



Overview of Federal Criminal Cases Fiscal Year 2007



UNITED STATES SENTENCING COMMISSION



Overview of Federal Criminal Cases

Fiscal Year 2007

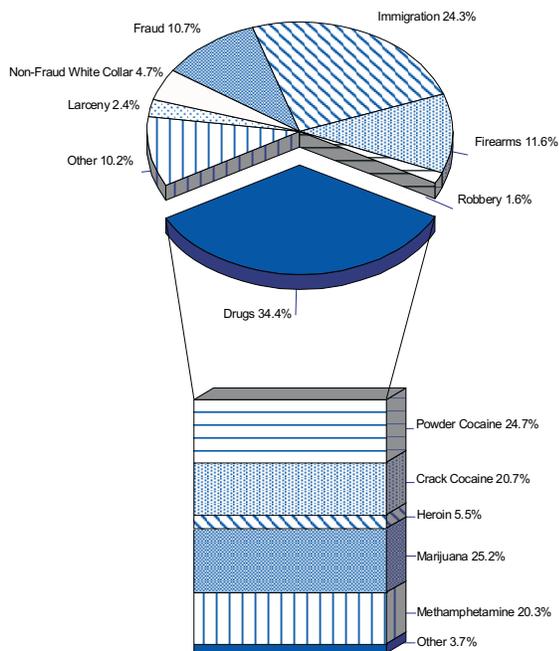
Glenn R. Schmitt
Director
Office of Research and Data

In fiscal year 2007, the United States Sentencing Commission¹ received information on 73,062 new federal criminal cases.² Among these cases, 72,865 involved an individual defendant and 197 involved a corporation or other “organizational” defendant. This publication provides a brief overview of cases involving individual or organizational offenders.

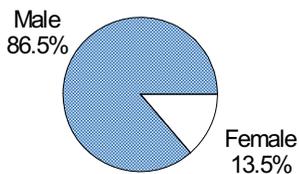
The Caseload at a Glance

Cases involving an individual defendant account for most of the cases reported to the Commission. The number of these cases has steadily increased over time, although in fiscal year 2007, the increase was less than one-half of one percent (0.39%) from the number of such cases in fiscal year 2006. Cases involving drugs, immigration, firearms, or fraud are the most common federal crimes.³ They account for the vast majority of federal criminal cases. In fiscal year 2007, these four case types accounted for 81 percent of the federal criminal caseload.

In the past five years, the portion of the annual caseload that were immigration cases increased to 24.3 percent in fiscal year 2007 from 18.6 percent in fiscal year 2002. Over that time, the number of drug cases prosecuted in federal court has remained relatively constant (25,372 in fiscal year 2007). However, the portion of the criminal caseload represented by those cases decreased by 6.1 percent, to 34.4 percent in fiscal year 2007 compared with 40.5 percent in fiscal year 2002. Firearm cases were 11.6 percent of the caseload in fiscal year 2007, an



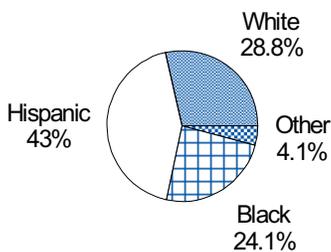
For definitions of these categories, see Appendix A of the *2007 Sourcebook of Federal Sentencing Statistics*.



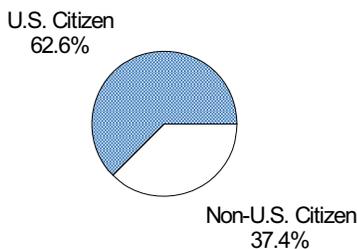
increase of 3.4 percent from fiscal year 2002. The portion of fraud cases has remained almost unchanged, at 10.7 percent in fiscal year 2007 as compared with 11.3 percent in fiscal year 2002.

Who the Offenders Are

Most persons convicted of federal crimes are United States citizens. In fiscal year 2007, 62.6 percent of all offenders were Americans. However, the percentage of non-citizen offenders has risen steadily over the last ten years, up 3.8 percent from fiscal year 2002 and up 8.4 percent from fiscal year 1997. Most non-citizens convicted of crimes in federal court were convicted of an immigration offense (58.4%). The next most common type of offense committed by non-citizens was drug trafficking (27.7%).



Most criminal offenders are men, a fact that has gone largely unchanged for the past ten years. In fiscal year 2007, 86.5 percent of all offenders were men, compared with 86.0 percent in fiscal year 2002 and 85.0 percent in fiscal year 1997. The most common crime among female offenders was drug crime (31.7% of all women offenders). Embezzlement was the only crime where women offenders outnumbered men.



Overall, there were more Hispanic offenders in fiscal year 2007 than offenders of any other racial or ethnic background. Hispanic offenders represented 43.0 percent of all offenders that year, while 28.8 percent of offenders were White and 24.1 percent were Black. The racial composition of offenders varied widely across the type of crimes, however, with virtually all (84.5%) of the Hispanic offenders sentenced for either drug or immigration crimes. And, as discussed in greater detail below, even among drug offenders, the racial background varied depending on the drug involved in the crime.

Almost half of the federal offenders sentenced in fiscal year 2007 (48.2%) had not completed high school, and only 5.9 percent had completed college. The average age of federal offenders in fiscal year 2007 was 35 years. This average has remained relatively unchanged for more than 15 years.

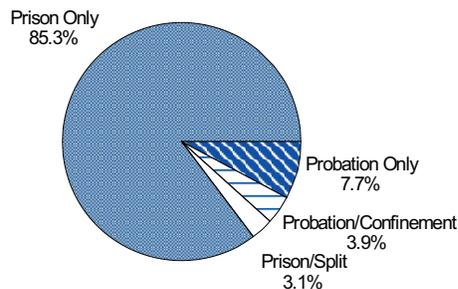
How Offenders Were Convicted and Sentenced

The vast majority of federal defendants plead guilty. In fiscal year 2007, more than 95 percent of all offenders did so, and this rate has been largely unchanged for ten years. When offenders pled guilty, 38.3 percent received a sentence below the applicable guideline range, either at the request of the government or their own request. In these cases, a lower sentence was requested by the government 69.6 percent of the time, usually because the defendant provided substantial assistance to the government or agreed to have his or her case handled as part of an early disposition program. When offenders did not plead guilty, only 24.1 percent received a sentence below the guideline range. In those cases, the government requested the lower sentence in just under two percent of the cases.

More than 95 percent of offenders pled guilty.

Most federal offenders receive a sentence of incarceration. In fiscal year 2007, only 7.7 percent of offenders received a sentence of probation (*i.e.*, where no type of confinement was imposed), a rate that has decreased steadily from a high of 13.0 percent in 1997. Another 3.9 percent were sentenced to periods of both probation and confinement, and 3.1 percent were sentenced to a combination of incarceration and community confinement, such as half-way house residency or home confinement. Virtually all offenders who were incarcerated also were sentenced to serve a period of supervised release following the completion of their confinement. In fiscal year 2007, more than 95 percent of offenders sentenced to incarceration also were sentenced to serve

Virtually all offenders who were incarcerated also were sentenced to serve a period of supervised release following the completion of their confinement.



a period of supervised release. The average length of supervised release was 42 months.

A monetary fine was imposed as punishment in 12.3 percent of all cases in which an individual was the offender and sentenced in fiscal 2007, either as the sole punishment or combined with some other sanction. Fines were most commonly imposed in antitrust (73.3%), environmental (69.3%), food and drug (62.0%), and drug possession cases (61.1%). Fines were imposed on 68.4 percent of organizational offenders.

Courts ordered that restitution be paid to the victims of the crime in 14.3 percent of all cases in which the offender was an individual. Restitution was most commonly ordered in embezzlement (81.2%), robbery (77.1%), arson (71.7%), and burglary cases (66.7%). Restitution was ordered in slightly more than 31 percent of the organizational offender cases sentenced in fiscal year 2007.

The Most Common Crimes

Drugs

Offenses involving illegal drugs accounted for 34.4 percent of the federal criminal caseload, the largest of any type of crime. Drug crime⁴ has been the most commonly prosecuted crime in the federal courts throughout the period in which the Commission has released sentencing data (since fiscal year 1988). In fiscal year 2007, 25,372 offenders were convicted of a drug crime, the majority involving the manufacture, sale, or transportation of the drug.⁵ Offenses involving cocaine (in either powder form or base (“crack”) form) were the most common drug crimes, accounting for more than 45 percent of all such crimes. Marijuana cases were the next most common, representing slightly more than 25 percent of all drug cases. Cases involving methamphetamine represented 20.3 percent of all drug cases that year. Heroin cases were the least common type of drug crime, accounting for 5.5 percent of all drug cases.

Most drug offenders were citizens, but citizenship varies widely depending on the type of drug involved in the offense. For example, more than 96 percent of crack cocaine offenders were citizens while only 56.5 percent of heroin offenders were citizens.

In fiscal year 2007, 25,372 offenders were convicted of a drug crime, the majority involving the manufacture, sale, or transportation of the drug.

The race of drug offenders varied even more widely. More than 40 percent of all drug offenders convicted in federal court were Hispanic, with Black offenders accounting for 29.5 percent of all drug offenders and White offenders representing 24.3 percent of those offenders. Yet, in cases involving methamphetamine, more than half of the offenders were White. In crack cocaine cases, 82.7 percent of those convicted were Black. These differences result from several factors, including where the drug is produced, who traffics it into the United States when it is made or grown

DRUG TYPE	TOTAL	U.S. CITIZEN		NON-U.S. CITIZEN	
		Number	Percent	Number	Percent
TOTAL	25,453	18,117	71.2	7,336	28.8
Powder Cocaine	6,267	3,954	63.1	2,313	36.9
Crack Cocaine	5,474	5,286	96.6	188	3.4
Heroin	1,381	780	56.5	601	43.5
Marijuana	6,289	3,695	58.8	2,594	41.2
Methamphetamine	5,103	3,667	71.9	1,436	28.1
Other	939	735	78.3	204	21.7

outside of the country, and the location of the users of the type of drug (*i.e.*, whether in urban or rural area).

Weapons are involved in the drug crimes prosecuted in federal courts slightly more than 17 percent of the time. Again, as with race, the rate of weapon involvement varied depending on the type of drug involved, ranging from about 30 percent of crack cocaine cases to eight percent of marijuana cases. The average prison sentence for drug offenders can be determined by a number of factors, including statutory mandatory minimum punishments, the quantity of the drugs involved in the case, the prior criminal history of the offender, and whether the offender assisted the government in the investigation of his or her crime and other crimes. Because of these factors, comparisons among the average sentence length of types of drug cases should be made cautiously. In fiscal year 2007, the average punishment for drug crimes ranged from a high of 129 months for crack cocaine

offenders (with a median sentence of 120 months) to 40 months for marijuana offenders (with a median sentence of 24 months).

An offender’s role in the offense also can affect the guideline range that a judge considers when imposing punishment. In fiscal year 2007, in 20.5 percent of all drug cases, the court determined that the applicable guideline range should be lowered because of the offender’s mitigating role in the offense. In marijuana cases, this

DRUG TYPE	TOTAL	WHITE		BLACK		HISPANIC		OTHER	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
TOTAL	25,457	6,189	24.3	7,505	29.5	10,874	42.7	889	3.5
Powder Cocaine	6,273	993	15.8	1,710	27.3	3,488	55.6	82	1.3
Crack Cocaine	5,472	479	8.8	4,528	82.7	433	7.9	32	0.6
Heroin	1,379	154	11.2	350	25.4	864	62.7	11	0.8
Marijuana	6,291	1,468	23.3	624	9.9	3,947	62.7	252	4.0
Methamphetamine	5,102	2,625	51.5	130	2.5	2,044	40.1	303	5.9
Other	940	470	50.0	163	17.3	98	10.4	209	22.2

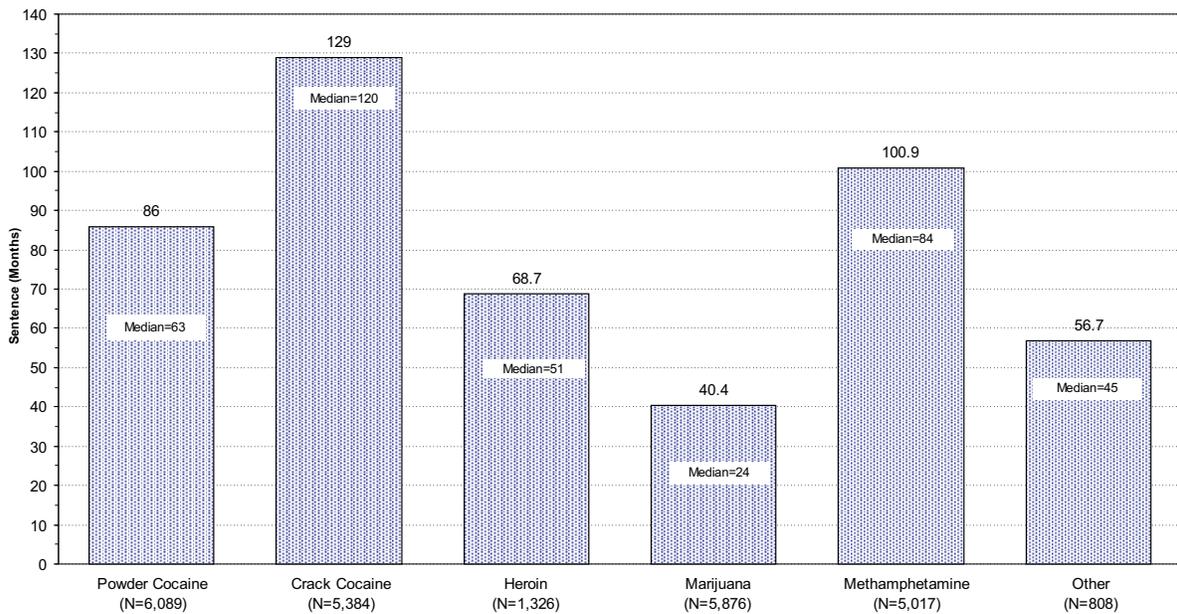
adjustment to the guideline range occurred more than 38 percent of the time. In contrast, courts found such an adjustment warranted in only 5.5 percent of crack cocaine cases.

Cocaine cases represented the largest portion of the federal drug caseload. These cases were almost evenly split between offenses involving crack cocaine and offenses involving powder cocaine. Although the two forms of the drugs are chemically identical, they are punished differently under federal law. For example, offenders trafficking in five grams of crack cocaine are subject to a mandatory minimum punishment of five years, whereas offenders trafficking in the powder form of the drug are not subject to this punishment until the quantity of drugs involved in the case reaches 500 grams.⁶

The average prison sentence for crack offenders in FY 2007 was 129 months. For powder cocaine offenders, the average sentence

was 86 months. Mandatory minimum punishments enacted by Congress play a large part in determining the sentence for these offenders, either outright or through the impact of these statutes on the structure of the guidelines. In fiscal year 2007, 81.6 percent of crack cocaine offenders were convicted of an offense that provided for the imposition of a mandatory minimum penalty, while 79.0 percent of powder cocaine offenders were.⁷

As discussed above, the offender’s prior criminal history is also a factor in determining the guideline range. In fiscal year 2007, crack cocaine offenders had, on average, a more serious criminal history than any other category of drug offender, including powder cocaine offenders. Under the guidelines, offenders are assigned to one of six criminal history categories (CHCs) based on their prior criminal history.⁸ While 60.8 percent of powder cocaine



offenders were assigned to CHC I (the lowest category), only 21.0 percent of crack cocaine offenders were. Powder cocaine offenders were assigned to the most serious criminal history category (CHC VI) in 7.5 percent of powder cocaine cases, whereas crack cocaine offenders were assigned to that category in 27.5 of all crack cocaine cases. In contrast, in heroin cases 59.6 percent of offenders were assigned to CHC I and 12.8 percent assigned to CHC VI. In methamphetamine cases, 49.7 percent of offenders were assigned to CHC I and 9.0 percent to CHC VI. Offenders convicted of marijuana offenses had the least serious criminal history, with 66.9 percent assigned to CHC I and 4.6 percent to CHC VI.⁹

Criminal history can also affect eligibility for relief from a mandatory minimum punishment. Only offenders assigned to Criminal History Category I (offenders with a criminal history score of zero or one) are eligible to be sentenced without regard to any otherwise applicable mandatory minimum punishment.¹⁰ As discussed above, in fiscal year 2007, almost 61 percent of powder cocaine offenders met this requirement while just 21 percent of crack cocaine offenders did.

Immigration

Immigration offenses¹¹ are the second largest category of federal crimes, representing 24 percent of the federal criminal caseload for fiscal year 2007. The offenders who committed this type of crime were very different from most other offenders. For example, while citizens committed the majority of federal crimes (62.6%), most immigration offenses were committed by non-citizens. In fiscal year 2007, 88 percent of immigration offenders were non-citizens.¹² Most immigration offenders were Hispanic (88%), whereas Hispanics accounted for only 28 percent of non-immigration crimes. Almost 80 percent of immigration offenders had less than a high school education, compared with just under 40 percent of offenders convicted of other crimes. And while men committed most (84%) federal crimes not involving an immigration offense, men committed an even higher portion of immigration crimes (92% of those cases).

Immigration offenses are the second largest category of federal crimes, representing 24 percent of the federal criminal caseload for fiscal year 2007.

Firearms and other weapons

Firearm crimes¹³ comprised 11.6 percent of the total federal criminal convictions for fiscal year 2007. Of the 8,359 firearms cases reported to the Commission, slightly less than 20 percent (1,666) involved the possession or use of a firearm in connection with a crime of violence or drug trafficking crime.¹⁴ Almost 48 percent of the cases (4,005) involved a convicted felon found to be illegally in possession of a firearm.¹⁵ Of all the cases sentenced in fiscal year 2007, a firearm or other dangerous weapon (e.g., knife) was involved in the offense in some way 9.3 percent of the time (6,226).

In drug cases, however, a weapon was involved, on average, 17.4 percent of the time. Weapons were present most often in crack cocaine cases (29.8%) and were least common in marijuana cases (8.0%).

Fraud

Crimes involving fraud, deceit, identity theft, insider trading, and other forms of deception accounted for the fourth largest portion (10.7%) of federal criminal cases in fiscal year 2007. The losses in these cases ranged from less than \$100 to more than \$400 million. More than half of the cases involved a loss of less than \$70,000, but 7.8 percent of these cases involved a loss of more than \$1.5 million. Identity theft crimes accounted for only a small number (577) of these cases in fiscal year 2007, but have increased significantly from the 140 such crimes reported in fiscal year 2002.

Organizational cases

Organizations such as corporations and partnerships can be prosecuted for violating federal criminal law, and 197 organizations were convicted of at least one federal criminal offense in fiscal year 2007. This number is a nine percent decrease from the 217 cases reported in fiscal year 2006,

Less than 20 percent of all firearms cases involved the possession or use of a firearm in connection with a crime of violence or drug trafficking crime.

Crimes involving fraud, deceit, identity theft, insider trading, and other forms of deception accounted for the fourth largest portion (10.7%) of federal criminal cases in fiscal year 2007.

[T]he number of organizational defendants sentenced remains lower than in earlier years.

although higher than the number of cases reported in fiscal year 2005 (187) and fiscal year 2004 (130). Even so, the number of organizational defendants sentenced remains lower than in earlier years. For example, in fiscal year 2002, 252 organizational defendants were sentenced.

Approximately 84 percent of the offenders sentenced in fiscal year 2007 pled guilty to one or more charges. The most common crimes involved in these cases were fraud and environmental crimes. Approximately half of the offenders (134) were sentenced to pay a fine to the government. Of these, 31 organizations were sentenced to pay restitution to the victims of their crime and a fine, and another 31 organizations were sentenced to pay restitution only. In another 31 cases, no fine or restitution was imposed, although other sanctions were imposed in some of these cases. Of the 197 offenders, 147 received some term of probation and 47 were ordered to make improvements in compliance or ethics procedures.

For More Information

More information on these cases can be found in the Commission's *2007 Annual Report*, *2007 Sourcebook of Federal Sentencing Statistics*, and *Guideline Application Frequencies for Fiscal Year 2007*. The *Annual Report* and *Sourcebook* are available in hard copy format through the Commission and all three documents, together with other reports of sentencing data, are available in electronic format at the Commission's website at www.ussc.gov.

Endnotes

1. The United States Sentencing Commission is an independent agency in the judicial branch of government. Established by the Sentencing Reform Act of 1984, its principal purposes are (1) to establish sentencing policies and practices for the federal courts, including guidelines regarding the appropriate form and severity of punishment for offenders convicted of federal crimes; (2) to advise and assist Congress, the federal judiciary, and the executive branch in the development of effective and efficient crime policy; and (3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues.
2. The Commission receives information on cases in which the defendant has been convicted of a felony or Class A misdemeanor.
3. These four crime types have been the most common for the past seven fiscal years.
4. Drug crime means, in general, a case in which at least one of the statutes of conviction recorded by the Commission was an offense under title 21 of the United States Code.
5. This number also includes persons convicted of one or more crimes in addition to a drug crime.
6. See 21 U.S.C. § 841.
7. Some of these offenders received a sentence that was lower than the applicable statutory mandatory minimum punishment due to the operation of 18 U.S.C. §§ 3553(e) or (f). Subsection (e) authorizes courts to impose a sentence that is below a statutory mandatory minimum when the offender has provided substantial assistance to the government in investigating or prosecuting another offender. Subsection (e) requires courts to impose a sentence on a non-violent offender with no or limited criminal background without regard to a statutory mandatory minimum punishment when certain other conditions are met.
8. The criminal history score establishes the criminal history category (CHC) for an offender. See USSG, Chapter Four. The CHC along with the final offense level determine the sentencing range under the guidelines.
9. For more information on sentencing issues involving cocaine drug cases see United States Sentencing Commission, *Report to Congress - Cocaine and Federal Sentencing Policy* (2007).
10. See 18 U.S.C. § 3553(f).
11. Immigration offense means, in general, a case in which at least one of the statutes of conviction involved trafficking in passports or entry documents, failure to surrender naturalization certificate, fraudulently acquiring passports, alien smuggling, the presence of an unlawful alien in the United States, or fraudulently acquiring entry documents.
12. Most federal crimes committed by non-citizens are immigration crimes. Non-citizens account for only 20% of federal crimes other than immigration crimes.
13. Firearm crime includes unlawful possession or transportation of firearms or ammunition; unlawful trafficking in explosives; possession of guns or explosives in a federal facility, a school, or on an aircraft; the use of fire or explosives to commit a felony; and the use of firearms or ammunition during a crime.
14. 18 U.S.C. § 924(c).
15. 18 U.S.C. § 922(g).

