In FY 2020, 94 cases involving an organizational offender were reported to the U.S. Sentencing Commission.¹

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

What is an Organizational Offender?
Chapter Eight of the Guidelines Manual governs the sentencing of corporations, partnerships, unions, trusts, pension funds, and non-profit organizations.

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 imposing a term of probation or other costs (such as forfeiture) against a defendant.

Organizational Offender Characteristics
- 81.5% of organizational offenders were located within the United States.
- Most organizations were closely-held or private corporations (64.0%) or limited liability companies (22.7%).
- 9.3% were publicly-traded corporations.
- 66.1% employed fewer than 50 workers; 9.7% employed 1,000 employees or more.
- 12.3% had a history of misconduct, including previous criminal or civil adjudications against the organization or pending charges.

Offense Characteristics
- The most common offenses were fraud (31.9%), environmental (27.7%), food and drug (10.6%), and antitrust (6.4%) crimes.
- Of the types of environmental offenses, 50.0% were water related, 23.1% were hazardous material related, 15.4% were wildlife related, and 11.5% were air related.
- 61.7% of all organizational cases involved at least one related individual who was separately indicted in addition to the organization.

Types of Fraud Offenses³
- Mail or Wire: 36.7%
- False Statements: 26.7%
- False Claims: 13.3%
- Healthcare: 10.0%
- Bank Fraud: 6.7%
- Other: 6.7%
Chapter Eight Application

- 41.5% of the 94 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 39 organizations sentenced under §§8C2.1-8C2.9:
  - 16 organizations (41.0%) had fewer than ten employees.
  - None had a prior criminal or administrative violation.
  - None had violated a judicial order or condition.
  - Three organizations (7.7%) obstructed justice.
  - None had an effective compliance and ethics program.
  - One organization (2.7%) received an adjustment for reporting the offense to appropriate governmental authorities, cooperating with the investigation, and accepting responsibility for the offense.
  - 17 organizations (43.6%) received an adjustment for cooperating with the investigation and accepting responsibility for the offense.
  - 13 organizations (33.3%) received an adjustment for acceptance of responsibility for the offense but did not receive an adjustment for cooperating in the investigation.

Punishment

- 93.6% of all organizational offenders pled guilty.
- 70.2% were sentenced to probation.
- 29.8% were ordered to develop a compliance and ethics program, usually as a condition of probation.
- 85.1% were sentenced to pay a fine, restitution, or both:
  - 69.2% of these organizations had a fine imposed.
    - The median fine amount ordered was $400,000 and the average fine amount was $6,588,546.
  - 28.7% were ordered to pay restitution.
    - The median restitution amount ordered was $284,546 and the average restitution amount was $7,740,932.
  - 12.8% were ordered to forfeit money.
    - The median forfeiture amount was $1,282,848 and the average forfeiture amount of $6,695,192.

Types of Monetary Sentences Imposed on Organizational Offenders

- No Fine/No Restitution 14.9%
- Fine/Restitution 12.8%
- No Fine/Restitution 15.9%
- Fine/No Restitution 56.4%

Fine, Restitution, and Combined Amount ($)

<table>
<thead>
<tr>
<th>Thousands</th>
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<th>Mean</th>
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<tbody>
<tr>
<td>Fine</td>
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<tr>
<td>Combined</td>
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Sources:
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 (4), bribery (3), money laundering (3), import/export violations (2), racketeering (2), tax fraud (2), and administration of justice (1).
3. Due to rounding, percentages will not add up to 100.0%.
4. “Not High-Level Officials” could include individuals from related cases who were not employed by the organizational offender.