

# ***UNITED STATES SENTENCING COMMISSION***

## **VARIABLE CODEBOOK FOR THE ORGANIZATIONAL SENTENCING GUIDELINES: THIRTY YEARS OF INNOVATION AND INFLUENCE**



## INTRODUCTION

In October 2022, the Commission published, “The Organizational Sentencing Guidelines: Thirty Years of Innovation and Influence.” This publication summarizes the history of Chapter Eight’s development and discusses the two substantive changes made to the elements of an effective compliance and ethics program. It then provides policymakers and researchers a snapshot of corporate sentencing over the last 30 years. Finally, the publication describes Chapter Eight’s impact beyond federal sentencing.

This codebook is for the Commission’s analysis datafile used for that publication. All data come directly from the organizational offender’s database created in the Office of Research and Data (ORD). The Commission’s organizational datafiles provide information on the sentences imposed in cases involving organizational offenders (i.e., corporations, partnerships, and other entities having a legal existence separate from the individuals having an interest in them). In these datafiles the organization is the unit of analysis. These files contain no information on individual offenders even in cases in which individuals as well as organizations are prosecuted for the same offense. This datafile does **not** contain information from the Commission's Individual, Resentencing, or Appeals Databases.

NAME	ORIGIN	FORM	CODES	DESCRIPTION
<b>ACCEPT</b>	PSR/SOR	NUM 3-8	-5 = Org Self-Disclosed -2 = Full Cooperated in Investigation -1 = Clearly Demonstrated Acceptance of Responsibility 0 = Adjustment Not Applied • = Missing, Indeterminable, or Inapplicable	Acceptance of Responsibility is an index which measures the degree to which the organization accepted responsibility for the offense conduct as measured by self-reporting of the offense, cooperation with the investigation, or acceptance of responsibility for the offense. See USSG §8C2.5(g) for more information.
<b>ACCEPDUM</b>	R	NUM 3-8	0 = Adjustment not applied 1 = Adjusted applied • = Missing, Indeterminable, or Inapplicable	Indicates whether USSG §8C2.5(g) was applied.
<b>BUSINESS</b>	PSR	NUM 3-8	1 = Agriculture, Fishing and Forestry 2 = Mining 3 = Construction and Related Contracting Services 4 = Environmental Management 5 = Manufacturing, Production, Design, Inspection, Sales, and Distribution 6 = Transportation, Electric, and Gas 7 = Retail Trade 8 = Services 9 = Organizations, Associations, and Charities 10 = Finance, Insurance, Real Estate 11 = Health Care Services and Supplies: Management, Inspection, Sales, and Distribution 12 = Public Administration 77 = Other	Indicates the primary industry in which the offender organization conducts business.
<b>CATNAPER</b>	JC SOR/PSR	NUM 3-8	1 = Unable to Pay Entire/Portion Fine 2 = Able to Pay • = Missing, Indeterminable, or Inapplicable	Identifies whether the proposed fine was reduced due to the offender organization's inability to pay. A reduction in the proposed fine range based on inability to pay is authorized by the guidelines at §8C3.3. Interest does not count.
<b>CH8DUM</b>	PSR	NUM 3-8	0 = No 1 = Yes • = Missing, Indeterminable, or Inapplicable	Identify whether the Chapter Eight application included a fine calculation under USSG §§8C2.2 thru 8C2.9. The fine guidelines apply only to those offenses listed under §8C2.1.

NAME	ORIGIN	FORM	CODES	DESCRIPTION
<b>COMPLY_R</b>	PSR	NUM 3-8	0 = Not Received 1 = Offense occurred even though org had effective compliance program in place as provided in §8B2.1 • = Missing, Indeterminable, or Inapplicable	Indicates whether USSG §8C2.5(f) was applied.
<b>COMPLYPR</b>	PSR	NUM 3-8	0 = No 1 = Yes • = Missing, Indeterminable, or Inapplicable	Identifies whether the probation officer indicated that the offender organization had any type of compliance program, ethics program or policy in effect <u>before or at the time of the offense</u> . If the offender organization was given points pursuant to USSG §8C2.5(f), then this field is coded as “yes.” Even if the offender organization was <u>not</u> given points under §8C2.5(f), if the PSR mentions that the organization made certain efforts towards compliance, including a “code of conduct,” then this field is coded as “yes.” If no points were given and there was no discussion, or if there was a discussion about adding a compliance program after the time of offense, then this field is coded as missing.
<b>CRIMPURP</b>	PSR	NUM 3-8	0 = No 1 = Yes • = Missing, Indeterminable, or Inapplicable	Identifies whether the offender organization was identified as a criminal purpose organization. Under §8C1.1, the court may determine that an organization was established and operated primarily for criminal purpose or by criminal means. The fine in such cases is set at an amount “sufficient to divest the organization of all its net assets.” (Organizations meeting these criteria may include, but are not limited to, organizations established as a front for a scheme to commit fraud or organizations in the business of hazardous waste disposal but with no legitimate means of disposing the hazardous waste.)

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<b>EMPLOYNM</b>	PSR	NUM 3	1 = <50 Employees 2 = 50-99 Employees 3 = 100-499 Employees 4 = 500-999 Employees 5 = >= 1,000 Employees	Identifies the number of persons employed by the offender organization. If the organization has undergone a significant down-sizing since the offense was detected by the authorities, the number of employees at the time of the offense is coded. Include full-time workers, part-time workers, hourly workers, seasonal workers, and contractors as employees.
<b>FINEDUM</b>	R	NUM 3-8	0 = No fine ordered 1 = Fine ordered • = Missing, Indeterminable, or Inapplicable	Indicates whether the fine amount was given (YES/NO variable).
<b>FINERESTDUM</b>	R	NUM 3-8	0 = No fine or restitution ordered 1 = Fine and/or restitution ordered • = Missing, Indeterminable, or Inapplicable	Indicates whether fine and/or restitution ordered (YES/NO variable).
<b>FINSTDS</b>	PSR	NUM 3-8	0 = Defunct / Dormant / Not Operating / Out of Business 1 = Solvent and Operating 2 = Bankrupt (Chapter 7 proceeding designed to liquidate debt, pay off creditors, and discharge debtor from debt) 3 = Business Reorganization (Chapter 11 proceeding where organization is permitted to continue operations under court supervision until plan of reorganization is approved by creditors) 4 = Evidence of Substantial Financial Stress 7 = Other • = Missing, Indeterminable, or Inapplicable	Financial status of the organization at the time of sentencing (or most current year available in PSR). This field serves to identify whether the organization is still operating or in financial jeopardy. The PSR generally reports whether the organization is defunct, undergoing Chapter 7 bankruptcy, or undergoing Chapter 11 reorganization but it may not indicate that the organization is solvent or is experiencing financial stress.
<b>FISCALYR</b>	R	NUM 3-8	Range: 1992 - 2021	Fiscal year sentenced.
<b>FORDUM</b>	R	NUM 3-8	0 = No forfeiture ordered 1 = Forfeiture ordered • = Missing, Indeterminable, or Inapplicable	Indicates whether forfeiture was ordered (YES/NO variable).

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<b>FORFEITR</b>	JC	NUM 8	Range: 0 - \$9,999,999,996 9,999,999,997 = Forfeiture Indicated, Amount Not Specified • = Missing, Indeterminable, or Inapplicable	Identifies the total dollar value of criminal forfeiture the offender organization was ordered to forfeit. Forfeiture of assets is authorized by the guidelines at §8E1.2 (referencing §5E1.4). Where <u>no</u> forfeiture is indicated, the analyst codes actual value as 0 (zero).
<b>HISTORY</b>	PSR	NUM 3-8	0 = Not applied 1 = Instant offense <10 years after prior offense 2 = Instant offense <5 years after prior offense • = Missing, Indeterminable, or Inapplicable	Identifies the score for this culpability factor. Prior History is an index which measures previous misconduct that is similar to the instant offense. See USSG §8C2.5(c) for more information.
<b>HISTDUM</b>	R	NUM 3-8	0 = Not applied 1 = Applied • = Missing, Indeterminable, or Inapplicable	Indicates whether USSG §8C2.5(c) was applied.
<b>HSMISCND</b>	PSR	NUM 3-8	0 = No 1 = Yes • = Missing, Indeterminable, or Inapplicable	Indicates (according to the PSR or, where there is no PSR, the transcript or SOR) if org had a history of misconduct or pending charges. This would include any previous criminal or civil adjudications against the organization. A criminal adjudication is a criminal conviction or plea. A civil adjudication is a civil judgment against the offender organization in a non-criminal lawsuit brought by an administrative agency or private party. Answer "yes" only if clearly stated in the PSR, transcript or SOR.
<b>INCORLOC</b>	PSR	NUM 3-8	0 = Inside U.S. 1 = Outside U.S. • = Missing, Indeterminable, or Inapplicable	Indicates if the organization was incorporated inside or outside of the U.S. If organization is not incorporated, then this field is coded as missing.
<b>INDIVID_PRES</b>	R	NUM 3-8	0 = No individual co-defendant 1 = Individual co-defendant present • = Missing, Indeterminable, or Inapplicable	Indicates whether an individual co-defendant was charged in connection with the organizational case.

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<b>NEWCNVTN</b>	R	NUM 3	0 = Plea 1 = Trial • = Missing, Indeterminable, or Inapplicable	Indicates whether the case was settled by plea agreement or trial.
<b>OBSTRUCT</b>	PSR	NUM 3-8	0 = Not Received 1 = Adjustment (Not in <i>USSG</i> Manual) 3 = Obstructed Justice • = Missing, Indeterminable, or Inapplicable	Obstruction of Justice is an indicator of whether the offender organization willfully obstructed the investigation, prosecution, or sentencing of the instant offense. See <i>USSG</i> §8C2.5(e) for more information about this culpability factor.
<b>OBSTRDUM</b>	R	NUM 3-8	0 = Not applied 1 = Applied • = Missing, Indeterminable, or Inapplicable	Indicates whether <i>USSG</i> §8C2.5(e) was applied.
<b>ORDERCE</b>	JC/ PLEA	NUM 3-8	0 = No 1 = Yes • = Missing, Indeterminable, or Inapplicable	Indicates (as part of the sentence or plea) if the court ordered an ethics program, compliance program, or any systemic effort or program to prevent or detect violations. This includes requiring the offender organization to implement a compliance or ethics program, hire an ethics officer or compliance monitor, sponsor a seminar, lecture or training regarding compliance with regulations or submit a report or reports to the government regarding the same. The plea agreement is also checked in case a compliance agreement was part of the plea. <i>See also COMPLY_R</i> .
<b>OWNERSHIP</b>	R	NUM 3-8	0 = Closely-held or Private Corporation 1 = Openly-traded Corporation 2 = Non-Profit Organization 3 = Governmental Organization (aka Public Entity or Public-Service Corporation) 7 = Other • = Missing, Indeterminable, or Inapplicable	Recoded OWNSTRCT. 'Closely-held or private corporations' include 'Partnership', 'Sole Proprietorship', and 'Association'.

NAME	ORIGIN	FORM	CODES	DESCRIPTION
<b>OWNSTRCT</b>	PSR	NUM 3-8	0 = Closely-held or Private Corporation 1 = Openly-traded Corporation 2 = Non-Profit Organization 3 = Governmental Organization (aka Public Entity or Public-Service Corporation) 4 = Partnership 5 = Sole Proprietorship 6 = Association 7 = Other 8 = LLC (beginning in FY2012) 77 = Other (beginning in FY2012) • = Missing, Indeterminable, or Inapplicable	Indicates the ownership structure of the offender organization. If an organization is incorporated and is not openly traded, then it is coded as "Closely-held or Private". If the financial statements in the pre-sentence investigation report are termed "unaudited", then the company is also coded as "Closely-held or Private". For more explanations of these categories, please see <i>USSC's Coding Instructions for Organization Cases</i> .
<b>PRIMOFF_R</b>	R	NUM 3-8	0 = Administration of Justice 2 = Antitrust 3 = Archeological Damage 4 = Bribery 5 = Civil Rights 7 = Contraband 8 = Copyright/Trademark Infringement 9 = Drugs 15 = Import/Export Violations 16 = Firearms 17 = Food & Drugs 18 = Food Stamps 19 = Forgery 20 = Fraud 21 = Gambling 22 = Immigration 23 = Larceny/Theft/Embezzlement 24 = Motor Vehicle Part Trafficking/Altering IDs and Tags 25 = Money Laundering 27 = Porn/Prostitution 28 = Racketeering 29 = Tax 40 = Environmental 77 = Other	Primary offense type for the case generated from the count of conviction with the highest statutory fine maximum (in case of a tie, the count with the highest statutory fine minimum is used).  <i>Note that since the primary offense type is derived from statutes of conviction it may not match up logically with the primary guideline (or any of the guidelines applied).</i>  <i>This version of the field (PRIMOFF_R) varies from version on the standard organizational file (PRIMOFF) by collapsing all environmental fields into one value.</i>
<b>PROBATN</b>	JC	NUM 3-8	Range: 0 thru 997 0 = No Probation Ordered 997 = Probation Ordered, But No Term Specified • = Missing, Indeterminable, or Inapplicable	Total probation ordered, in months.



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<b>PROBDUM</b>	R	NUM 3-8	0 = No Probation Ordered 1 = Probation Ordered • = Missing, Indeterminable, or Inapplicable	Indicates whether the defendant received probation (YES/NO variable).
<b>RESTDUM</b>	R	NUM 3-8	0 = No restitution ordered 1 = Restitution ordered • = Missing, Indeterminable, or Inapplicable	Indicates whether a restitution amount was given (YES/NO variable).
<b>TOLERNCE</b>	PSR	NUM 3-8	0 = No Adjustment 1 = 10+ Employees and person in substantial authority participated, condoned, or was willfully ignorant of offense 2 = 50+ Employees and person in substantial authority participated, condoned, or was willfully ignorant of offense 3 = 200+ Employees and person in substantial authority participated, condoned, or was willfully ignorant of offense OR tolerance pervasive in org 4 = 1,000+ Employees and person in substantial authority participated, condoned, or was willfully ignorant of offense OR tolerance pervasive in org 5 = 5,000+ Employees and person in substantial authority participated, condoned, or was willfully ignorant of offense OR tolerance pervasive in org	Culpability Score Factor which measures the level of managerial authority participating in or knowing of the offense and the size of the organization – as measured by the number of employees. See USSG §8C2.5(b) for more info.
<b>TOLERDUM</b>	R	NUM 3-8	0 = Not applied 1 = Applied • = Missing, Indeterminable, or Inapplicable	Indicates whether USSG §8C2.5(b) was applied.

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<b>VIOLATE</b>	PSR	NUM 3-8	0 = No adjustment 1 = Instant offense violated a condition of probation 2 = Instant offense: (a) violated judicial order or injunction (other than condition of prob) OR (b) violated condition of probation by engaging in similar misconduct • = Missing, Indeterminable, or Inapplicable	Culpability Score Factor which measures violations of judicial orders or injunctions and violations of probation. See USSG §8C2.5(d) for more info.
<b>VIOLDUM</b>	R	NUM 3-8	0 = Not applied 1 = Applied • = Missing, Indeterminable, or Inapplicable	Indicates whether USSG §8C2.5(d) was applied.