

▶ THERE WERE 131 CASES INVOLVING AN ORGANIZATIONAL OFFENDER REPORTED TO THE UNITED STATES SENTENCING COMMISSION IN FISCAL YEAR 2017.¹

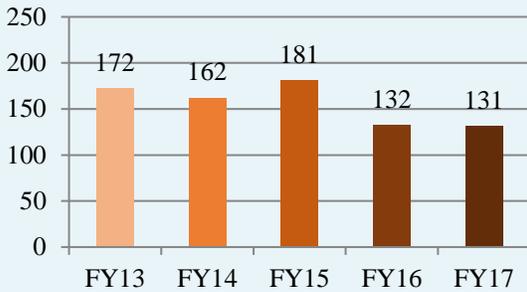
▶ THE MOST COMMON OFFENSES COMMITTED BY ORGANIZATIONAL OFFENDERS WERE FRAUD AND ENVIRONMENTAL CRIMES.

Quick Facts

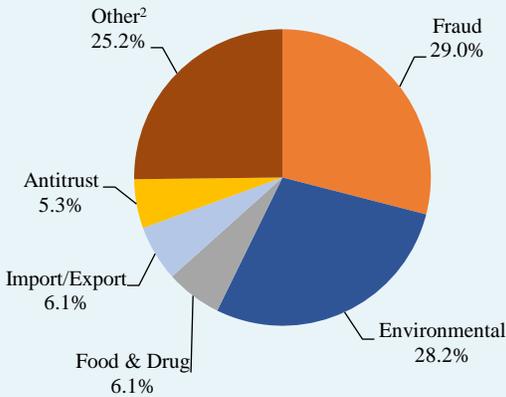


Organizational Offenders¹

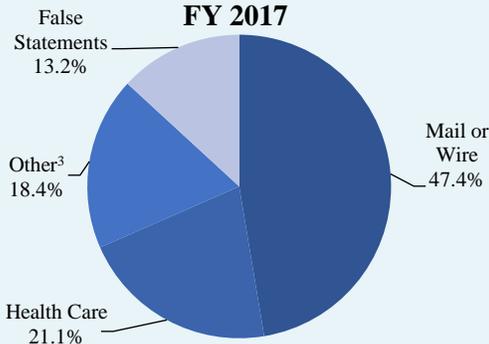
Number of Organizational Cases



Organizational Cases by Primary Offense FY 2017



Types of Fraud Offenses FY 2017



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.

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: drugs, bribery, immigration, obstruction of justice, money laundering, administration of justice, copyright/trademark infringement, firearms, gambling, larceny/embezzlement, other, racketeering, and tax offenses.

³ The “Other” fraud offense category includes: other, bank fraud and false claims offenses.

Quick Facts

Organizational Offenders

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.

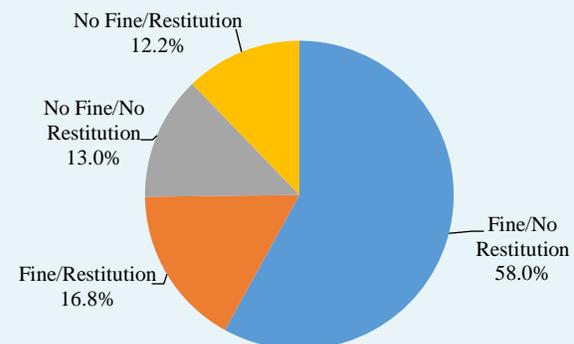
Punishment

- 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.

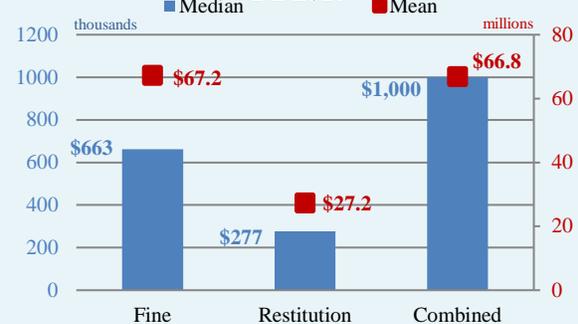
Level of Authority of Individuals Convicted With Organizational Offenders FY 2017



Types of Monetary Sentences Imposed on Organizational Offenders FY 2017



Fine, Restitution, and Combined Amount (in dollars) FY 2017



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