The most common offenses committed by organizational offenders were fraud and environmental crimes.

In fiscal year 2016, there were 132 organizations convicted of a federal offense, a decrease of 27.1% from the previous year.

Organizational Offenders

What is an Organizational Offender?

Chapter Eight of the Guidelines Manual governs the sentencing of persons other than individuals. This group includes corporations, partnerships, unions, trusts, pension funds, and non-profits.

For some crimes, Chapter Eight provides a formula to calculate the minimum and maximum fine applicable to a defendant after consideration of several factors pertaining to culpability. In other cases, such as those involving environmental crimes, the Guidelines Manual instructs the sentencing judge to “determine the appropriate fine by applying the provisions of 18 U.S.C. §§ 3553 and 3572.” Chapter Eight also provides guidance for the imposition of a term of probation or other costs (such as forfeiture) against a defendant.

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Organizational Offender Characteristics

- In fiscal year 2016, most organizational offenders were established in the United States (81.8%).
- Most of these organizations were owned by private entities: closely-held or private corporations (63.8%), limited liability companies (20.2%), and sole proprietorships (8.5%). Only one (1.1%) was a publicly-traded corporation.
- The majority of the organizational offenders employed fewer than 50 workers (74.3%). Nearly one-tenth of the organizational offenders employed 1,000 employees or more (7.1%).
- Slightly more than one-fifth (22.0%) of the organizations had a history of misconduct, including previous criminal or civil adjudications against the organization or pending charges.

Offense Characteristics

- The most common offenses committed by organizations were environmental (23.5%), fraud (23.5%), and food and drug (12.9%) crimes.
- Of the types of environmental offenses, 64.5% were water related, 19.4% were wildlife related, 12.9% were hazardous material related, and 3.2% were air related.
- Of the types of fraud offenses, 48.4% were mail or wire fraud, 25.8% were false statements, and 25.8% were other types of fraud (including false claims, health care fraud, and other).
- Over half (53.8%) of all organizational cases involved at least one related individual who was separately convicted in addition to the organization.

1 Only organizations convicted of a federal offense are included in Commission data. The Commission does not collect data on other dispositions, including non-prosecution or deferred prosecution agreements.

2 The “Other” primary offense category includes: bribery, other, drugs, immigration, racketeering, copyright/trademark infringement, obstruction of justice, tax, firearms, foot stamps, and gambling offenses.
Chapter Eight Application

- Over one-third (36.6%) of the 132 organizational offenders were sentenced pursuant to the Chapter Eight fine provisions (found in USSG §§8C2.1-8C2.9). The remaining offenders were sentenced pursuant to §8C2.10.

- Of the 48 organizations sentenced under §§8C2.1-8C2.9:
  - Twenty-one (44.7%) organizations had fewer than ten employees.
  - Two organizations (4.3%) had a prior criminal or administrative violation.
  - No organization had violated a judicial order or condition.
  - One organization (2.1%) obstructed justice.
  - One (2.1%) organization had an effective compliance and ethics program.
  - Twenty-nine (61.7%) of the organizations received an adjustment for cooperating with the investigation and accepting responsibility for the offense.
  - An additional twelve organizations (25.5%) accepted responsibility for the offense but did not cooperate in the investigation.

Punishment

- In fiscal year 2016, 97.7% of all organizational offenders pled guilty.

- Sixty percent (60.6%) of the organizations were sentenced to probation.

- Approximately one-fifth (20.5%) of all organizational offenders were ordered to develop a compliance and ethics program, usually as a condition of probation.

- Of the organizational offenders, 84.1% were sentenced to pay a fine, restitution, or both.
  - A fine was imposed on over three-quarters (78.0%) of these organizations. The median fine amount ordered was $200,000 and the average fine amount was $12,616,605.
  - Slightly more than one-quarter (28.0%) were ordered to pay restitution. The median restitution amount ordered was $174,778 and the average restitution amount was $4,982,025.

- One-quarter (24.2%) of the organizational offenders were ordered to forfeit money. The median forfeiture amount was $737,471 with an average forfeiture amount of $858,548.