

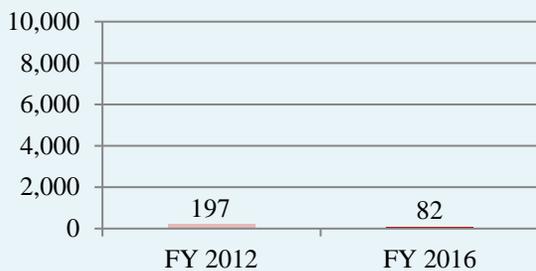


Quick Facts

- ▶ THERE WERE 67,742 CASES REPORTED TO THE UNITED STATES SENTENCING COMMISSION IN FISCAL YEAR 2016.
- ▶ OF THESE CASES, 82 INVOLVED CRIMINAL INFRINGEMENT OF COPYRIGHTS AND TRADEMARKS.¹
- ▶ THESE OFFENDERS WERE SENTENCED UNDER SECTION 2B5.3 OF THE U.S. SENTENCING COMMISSION'S *GUIDELINES MANUAL*.

Copyright and Trademark Infringement Offenses¹

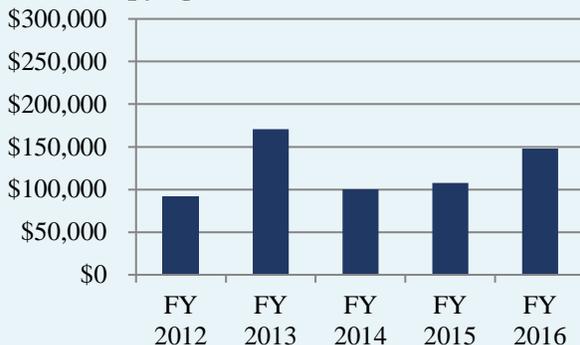
Number of Copyright/Trademark Offenders



Top Five Districts Copyright/Trademark Offenders FY 2016

| |
|---|
| Eastern District of California (N=9) |
| Middle District of Florida (N=9) |
| Eastern District of Louisiana (N=6) |
| Eastern District of Virginia (N=6) |
| Central District of California (N=4) |

Median Infringement Amount for Copyright/Trademark Offenders



In fiscal year 2016, there were 82 copyright and trademark infringement offenders who accounted for 0.1%² of all offenders sentenced under the guidelines. The number of copyright and trademark infringement offenders has decreased during the last five years.

Offender and Offense Characteristics

- In fiscal year 2016, the majority of copyright/trademark offenders were male (84.2%).
- Slightly less than half were White (39.0%) followed by Other Races (23.2%), Hispanic (20.7%), and Black (17.1%).
- The average age of these offenders at sentencing was 42 years.
- The majority of copyright/trademark offenders were United States citizens (81.7%).
- The majority of copyright/trademark offenders had little or no prior criminal history (75.6% of these offenders were assigned to Criminal History Category I).
- The median infringement amount for these offenses was \$148,006.³
 - ◆ 85.5% of copyright/trademark offenses involved infringement amounts of \$1.5 million or less.
 - ◆ 50.7% of copyright/trademark offenses involved infringement amounts of \$150,000 or less.
- Sentences for copyright/trademark offenders were increased for:
 - ◆ 17.1% of offenders because the offense involved a work being prepared for commercial distribution.
 - ◆ 62.2% of offenders for the manufacture, importation, or uploading of infringing items or for trafficking in circumvention devices.
 - ◆ 10.0% of offenders because the offense involved a counterfeit drug.
 - ◆ 3.7% of offenders because the offense involved a risk of death or serious injury or possession of a dangerous weapon.
 - ◆ 9.8% of offenders for having a leadership or supervisory role in the offense.
- Sentences for copyright/trademark offenders were decreased for:
 - ◆ 9.8% of offenders because they were a minor or minimal participant in the offense.

¹ Copyright and trademark infringement offenses include cases with complete guideline application information in which the offender was sentenced under USSG §2B5.3 (Criminal Infringement of Copyright or Trademark) using a *Guidelines Manual* in effect on November 1, 2001 or later.

² Of the 67,742 offenders sentenced in fiscal year 2016, 5,784 were excluded from this analysis due to incomplete guideline application information.

³ The Loss Table was amended effective November 1, 2015

Quick Facts

Copyright and Trademark Infringement Offenses¹

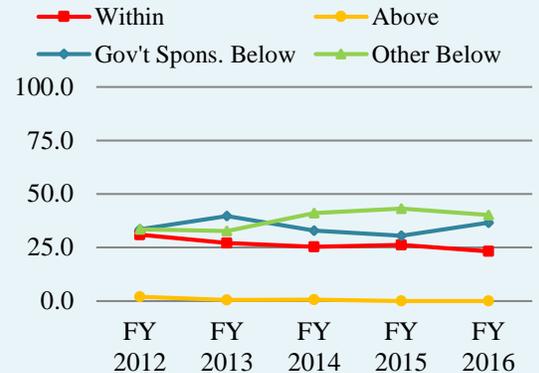
Punishment

- Approximately half of copyright/trademark offenders were sentenced to imprisonment (51.2%).
 - ◆ The average prison term for these offenders was 25 months;
 - ◆ The average sentence length for all copyright/trademark offenders was 14 months.

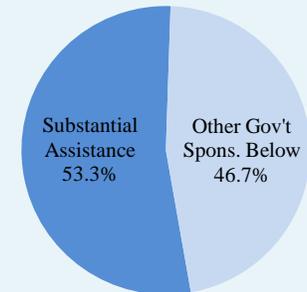
Sentences Relative to the Guideline Range

- In each of the past five years, about one-quarter of copyright/trademark offenders were sentenced within the guideline range. In fiscal year 2016, 23.2% of copyright/trademark offenders were sentenced within the guideline range.
- In each of the past five years, approximately 31 to 40 percent of copyright/trademark offenders received a sentence below the applicable guideline range because the government sponsored the below range sentence.
 - ◆ Substantial assistance departures were granted in approximately 14 to 29 percent of copyright/trademark cases in each of the past five years.
 - ◇ The average reduction for these offenders was 68.4% during the five year time period (which corresponds to an average reduction of 23 months).
 - ◆ Other government sponsored departures were granted in approximately four to 17 percent of copyright/trademark cases in each of the past five years.
 - ◇ The average reduction for these offenders was 71.1% during the five year time period (which corresponds to an average reduction of 17 months).
- The rate of non-government sponsored below range sentences increased slightly during the past five years (from 33.5% of copyright/trademark cases in fiscal year 2012 to 40.2% in fiscal year 2016).
 - ◆ Reductions for non-government sponsored below range sentences were smaller than in cases in which the government sponsored a below range sentence, with an average reduction of 64.7% over the five year time period (which corresponds to an average reduction of 15 months).
- Both the average sentence and the average guideline minimum for copyright/trademark offenders have remained relatively stable for the last five years.
 - ◆ The average guideline minimum ranged from 24 to 27 months during that time period;
 - ◆ The average sentence imposed ranged from 12 to 14 months during that time period.

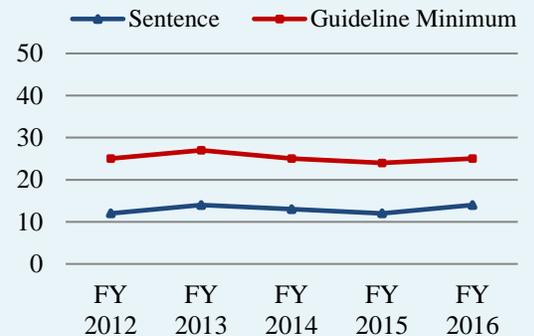
Sentence Relative to the Guideline Range



Government Sponsored Below Range Sentences FY 2016



Average Sentence and Average Guideline Minimum (in months)



One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, DC 20002-8002
T: (202) 502-4500
F: (202) 502-4699
www.usssc.gov
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