regulatory agencies are required to report those activities to U.S. Attorneys' offices and the Federal Bureau of Investigation (FBI) for investigation and possible prosecution. Such reports of suspected criminal activity are called "criminal referrals."⁹

The FBI becomes involved in investigations of misconduct in financial institutions after it receives criminal referrals of suspected wrongdoing from the institutions or their regulators. Other federal investigative agencies, such as the U.S. Secret Service, may also participate in, or lead, investigations involving misconduct against financial institutions. The Secret Service was authorized in 1991 to conduct civil or criminal investigations related to unlawful activity against federally insured financial institutions or RTC that Justice law enforcement personnel are authorized by law to conduct or perform.¹⁰

If the suspected activity is believed to violate a federal criminal statute, federal prosecutors may file formal charges against the defendant in federal court in the form of an indictment or information. The U.S.

⁸Section 951 of FIRREA authorizes Justice to bring civil actions to recover civil penalties where institutions or any person violated, or in certain instances conspired to violate, any 1 or more of 13 statutes pertaining to financial institutions.

⁹Senior Justice officials have cautioned that referrals are not equivalent to prosecutable cases. Referrals very often contain unverified allegations and rest upon suspicion of criminal conduct. Referrals do not always contain information sufficient to warrant opening a federal criminal investigation, do not always lead to the discovery of evidence of criminal fraud, and do not always justify a prosecution. In addition, referrals can relate either to a single individual or a group of individuals, and they may involve a number of related, or unrelated, suspected criminal transactions.

¹⁰The Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 1991, Public Law 101-509, 104 Stat. 1389 (Title I, sec. 528) essentially provided the Secret Service with jurisdiction to investigate financial institution fraud that was concurrent with that of the FBI, subject to the supervision of the Attorney General.

Attorney specifies the crime(s) for which the defendant will be prosecuted when charges are filed.

Most financial institution fraud cases are prosecuted by Assistant U.S. Attorneys. In addition, attorneys from Justice's Tax Division and Criminal Division Fraud Section also participate in criminal financial institution fraud enforcement.

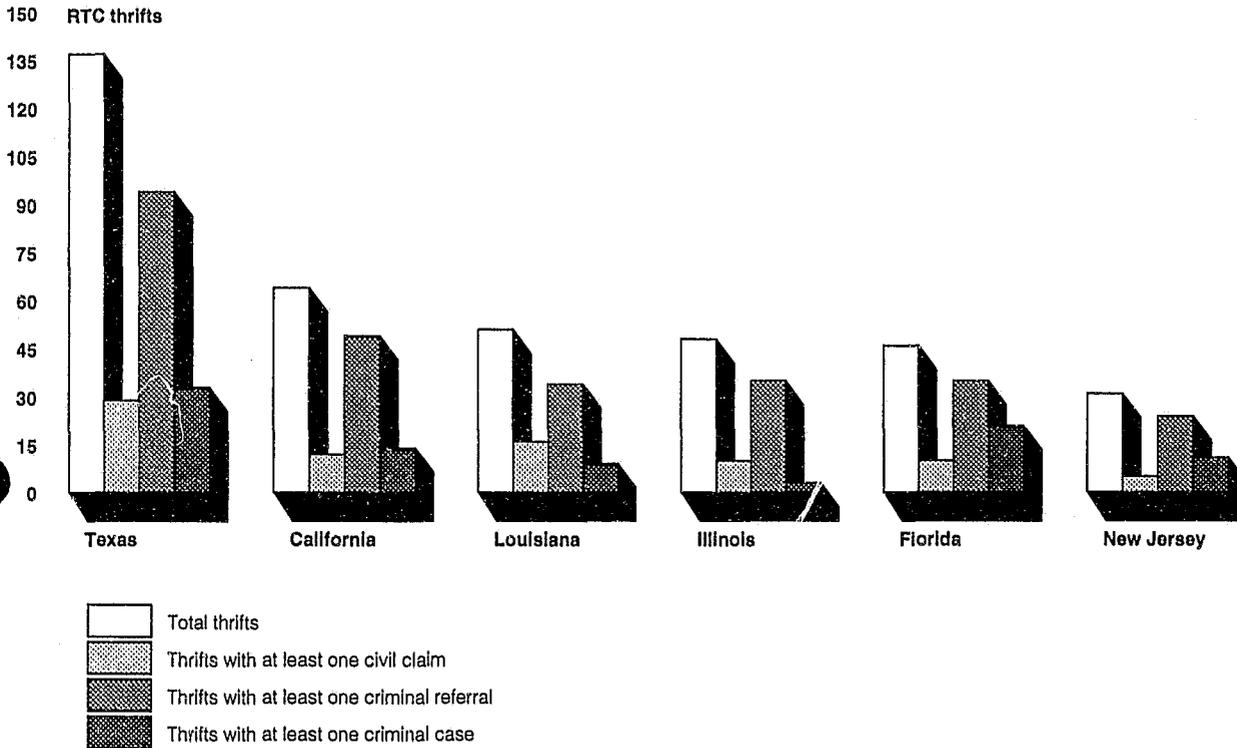
Cases that involve misconduct against financial institutions often involve charges of several offenses, based on both specific banking statutes and other federal statutes.¹¹ For example, both the former president and vice president of a Mississippi savings and loan were convicted of conspiracy and embezzlement in a \$30 million fraud case. One was sentenced to 1 year in prison, and the other received a 3-year sentence. Both were also ordered to pay restitution of \$50,000.

Results in Brief

Of the 723 thrifts that RTC controlled as of September 1, 1992, the federal government took civil and/or criminal actions against individuals associated with 271 thrifts (37.5 percent). The largest numbers of RTC thrifts were located in California, Florida, Illinois, Louisiana, New Jersey, and Texas. Generally, RTC thrifts in those locations were also associated with the greatest amount of civil and criminal enforcement activity. Figure 2 shows the number of RTC thrifts that were associated with each type of enforcement action in those locations.

¹¹Justice has defined "financial institution fraud cases" as those contemplated by FIRREA and the Crime Control Act of 1990 (P.L. 101-647, 104 Stat. 4789) involving federally insured depositories, such as savings and loans, banks, and credit unions. Similarly, our reference to the term "financial institution fraud" refers to the entire range of criminal conduct against RTC thrifts.

Figure 2: Numbers of RTC Thrifts in Locations Associated With the Greatest Amount of Civil and Criminal Enforcement Activity



Source: GAO analysis of RTC and Justice data.

Civil Enforcement Activity

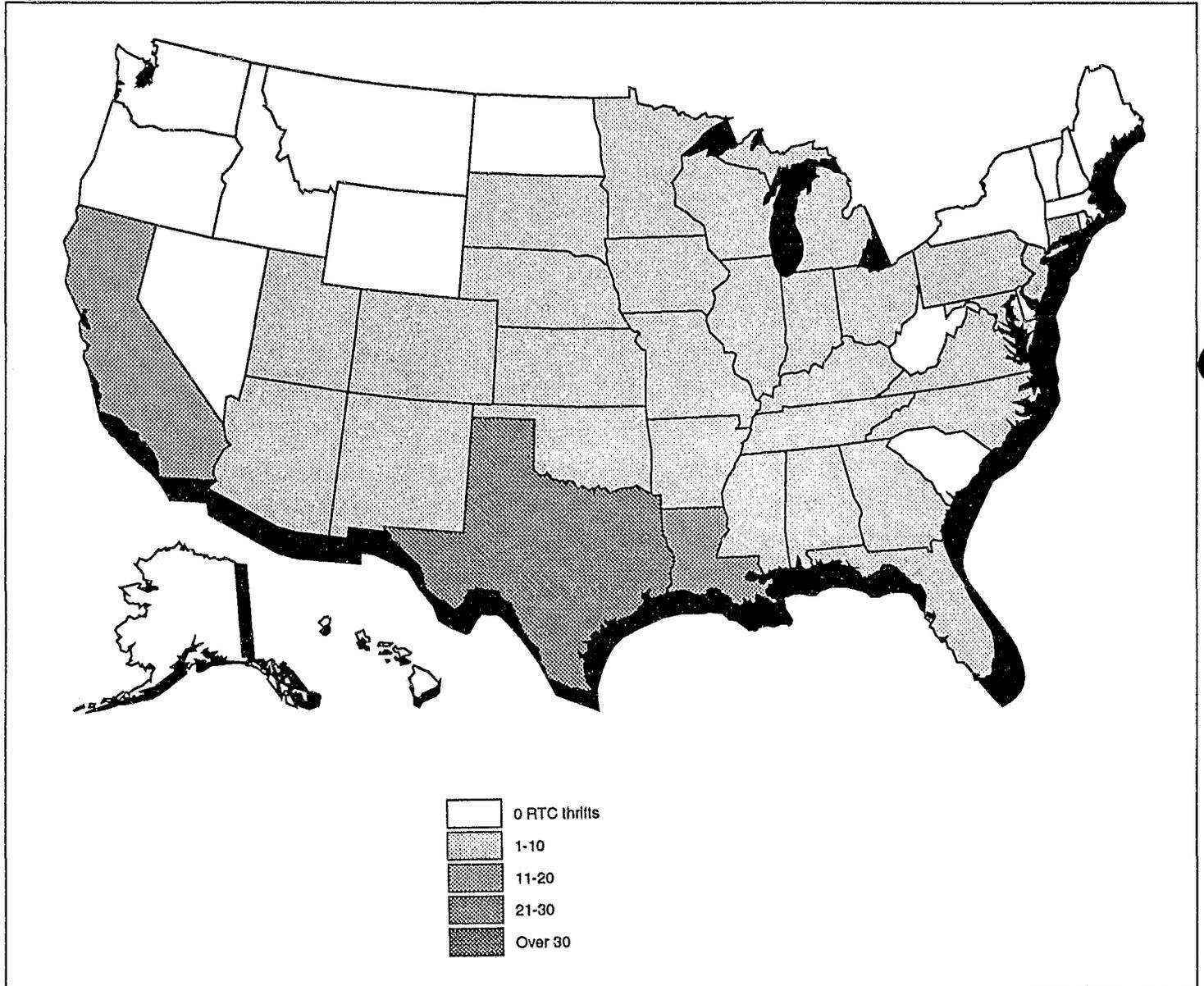
According to available data, RTC filed most of the civil claims against alleged wrongdoers whose conduct contributed to the failure of a federally insured thrift. Justice also pursued civil claims to recover monetary penalties from alleged wrongdoers associated with RTC thrifts, but complete data on Justice's efforts were not available.

RTC filed 217 professional liability claims associated with 157 of the 723 RTC thrifts (21.7 percent).¹² Of those claims, 140 (64.5 percent) were filed against a former director and/or officer. Figure 3 shows the nationwide distribution of those thrifts associated with at least one civil claim. (App. II includes detailed information, by jurisdiction, on the number of RTC thrifts,

¹²According to RTC officials, because the statute of limitations had not expired on many RTC institutions as of September 30, 1992, the number of claims filed by RTC will increase.

the number of those thrifts with civil claims, and the number of claims filed against a former director and/or officer.)

Figure 3: Nationwide Distribution of RTC Thrifts Associated With at Least One Civil Claim



Source: GAO analysis of RTC data.

RTC data showed that claim amounts totaled nearly \$6.4 billion. RTC has recovered nearly \$111.4 million from claims and settlements. Of those recoveries, \$62.2 million (55.9 percent) was from the insurer of the claimant, and \$49.2 million (44.1 percent) was from the personal assets of the wrongdoers.¹³

It is difficult to determine the total number of civil actions taken by Justice against individuals or corporations associated with RTC thrifts. Reports from RTC and Justice highlighted various civil actions taken by Justice attorneys, but no comprehensive data were available. For example, according to information from Justice, its Civil Division had filed no civil claims against any parties associated with wrongdoing in RTC thrifts through September 1992. However, Justice's fiscal year 1991 report to Congress on financial institution fraud noted that its Civil Division attorneys worked with OTS in seeking \$31 million from David Paul, the former chairman of CenTrust Savings Bank (an RTC-controlled institution at the time) for alleged waste and improper company-paid benefits. Justice's Civil Division attorneys also assisted in tracing Paul's overseas assets.

In addition, while information from the Executive Office for U.S. Attorneys (EOUSA) did not indicate that U.S. Attorney offices had taken any civil actions, reports from both Justice and RTC included anecdotal references to civil actions taken by attorneys in various U.S. Attorney offices. For example, Justice's fiscal year 1992 report to Congress on financial institution fraud noted that the U.S. Attorney's Office in the Central District of California had filed a civil forfeiture action against the \$6 million residence of Thomas Spiegel, the former chairman of Columbia Savings, an institution formerly controlled by RTC. The office simultaneously filed a separate action to recover a firearms collection, purchased with embezzled funds worth "tens of thousands of dollars," from the home. Similarly, the RTC Office of Investigations' 1992 semiannual report noted that another U.S. Attorney office's civil unit, working with FBI and RTC, brought action to seize a building appraised at a minimum of \$2.5 million.

Criminal Enforcement Actions

Data from RTC showed that during fiscal years 1991 and 1992, staff from either OTS, RTC, or the thrifts filed 2,912 referrals of suspected criminal

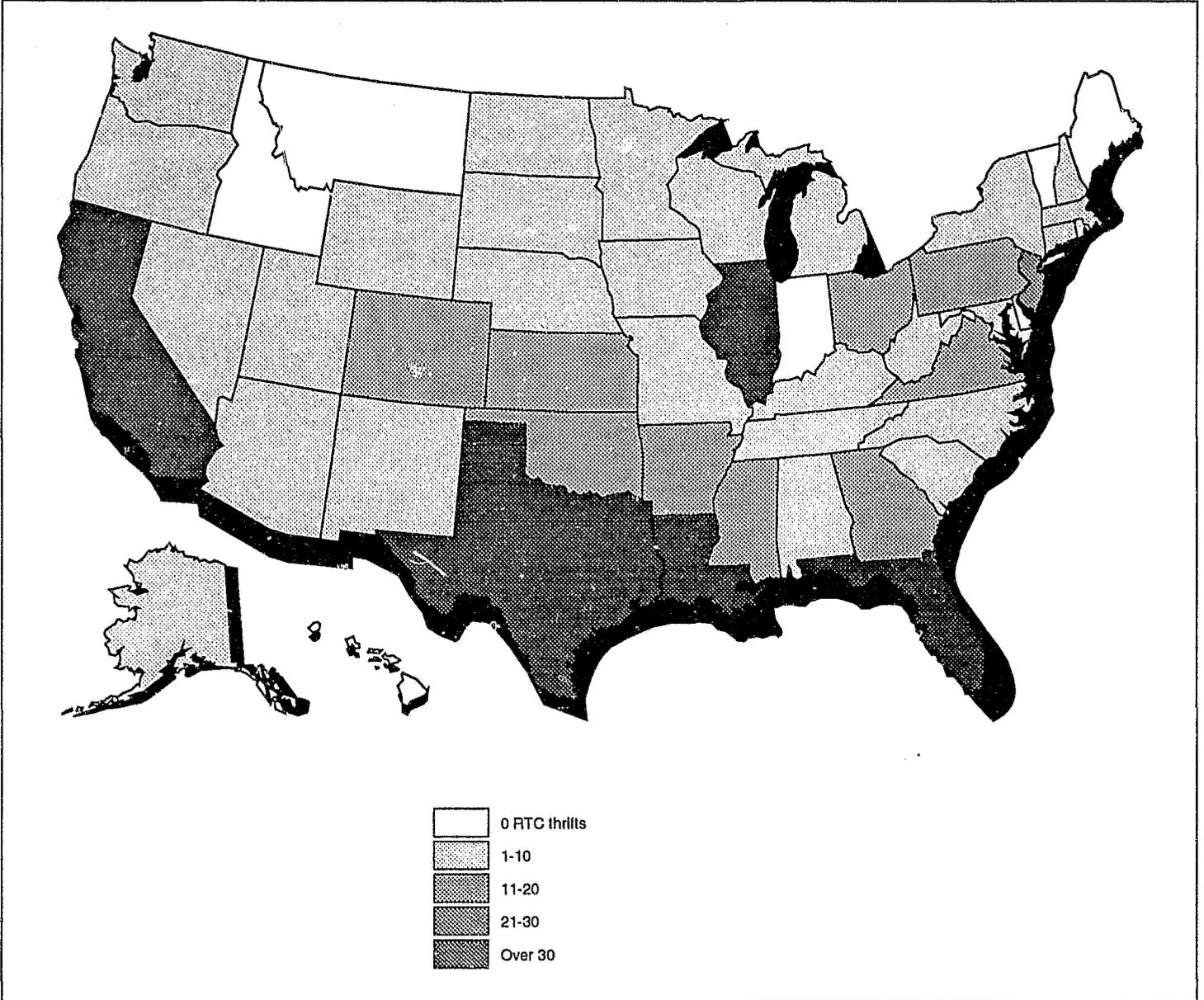
¹³The \$111.4 million amount includes only actual cash recoveries. According to RTC, most claims are resolved through settlement agreements. Therefore, the amount of the recovery is usually established through the settlement agreement.

conduct associated with 503 (69.6 percent) of RTC's thrifts.¹⁴ Those referrals involved estimated losses due to alleged fraud totaling more than \$5.4 billion. Over 1,000 of those referrals named insiders¹⁵ associated with 336 (66.8 percent) of the 503 thrifts. Referrals naming insiders involved estimated dollar losses of over \$3.7 billion. Figure 4 shows the nationwide distribution of RTC thrifts associated with at least one criminal referral (app. III provides more detailed information, by jurisdiction).

¹⁴OTS may have filed criminal referrals involving an institution before its failure and subsequent takeover by RTC.

¹⁵In reporting suspected criminal activity, RTC defined an "insider" as any thrift director, officer, or shareholder.

Figure 4: Nationwide Distribution of RTC Thrifts Associated With at Least One Criminal Referral



Note: In addition, one RTC thrift associated with at least one criminal referral was located in Puerto Rico.

Source: GAO analysis of RTC data.

Compared to criminal referrals filed on all financial institutions over the past 2 fiscal years, a relatively larger percentage of the referrals filed on RTC thrifts alleged frauds in excess of \$100,000. For example, during fiscal years 1991 and 1992, about 7 percent of all criminal referrals submitted by all financial institutions and their regulators related to suspected criminal activity estimated dollar losses of alleged fraud at \$100,000 or more. On the other hand, more than 35 percent of the referrals submitted on RTC thrifts estimated alleged dollar losses of \$100,000 or more. Over 400 of those referrals (15.2 percent) estimated dollar losses of \$1 million or more. Table 1 shows the difference between the estimated dollar loss of alleged fraud for criminal referrals submitted on RTC thrifts and those for all criminal referrals.

Table 1: Alleged Dollar Losses Estimated on Criminal Referrals Concerning RTC Thrifts Compared to Those Concerning All Institutions for Fiscal Years 1991 and 1992

Estimated dollar loss of alleged fraud	RTC thrifts		All financial institutions	
	Number of criminal referrals	Percent	Number of criminal referrals	Percent
\$1 million or greater	442	15.2	801	1.4
\$500,000 to \$999,999	149	5.1	569	1.0
\$100,000 to \$499,999	429	14.7	2,739	4.6
\$25,000 to \$99,999	280	9.6	3,773	6.4
Under \$25,000	1,612	55.4	51,249	86.7
Total	2,912	100.0	59,131	100.0

Note: Percentages may not add to 100 due to rounding.

Source: GAO analysis of RTC and FBI data.

Information on the number of investigations completed or under way involving RTC thrifts was not available. Neither the FBI nor the Secret Service categorizes data on its investigations according to the federal financial regulatory agency that oversees or controls particular institutions. The FBI and the Secret Service have reported, however, that they had 415 investigations ongoing at the end of fiscal year 1992 involving failed savings and loans.¹⁶

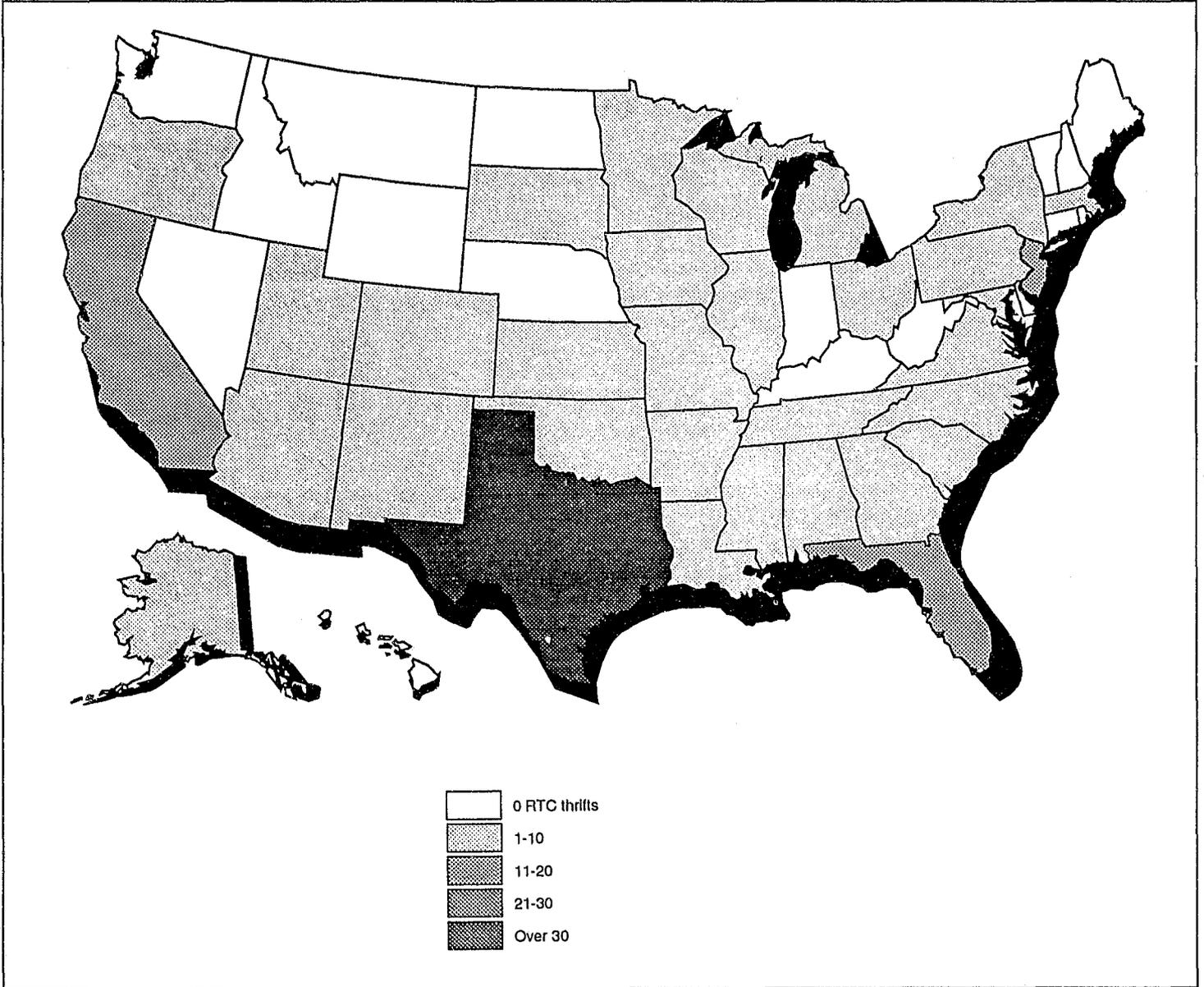
¹⁶The FBI had 390 pending investigations that involved failed savings and loans, and the Secret Service had 25. FBI officials told us that their information system records only one investigation for each failed institution. Although the FBI may have multiple individuals involved with separate factual circumstances under investigation, each may be separately indicted, convicted, and sentenced.

Justice data showed that since the beginning of fiscal year 1989, Justice charged 494 individuals (164 insiders)¹⁷ with some form of criminal misconduct in 304 cases associated with 171 RTC thrifts (23.7 percent of the 723 RTC thrifts).¹⁸ In total, the 304 cases involved alleged fraud amounts of over \$2.9 billion. Figure 5 shows the nationwide distribution of RTC thrifts associated with at least one criminal case. Appendix IV provides supporting details.

¹⁷Justice defined an "insider" as any former thrift chairman, chief executive officer, major shareholder, director, officer, president, vice president, attorney, or branch manager.

¹⁸EOUSA does not maintain data on nonmajor cases (generally, those not involving insiders or those involving estimated losses of less than \$100,000). Justice's Special Counsel for Financial Institutions Fraud stated last year that "nonmajor [cases] are not part of the Justice Department's [financial institution fraud] program." Data from Justice's Tax Division, however, includes both nonmajor and major cases.

Figure 5: Nationwide Distribution of RTC Thrifts Associated With at Least One Criminal Case



Source: GAO analysis of Justice data.

Attorneys in U.S. Attorneys' offices and in Justice's Criminal and Tax divisions obtained convictions for about 93 percent of the RTC thrift defendants they prosecuted.¹⁹ These attorneys won convictions against 376 individuals; 29 individuals were acquitted.²⁰ Of those convicted, 128 were insiders (8 insiders were acquitted). Table 2 summarizes these results.

Table 2: Summary of Justice's Prosecutions Involving RTC Thrifts

	Number of defendants	Number of insiders	Insiders as a percent of total defendants
Indictment/information	494	164	33.2
Convictions	376	128	34.0
Acquittals	29	8	27.6
Awaiting sentencing	81	27	33.3
Sentenced	295	101	34.2

Source: GAO analysis of Justice data.

Sentencing information from Justice showed that most of the RTC thrift defendants who have been sentenced received prison sentences of less than 2 years.²¹ Of the 376 defendants convicted, 295 had been sentenced, and the remaining 81 awaited sentencing as of October 1, 1992. As shown

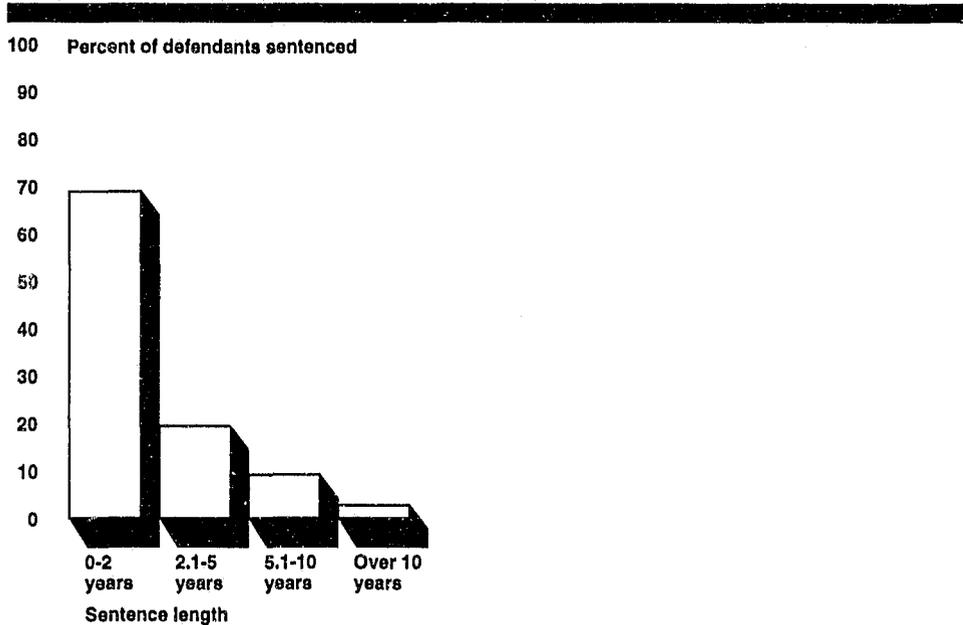
¹⁹Methodological differences in data collection and reporting at Justice and RTC restricted our ability to determine whether some defendants we reported on were associated with cases related to thrifts that were not RTC controlled. As a result, the number of acquittals and convictions noted may be overstated. For further discussion of those methodological limitations, refer to the scope and methodology section of this report (see pp. 22 and 23).

²⁰The Office of Investigations' 1992 annual report from RTC noted that as of December 31, 1992, all cases (both nonmajor and major) involving criminal misconduct against RTC thrifts resulted in 888 convictions. In reporting this information, RTC did not segregate convictions obtained on outsiders from convictions obtained on insiders. According to officials from both Justice and RTC, the discrepancy between their conviction totals is due to RTC's inclusion of convictions in nonmajor cases.

²¹Sentences for criminal convictions generally consist of a term of imprisonment, probation, or both. Sentences may also include community service. Of the 69 RTC thrift defendants who were not sentenced to prison, 62 received probation terms ranging from 3 months to 5 years. In addition, 11 of those 62 defendants were also sentenced to community service work. Justice did not have complete sentencing data for the remaining seven defendants.

in figure 6, nearly 70 percent of those sentenced received sentences of less than 2 years.²²

Figure 6: Most RTC Thrift Defendants Received Prison Sentences of Less Than 2 Years



Source: GAO analysis of Justice data.

Convicted insiders tended to receive slightly longer prison terms than other offenders (e.g., borrowers). Table 3 compares sentences given for thrift insiders and other offenders. It shows that 56.1 percent of all other offenders, compared to 46.5 percent of insiders, received 12 months of prison time or less. Similarly, the median sentence length for insiders was 16 months, while the median for other offenders was 10 months.

²²The Federal Sentencing Guidelines specify minimum offense levels for certain crimes against financial institutions. For offenses that substantially jeopardize the safety and soundness of a financial institution or that affect a financial institution where the defendant derived more than \$1 million in gross receipts, the guidelines indicate that the courts should sentence an offender to a minimum of 51 months of imprisonment. The guidelines apply to offenses committed on or after November 1, 1987. Justice's data on major financial institution fraud cases did not indicate whether the offenders were sentenced under the guidelines.

Table 3: Sentencing Information for RTC Thrift Defendants, October 1988 Through October 1992

Sentence	All defendants		Other offenders		Insiders	
	Number	Percent	Number	Percent	Number	Percent
No prison	69	23.4	53	27.3	16	15.8
1 to 6 months	58	19.7	37	19.0	21	20.8
7 to 12 months	29	9.8	19	9.8	10	9.9
13 to 24 months	47	15.9	27	13.9	20	19.8
25 to 36 months	34	11.5	20	10.3	14	13.9
37 to 60 months	23	7.8	15	7.7	8	7.9
61 to 120 months	27	9.2	19	9.8	8	7.9
121 to 180 months	6	2.0	2	1.0	4	4.0
Greater than 180 months	2	0.7	2	1.0	0	0
Total sentenced	295	100.0	194	100.0	101	100.0

Note: Percentages may not add to 100 due to rounding.

Source: GAO analysis of Justice data.

EOUSA data on major thrift cases indicated that federal courts also ordered offenders to pay monetary penalties of substantial amounts. The courts ordered offenders who were sentenced between October 1988 and July 1992 to pay over \$176 million in fines and restitution.²³ As of July 1992, according to EOUSA data, the federal government had collected over \$5.9 million, or 3.4 percent of the total amount ordered.²⁴ Table 4 summarizes the available data on monetary penalties ordered and collected for major thrift offenders.

²³Because of incomplete information, we could not report on the amount of fines and restitution ordered and collected for 30 of the 304 major thrift cases.

²⁴Procedures for collecting and monitoring restitution vary around the country. For example, restitution may be paid either through the U.S. Probation Department, U.S. courts, U.S. Attorneys' offices, or directly to the victim. Justice has noted that its data on collections capture only the amount collected or reported through the U.S. Attorneys' offices. Recognizing that its collections data are incomplete, Justice is now in the process of implementing several initiatives aimed at improving the amount and quality of its collections data. For more information, see *Report in Monetary Enforcement Efforts in Financial Institution Fraud Cases*, Department of Justice (Mar. 1992). Excerpts are contained in Justice's *Attacking Financial Institution Fraud*, fiscal year 1992 second quarterly report to Congress. Also, the 1992 RTC Office of Investigations' annual report noted that, as of December 31, 1992, the federal government had collected over \$10 million (7.9 percent) of the \$126 million ordered on all convicted RTC offenders.

Table 4: Criminal Fines and Restitution Ordered and Collected in Major RTC Cases

	Amount ordered	Amount collected	Percent collected
Fines	\$3,208,050	\$658,932	20.5
Restitution	173,291,229	5,324,209	3.1
Total	\$176,499,279	\$5,983,141	3.4

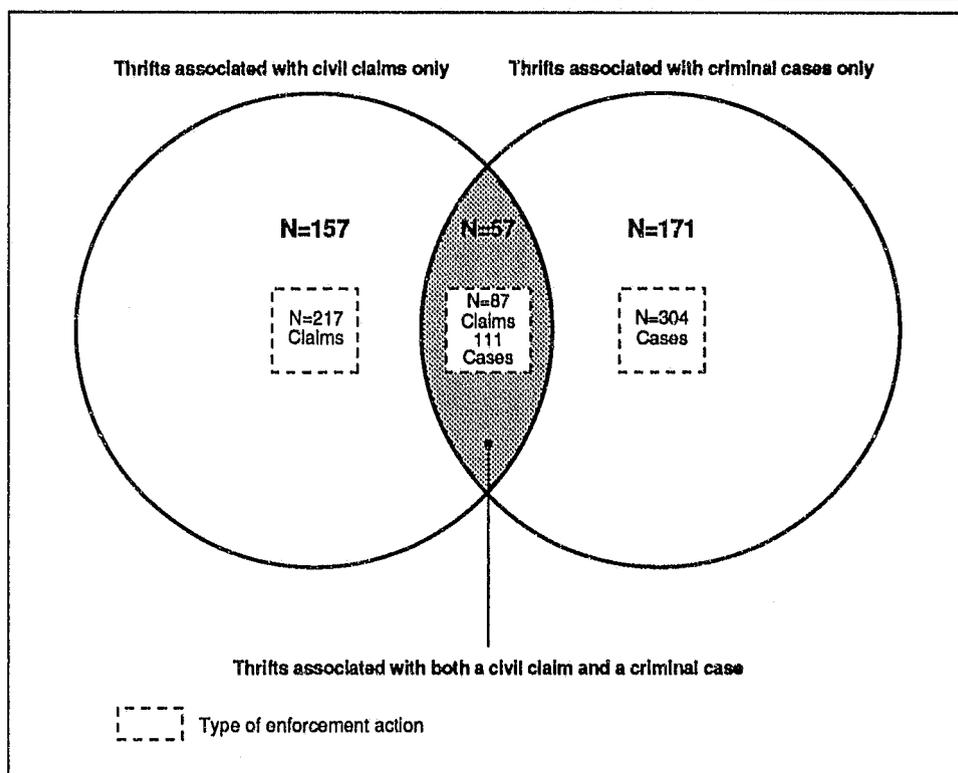
Source: GAO analysis of EOUSA data.

The FBI has also reported over \$110 million in monetary recoveries associated with their investigations of failed savings and loans. For fiscal years 1991 and 1992, the FBI claimed \$34.2 million in recoveries (property recovered due to the intervention of FBI agents), \$46.8 million in seizures, and \$32.9 million in forfeitures as accomplishments of its investigations. However, FBI officials could not distinguish accomplishments associated with RTC thrifts from other failed savings and loans.

RTC Thrifts Associated With Both Civil and Criminal Actions

The federal government initiated both civil and criminal actions in 57 RTC thrifts. Those thrifts held assets that totaled over \$88 billion and accounted for 21 percent of the total assets held by all 723 RTC thrifts. Figure 7 illustrates the number of different RTC thrifts associated with both civil and criminal actions and the amount of enforcement activity in those RTC thrifts. On the basis of the number of claims filed, criminal cases prosecuted, and the extent of insider involvement, it appears that individuals involved in cases associated with those 57 thrifts committed both more numerous and more egregious acts of wrongdoing and fraud than individuals involved in cases associated only with the other 114 thrifts. Appendix V provides more detailed information on those thrifts by jurisdiction.

Figure 7: Number of RTC Thrifts Associated With Both Civil and Criminal Enforcement Actions



Source: GAO analysis of RTC and Justice data.

The 57 RTC thrifts represented 36.3 percent of the total number of RTC thrifts in which RTC filed some civil claim. RTC filed 87 claims (40.1 percent of the 217 total filed) against individuals associated with those 57 thrifts. The claims totaled over \$3.3 billion, or more than half of the nearly \$6.4 billion total of all filed RTC civil claims. Of the total recoveries from all claims and settlements, RTC received over \$73 million (65.8 percent) from those 87 claims.²⁵

Similarly, Justice has taken relatively more criminal enforcement actions with those 57 thrifts than it did with the 114 thrifts in which it initiated only some form of criminal enforcement action. As shown in table 5, those 57 thrifts accounted for 45 percent of the total number of individuals that Justice charged and 41 percent of the defendants that Justice won

²⁵These amounts include only actual cash recoveries. In addition, recovery amounts may be negotiated through settlement agreements (see p. 9).

convictions for some form of criminal misconduct in all RTC thrifts. (Nearly 70 percent of those acquitted were also associated with the 57 thrifts.) Of the 223 individuals charged from the 57 thrifts, Justice won convictions against 154 (48 insiders); 20 individuals (4 insiders) were acquitted.

Table 5: Justice's Prosecution Results From All RTC Thrifts Compared With Those From the 57 Thrifts

	All RTC thrifts with criminal cases	RTC thrifts with only criminal cases	Percent of total	RTC thrifts with both civil claims and criminal cases	Percent of total
RTC thrifts	171	114	66.7	57	33.3
Defendants charged by indictment or information	494	271	54.9	223	45.1
Defendants convicted	376	222	59.0	154	41.0
Defendants acquitted	29	9	31.0	20	69.0
Defendants awaiting sentencing	81	53	65.4	28	34.6
Defendants sentenced	295	169	57.3	126	42.7

Source: GAO analysis of Justice data.

Defendants convicted in cases associated with those 57 thrifts tended to receive prison sentences that were relatively longer than did offenders convicted in cases associated only with the other 114 thrifts. As shown in table 6, 35 (27.8 percent) of the 126 offenders convicted in cases related to the 57 thrifts received sentences of 37 months or more compared to 23 (13.6 percent) of the 169 defendants convicted in cases associated only with the other 114 thrifts. At the same time, however, more than two-thirds of all sentenced defendants received sentences of less than 2 years.

Table 6: Sentences Received by All RTC Defendants Compared With Those Received by Defendants Convicted in Cases Associated With 57 Thrifts and Those Received by Defendants Convicted in Cases Associated Only With the Other 114 Thrifts, October 1988 Through October 1992

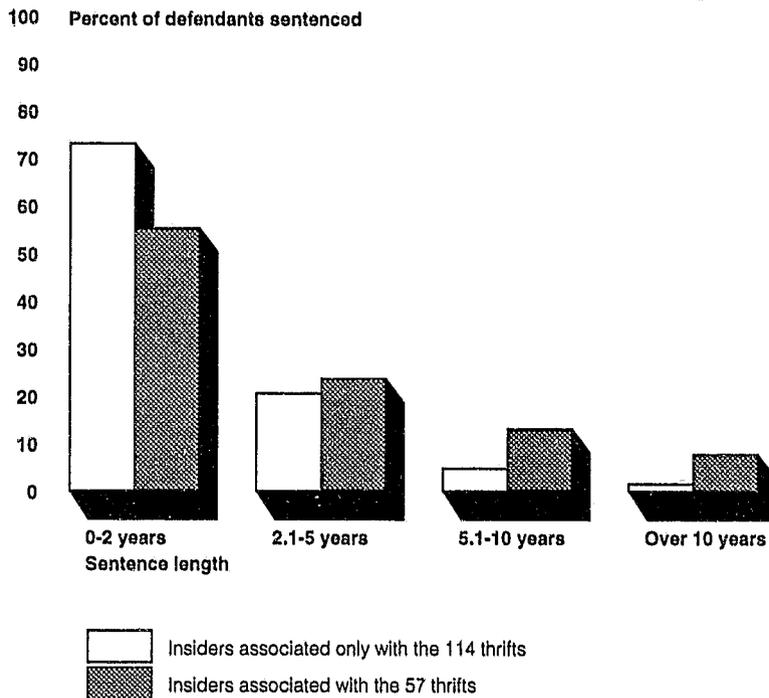
Sentence	All RTC defendants		RTC defendants convicted in cases associated with 57 thrifts		RTC defendants convicted in cases associated only with the other 114 thrifts	
	Number	Percent	Number	Percent	Number	Percent
No prison	69	23.4	26	20.6	43	25.4
1 to 6 months	58	19.7	20	15.9	38	22.5
7 to 12 months	29	9.8	15	11.9	14	8.3
13 to 24 months	47	15.9	19	15.1	28	16.6
25 to 36 months	34	11.5	11	8.7	23	13.6
37 to 60 months	23	7.8	13	10.3	10	5.9
61 to 120 months	27	9.2	15	11.9	12	7.1
121 to 180 months	6	2.0	5	4.0	1	0.6
Greater than 180 months	2	0.7	2	1.6	0	0.0
Total sentenced	295	100.0	126	100.0	169	100.0

Note: Percentages may not add to 100 due to rounding.

Source: GAO analysis of Justice data.

Similarly, insiders convicted in cases associated with those 57 thrifts received longer prison terms than did those convicted in cases associated only with the other 114 thrifts. Federal courts sentenced insiders convicted in cases associated with the 57 thrifts to an average of 42.3 months. Insiders convicted in cases related only to the other 114 thrifts received sentences averaging 19.1 months. Figure 8 illustrates that insiders convicted in cases associated with the 57 thrifts received prison sentences longer than did insiders convicted in cases associated only with the other 114 thrifts.

Figure 8: Insiders Convicted in Cases Associated With 57 Thrifts Received Longer Prison Terms Than Insiders Convicted in Cases Associated Only With the Other 114 Thrifts



Source: GAO analysis of Justice data.

Scope and Methodology

We obtained and analyzed data from RTC on the 723 failed RTC thrifts under its control as of September 30, 1992. For each thrift, we determined whether the federal government had taken at least one civil or criminal enforcement action.

To determine the status of RTC's civil enforcement actions in each thrift, we reviewed and analyzed data from RTC's Professional Liability Case Tracking System. This system tracks the progress of professional liability cases that are in litigation. It includes information on the number of professional liability claims, suits, settlements, and judgments, and the recovery amount. We summarized that data by the jurisdiction in which the thrift was located.

To determine the extent of identified, suspected criminal conduct in each failed thrift, we analyzed data on criminal referrals from RTC's Thrift Investigations Management System. We also summarized that information

by the jurisdiction in which the thrift was located. To identify the extent of further criminal enforcement actions in those RTC thrifts, we analyzed data on case prosecutions from Justice's Tax Division, Civil Division, and EOUSA, whose reports include information on major cases prosecuted by the Criminal Division and the U.S. Attorneys' offices.

Our analysis of criminal enforcement actions was complicated by differences in the data kept by RTC and EOUSA. For example, EOUSA's database did not differentiate RTC thrifts from other failed thrifts. EOUSA's data sometimes included information associated with thrift branch offices, which RTC's database did not capture. We asked RTC officials whether our analysis should include thrifts from EOUSA's database that differed from those in RTC's in their name, location, or other critical identifier. On the basis of their review, we subsequently excluded thrifts that RTC could not confirm as being under its control.

EOUSA's reporting format also complicated our analysis of criminal enforcement actions. EOUSA organizes and summarizes all of its major prosecution data by case. For cases that involved multiple defendants and institutions, we could not link specific defendants to specific institutions. Consequently, we could not determine whether some defendants we reported on were associated with RTC thrifts that were not under RTC's control. As a result, we may overreport major case convictions from RTC thrifts.

Finally, data that EOUSA uses to code insiders in its database is not complete. We compared EOUSA's coding to the titles listed in the data and found that nearly 10 percent of the individuals who should have been coded as insiders were instead uncoded. (We did not find any examples of EOUSA having incorrectly coded a noninsider as an insider.) In reporting the extent of insider convictions, we did not statistically adjust for EOUSA's coding error. We did not test other RTC or Justice data for accuracy.

We did our work between September 1992 and March 1993 in accordance with generally accepted government auditing standards.

Agency Comments

We requested written comments from Justice and RTC. Justice provided technical comments to clarify some of the information presented in the report. We have incorporated those comments where appropriate. RTC did not provide written comments. However, we discussed our draft report with RTC officials and incorporated their comments where appropriate.

These officials generally agreed with the information presented in the report.

As agreed with the Committee, we plan no further distribution of this report until 30 days from the date of this letter, unless you publicly announce its contents earlier. At that time, we will send copies to RTC and Justice and make copies available to others upon request.

The major contributors to this report are listed in appendix VI. If you have any questions concerning this report, please call me at (202) 566-0026.

Sincerely yours,



Henry R. Wray
Director, Administration
of Justice Issues

Contents

Letter	1
Appendix I RTC Thrifts That Failed Between February 7, 1989, and August 28, 1992, Under RTC's Control as of September 30, 1992, by Jurisdiction	30
Appendix II Information on Civil Enforcement Actions Associated With RTC Thrifts, by Jurisdiction	32
Appendix III Information on RTC Thrifts Associated With Suspected Criminal Activity, by Jurisdiction	34
Appendix IV Information on RTC Thrifts Associated With at Least One Major Criminal Case, by Jurisdiction	36

<p>Appendix V Summary Information on RTC Thrifts Associated With Civil and Criminal Enforcement Actions, by Jurisdiction</p>	<p>38</p>
--	-----------

<p>Appendix VI Major Contributors to This Report</p>	<p>40</p>
--	-----------

<p>Tables</p>	<p>Table 1: Alleged Dollar Losses Estimated on Criminal Referrals Concerning RTC Thrifts Compared to Those Concerning All Institutions for Fiscal Years 1991 and 1992 12</p> <p>Table 2: Summary of Justice's Prosecutions Involving RTC Thrifts 15</p> <p>Table 3: Sentencing Information for RTC Thrift Defendants, October 1988 through October 1992 17</p> <p>Table 4: Criminal Fines and Restitution Ordered and Collected in Major RTC Cases 18</p> <p>Table 5: Justice's Prosecution Results From All RTC Thrifts Compared With Those From the 57 Thrifts 20</p> <p>Table 6: Sentences Received by All RTC Defendants Compared With Those Received by Defendants Convicted in Cases Associated With 57 Thrifts and Those Received by Defendants Convicted in Cases Associated Only With the Other 114 Thrifts, October 1988 through October 1992 21</p>
---------------	--

<p>Figures</p>	<p>Figure 1: Nationwide Distribution of RTC Thrifts 3</p> <p>Figure 2: Numbers of RTC Thrifts in Locations Associated With the Greatest Amount of Civil and Criminal Enforcement Activity 7</p> <p>Figure 3: Nationwide Distribution of RTC Thrifts Associated With at Least One Civil Claim 8</p> <p>Figure 4: Nationwide Distribution of RTC Thrifts Associated With at Least One Criminal Referral 11</p> <p>Figure 5: Nationwide Distribution of RTC Thrifts Associated With at Least One Criminal Case 14</p>
----------------	--

Contents

Figure 6: Most RTC Thrift Defendants Received Prison Sentences of Less Than 2 Years	16
Figure 7: Number of RTC Thrifts Associated With Both Civil and Criminal Enforcement Actions	19
Figure 8: Insiders Convicted in Cases Associated With 57 Thrifts Received Longer Prison Terms Than Insiders Convicted in Cases Associated Only With the Other 114 Thrifts	22

Abbreviations

EOUSA	Executive Office For U.S. Attorneys
FBI	Federal Bureau of Investigation
FDIC	Federal Deposit Insurance Corporation
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989
OTS	Office of Thrift Supervision
RTC	Resolution Trust Corporation

RTC Thrifts That Failed Between February 7, 1989, and August 28, 1992, Under RTC's Control as of September 30, 1992, by Jurisdiction

Jurisdiction	Total number of RTC thrifts
Alabama	11
Alaska	2
Arizona	9
Arkansas	18
California	64
Colorado	17
Connecticut	8
Delaware	0
District of Columbia	1
Florida	46
Georgia	15
Hawaii	0
Idaho	0
Illinois	48
Indiana	4
Iowa	12
Kansas	21
Kentucky	3
Louisiana	51
Maine	2
Maryland	12
Massachusetts	6
Michigan	4
Minnesota	5
Mississippi	18
Missouri	14
Montana	0
Nebraska	8
Nevada	1
New Hampshire	2
New Jersey	31
New Mexico	11
New York	14
North Carolina	9
North Dakota	3
Ohio	17
Oklahoma	18

(continued)

**Appendix I
RTC Thrifts That Failed Between February
7, 1989, and August 28, 1992, Under RTC's
Control as of September 30, 1992, by
Jurisdiction**

Jurisdiction	Total number of RTC thrifts
Oregon	3
Pennsylvania	19
Puerto Rico	1
Rhode Island	1
South Carolina	6
South Dakota	2
Tennessee	11
Texas	137
Utah	5
Vermont	0
Virginia	18
Washington	3
West Virginia	5
Wisconsin	3
Wyoming	4
Total	723

Source: GAO analysis of RTC data.

Information on Civil Enforcement Actions Associated With RTC Thrifts, by Jurisdiction

Jurisdiction	Total failed RTC thrifts	Number of RTC thrifts with civil claims	Total number of civil claims	Total number of claims filed against a director or officer
Alabama	11	2	2	1
Alaska	2	0	0	0
Arizona	9	4	7	4
Arkansas	18	8	11	9
California	64	12	16	10
Colorado	17	5	6	4
Connecticut	8	2	2	0
Delaware	0	0	0	0
District of Columbia	1	0	0	0
Florida	46	10	15	9
Georgia	15	5	5	4
Hawaii	0	0	0	0
Idaho	0	0	0	0
Illinois	48	10	15	7
Indiana	4	1	1	1
Iowa	12	2	2	0
Kansas	21	8	9	8
Kentucky	3	1	2	0
Louisiana	51	16	20	15
Maine	2	0	0	0
Maryland	12	1	1	1
Massachusetts	6	0	0	0
Michigan	4	1	1	1
Minnesota	5	1	3	1
Mississippi	18	8	13	10
Missouri	14	3	3	2
Montana	0	0	0	0
Nebraska	8	2	4	1
Nevada	1	0	0	0
New Hampshire	2	0	0	0
New Jersey	31	5	6	4
New Mexico	11	3	9	7
New York	14	0	0	0
North Carolina	9	1	1	0
North Dakota	3	0	0	0

(continued)

**Appendix II
Information on Civil Enforcement Actions
Associated With RTC Thrifts, by Jurisdiction**

Jurisdiction	Total failed RTC thrifts	Number of RTC thrifts with civil claims	Total number of civil claims	Total number of claims filed against a director or officer
Ohio	17	1	1	1
Oklahoma	18	4	4	2
Oregon	3	0	0	0
Pennsylvania	19	4	7	4
Puerto Rico	1	0	0	0
Rhode Island	1	0	0	0
South Carolina	6	0	0	0
South Dakota	2	1	1	0
Tennessee	11	3	4	3
Texas	137	29	39	27
Utah	5	2	2	1
Vermont	0	0	0	0
Virginia	18	1	1	1
Washington	3	0	0	0
West Virginia	5	0	0	0
Wisconsin	3	1	4	2
Wyoming	4	0	0	0
Total	723	157	217	140

Source: GAO analysis of RTC data.

Information on RTC Thrifts Associated With Suspected Criminal Activity, by Jurisdiction

Jurisdiction	Number of RTC thrifts	Number of RTC thrifts with at least one criminal referral	Total number of criminal referrals	Estimated dollar loss of alleged fraud	Number of RTC thrifts with criminal referrals involving insiders	Number of criminal referrals involving insiders	Estimated dollar loss of alleged fraud involving insiders
Alabama	11	7	17	\$13,448,229	2	2	\$2,000,000
Alaska	2	1	3	100,000	1	1	100,000
Arizona	9	7	42	239,122,135	5	19	203,407,112
Arkansas	18	13	41	46,957,607	7	24	38,623,029
California	64	49	550	590,196,797	33	80	267,844,167
Colorado	17	11	44	117,782,551	11	31	116,488,544
Connecticut	8	5	15	2,594,170	3	8	2,014,500
Delaware	0	0	0	0	0	0	0
District of Columbia	1	0	0	0	0	0	0
Florida	46	35	328	157,789,661	24	73	99,822,237
Georgia	15	12	30	18,130,321	9	17	15,610,611
Hawaii	0	0	0	0	0	0	0
Idaho	0	0	0	0	0	0	0
Illinois	48	35	106	165,250,886	22	49	111,300,490
Indiana	4	0	0	0	0	0	0
Iowa	12	8	23	17,451,883	5	8	1,145,876
Kansas	21	17	47	14,833,185	8	18	8,064,222
Kentucky	3	3	8	24,980	1	6	4,980
Louisiana	51	34	112	305,704,769	20	60	291,781,204
Maine	2	0	0	0	0	0	0
Maryland	12	5	11	4,732,966	3	6	2,110,966
Massachusetts	6	4	118	19,877,613	4	60	7,425,359
Michigan	4	1	14	10,109,405	1	3	691,000
Minnesota	5	4	19	42,359,483	4	8	7,751,000
Mississippi	18	15	55	22,926,629	14	36	21,930,057
Missouri	14	8	34	114,031,398	5	7	103,441,574
Montana	0	0	0	0	0	0	0
Nebraska	8	4	8	54,411,262	0	0	0
Nevada	1	1	1	1,000,000	0	0	0
New Hampshire	2	2	5	2,025,150	2	4	2,025,150
New Jersey	31	24	98	268,438,379	14	39	52,575,560
New Mexico	11	10	52	46,060,796	8	27	28,927,579
New York	14	9	32	46,078,913	4	10	31,034,019

(continued)

**Appendix III
Information on RTC Thrifts Associated With
Suspected Criminal Activity, by Jurisdiction**

Jurisdiction	Number of RTC thrifts	Number of RTC thrifts with at least one criminal referral	Total number of criminal referrals	Estimated dollar loss of alleged fraud	Number of RTC thrifts with criminal referrals involving Insiders	Number of criminal referrals involving Insiders	Estimated dollar loss of alleged fraud involving Insiders
North Carolina	9	5	28	11,964,615	3	19	9,236,249
North Dakota	3	2	3	14,686	0	0	0
Ohio	17	11	109	48,668,961	6	9	34,346,398
Oklahoma	18	12	61	59,170,172	7	32	56,333,158
Oregon	3	2	24	6,013,645	2	3	2,065,000
Pennsylvania	19	14	72	152,076,167	7	19	30,036,475
Puerto Rico	1	1	11	23,258,068	1	4	300,000
Rhode Island	1	1	1	96,287	1	1	96,287
South Carolina	6	3	5	26,422,000	3	4	1,422,000
South Dakota	2	2	8	7,016,350	1	3	1,653,600
Tennessee	11	9	21	6,250,289	9	19	6,050,289
Texas	137	94	682	2,637,419,308	70	335	2,144,318,139
Utah	5	4	9	16,872,835	2	2	7,271,161
Vermont	0	0	0	0	0	0	0
Virginia	18	11	31	63,042,332	7	12	11,626,331
Washington	3	1	2	332,824	0	0	0
West Virginia	5	2	3	247,267	2	3	247,267
Wisconsin	3	3	25	16,410,624	3	12	14,557,825
Wyoming	4	2	4	9,620,844	2	4	9,620,844
Total	723	503	2,912	\$5,406,336,442	336	1,077	\$3,745,300,259

Source: GAO analysis of RTC data.

Information on RTC Thrifts Associated With at Least One Major Criminal Case, by Jurisdiction

Jurisdiction	Total RTC thrifts	Number of RTC thrifts with at least one criminal case
Alabama	11	5
Alaska	2	1
Arizona	9	3
Arkansas	18	7
California	64	14
Colorado	17	2
Connecticut	8	0
Delaware	0	0
District of Columbia	1	0
Florida	46	20
Georgia	15	1
Hawaii	0	0
Idaho	0	0
Illinois	48	3
Indiana	4	0
Iowa	12	6
Kansas	21	4
Kentucky	3	0
Louisiana	51	9
Maine	2	0
Maryland	12	3
Massachusetts	6	1
Michigan	4	1
Minnesota	5	1
Mississippi	18	4
Missouri	14	6
Montana	0	0
Nebraska	8	0
Nevada	1	0
New Hampshire	2	0
New Jersey	31	11
New Mexico	11	4
New York	14	6
North Carolina	9	1
North Dakota	3	0
Ohio	17	2

(continued)

Appendix IV
Information on RTC Thrifts Associated With
at Least One Major Criminal Case, by
Jurisdiction

Jurisdiction	Total RTC thrifts	Number of RTC thrifts with at least one criminal case
Oklahoma	18	3
Oregon	3	1
Pennsylvania	19	8
Puerto Rico	1	0
Rhode Island	1	0
South Carolina	6	3
South Dakota	2	1
Tennessee	11	1
Texas	137	33
Utah	5	2
Vermont	0	0
Virginia	18	3
Washington	3	0
West Virginia	5	0
Wisconsin	3	1
Wyoming	4	0
Total	723	171

Source: GAO analysis of RTC and Justice data.

Summary Information on RTC Thrifts Associated With Civil and Criminal Enforcement Actions, by Jurisdiction

Jurisdiction	Total RTC thrifts	Number of RTC thrifts associated with		
		At least one civil claim	At least one criminal case	Both civil claims and criminal cases
Alabama	11	2	5	1
Alaska	2	0	1	0
Arizona	9	4	3	1
Arkansas	18	8	7	4
California	64	12	14	4
Colorado	17	5	2	1
Connecticut	8	2	0	0
Delaware	0	0	0	0
District of Columbia	1	0	0	0
Florida	46	10	20	6
Georgia	15	5	1	1
Hawaii	0	0	0	0
Idaho	0	0	0	0
Illinois	48	10	3	0
Indiana	4	1	0	0
Iowa	12	2	6	2
Kansas	21	8	4	3
Kentucky	3	1	0	0
Louisiana	51	16	9	3
Maine	2	0	0	0
Maryland	12	1	3	1
Massachusetts	6	0	1	0
Michigan	4	1	1	0
Minnesota	5	1	1	1
Mississippi	18	8	4	3
Missouri	14	3	6	2
Montana	0	0	0	0
Nebraska	8	2	0	0
Nevada	1	0	0	0
New Hampshire	2	0	0	0
New Jersey	31	5	11	4
New Mexico	11	3	4	0
New York	14	0	6	0
North Carolina	9	1	1	0
North Dakota	3	0	0	0

(continued)

**Appendix V
 Summary Information on RTC Thrifts
 Associated With Civil and Criminal
 Enforcement Actions, by Jurisdiction**

Jurisdiction	Total RTC thrifts	Number of RTC thrifts associated with		
		At least one civil claim	At least one criminal case	Both civil claims and criminal cases
Ohio	17	1	2	1
Oklahoma	18	4	3	1
Oregon	3	0	1	0
Pennsylvania	19	4	8	4
Puerto Rico	1	0	0	0
Rhode Island	1	0	0	0
South Carolina	6	0	3	0
South Dakota	2	1	1	1
Tennessee	11	3	1	0
Texas	137	29	33	12
Utah	5	2	2	0
Vermont	0	0	0	0
Virginia	18	1	3	0
Washington	3	0	0	0
West Virginia	5	0	0	0
Wisconsin	3	1	1	1
Wyoming	4	0	0	0
Total	723	157	171	57

Source: GAO analysis of RTC and Justice data.

Major Contributors to This Report

General Government
Division, Washington,
D.C.

Edward Stephenson, Jr., Assistant Director, Administration of
Justice Issues
Steven Martin, Assignment Manager
Brenda Rabinowitz, Evaluator-in-Charge
Barry Seltser, Senior Social Science Analyst
Joanne Parker, Social Science Analyst

Office of the General
Counsel, Washington,
D.C.

Geoffrey Hamilton, Attorney Advisor

Ordering Information

The following information is provided for your reference. Orders should be placed with the following address. All orders should be placed with the following address. All orders should be placed with the following address. All orders should be placed with the following address.

Ordering Information

U.S. General Services Administration
P.O. Box 100
Washington, D.C. 20540

Phone

202-512-2000

1177 Constitution Avenue, N.W.

U.S. General Services Administration

Washington, D.C.

Ordering Information
U.S. General Services Administration



U.S. GOVERNMENT
GENERAL INVESTIGATIVE DIVISION
WASHINGTON, D.C. 20535
OFFICE OF THE DIRECTOR
PERMISSION TO REPRODUCE 0-20-1001

U.S. GOVERNMENT
Postage & Fees Paid
GAO
Permit No. G100