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

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.

In fiscal year 2017, there were 131 organizations convicted of a federal offense, virtually unchanged from the previous year.

Organizational Offender Characteristics

- In fiscal year 2017, most organizational offenders were established in the United States (78.1%).
- Most of these organizations were owned by private entities: closely-held or private corporations (58.6%) and limited liability companies (24.3%). Approximately one-tenth were publicly-traded corporations (10.8%).
- The majority of the organizational offenders employed fewer than 50 workers (65.4%). Nearly one-fifth of the organizational offenders employed 1,000 employees or more (18.5%).
- Slightly less than one-fifth (18.4%) 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 fraud (29.0%), environmental (28.2%), food and drug (6.1%), and import/export violation (6.1%) crimes.
- Of the types of fraud offenses, 47.4% were mail or wire fraud, 21.1% were health care fraud, 13.2% were false statements, and 18.4% were other types of fraud (including bank fraud, false claims, and other).
- Of the types of environmental offenses, 59.5% were water related, 21.6% were air related, 10.8% were wildlife related, and 8.1% were hazardous material related.
- Slightly less than half (45.8%) of all organizational cases involved at least one related individual who was separately convicted in addition to the organization.
Chapter Eight Application

- Over one-third (36.6%) of the 131 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:
  - Nineteen (39.6%) organizations had fewer than ten employees.
  - No organization had a prior criminal or administrative violation.
  - No organization had violated a judicial order or condition.
  - Seven organizations (14.6%) obstructed justice.
  - No organization had an effective compliance and ethics program.
  - Thirty-one (64.6%) of the organizations received an adjustment for cooperating with the investigation and accepting responsibility for the offense.
  - An additional nine organizations (18.6%) accepted responsibility for the offense but did not cooperate in the investigation.

Punishment

- In fiscal year 2017, 91.6% of all organizational offenders pled guilty.

- Over sixty percent (62.6%) of the organizations were sentenced to probation.

- Approximately one-fifth (22.1%) of all organizational offenders were ordered to develop a compliance and ethics program, usually as a condition of probation.

- Of the organizational offenders, 87.0% were sentenced to pay a fine, restitution, or both.
  - A fine was imposed on three-quarters (74.8%) of these organizations. The median fine amount ordered was $662,500 and the average fine amount was $67,180,825.
  - More than one-quarter (29.0%) were ordered to pay restitution. The median restitution amount ordered was $277,000 and the average restitution amount was $27,233,269.
  - Fifteen percent (15.3%) of the organizational offenders were ordered to forfeit money. The median forfeiture amount was $1,188,246 with an average forfeiture amount of $17,932,309.