



Overview of Federal Criminal Cases Fiscal Year 2013



UNITED STATES SENTENCING COMMISSION



United States Sentencing Commission

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Fiscal Year 2013

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The United States Sentencing Commission¹ received information on 80,207 federal criminal cases in which the offender was sentenced in fiscal year 2013.² Among these cases, 80,035 involved an individual offender and 172 involved a corporation or other “organizational” offender. This publication provides a brief overview of those cases.

The Case Load at a Glance

The vast majority of federal cases involve an individual defendant. Over the last decade, the number of these cases has generally increased each year, however, in fiscal year 2013 the number of these cases reported to the Commission³ fell by 4,138 (4.9%), the second consecutive year in which the number of individual offender cases declined. Since fiscal year 2011, the year in which the largest number of cases was reported to the Commission, the number of these cases has declined by 7.0 percent.

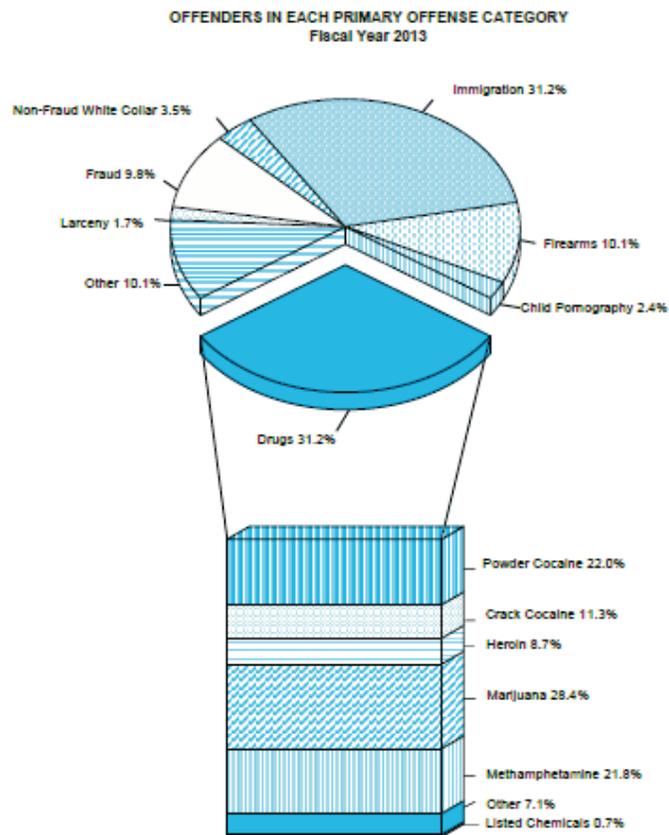
Number of Offenders Over Time
Fiscal Years 2004-2013



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For the last decade, cases involving drugs, immigration, firearms, or fraud have been the most common federal crimes and comprise the vast majority of federal felonies and Class A misdemeanors. In fiscal year 2013, these crimes accounted for 82.3 percent of all cases reported to the Commission.

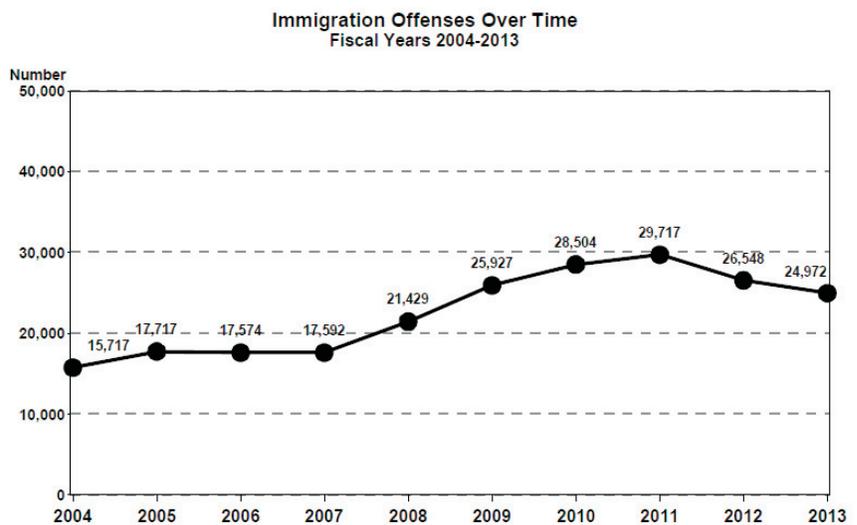
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For the last five years, immigration cases have comprised the largest single type of serious federal offenses. In fiscal year 2013, however, drug crimes regained their historical place as the most common federal offenses. In fiscal year 2013, 25,000 drug cases were reported to the Commission, accounting for 31.2 percent of all cases. Most of these cases involved drug trafficking offenses.

Immigration cases also accounted for 31.2 percent of the total federal caseload in fiscal year, despite a second annual decrease in the number of these cases. In fiscal year 2013, there were 1,576 fewer immigration cases than the prior year, a 5.9 percent decline.

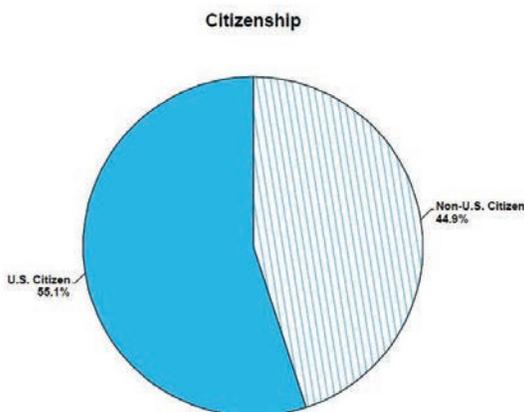
Even with this decrease, the number of immigration cases has increased by 58.9 percent over the past decade.



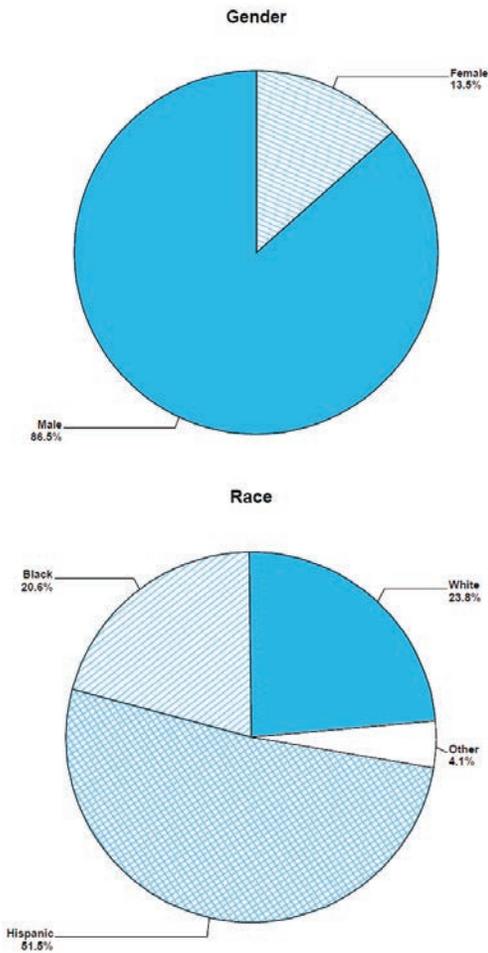
The number of firearms cases reported to the Commission in fiscal year 2013 (8,068) was virtually unchanged from the prior year. These cases were 10.1 percent of the caseload, about the same portion of the overall caseload that they represented in fiscal year 2009. There were 7,840 fraud cases reported in fiscal year 2013, accounting for 9.8 percent of the total federal caseload; however, this number represents a 9.2 percent reduction from the year before.

Individual Offender Characteristics

In fiscal year 2013, 44.9 percent of all offenders were non-citizens, about the same rate as five years ago (44.7% in fiscal year 2009). Most non-citizens offenders committed either an immigration offense (67.0%) or a drug trafficking offense (17.0%).



The vast majority of criminal offenders are men, and their proportion of the total offender population has remained constant for more than a decade. In fiscal year 2013, 86.5 percent of all offenders were men, compared with 87.1 percent in fiscal year 2009, and 86.3 percent in fiscal year 2004. Among female offenders, the most common crime was drug trafficking (committed by 31.4% of all women offenders). Embezzlement was the only

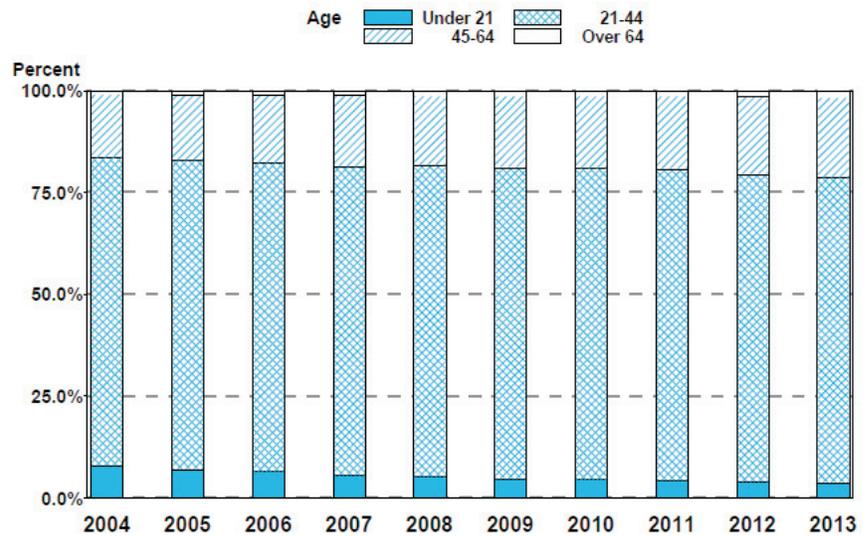


crime for which female offenders outnumbered male offenders (57.1% to 42.9%).

In fiscal year 2013, 51.5 percent of all federal offenders were Hispanic, while 23.8 percent were White and 20.6 percent were Black. However, the racial composition of offenders varied widely across offense types, and most Hispanic offenders (84.2%) were sentenced for one of two types of offenses — immigration or drug trafficking crimes. Even among drug offenders, racial and ethnic background varied depending on the type of drug involved in the crime.

The average age of offenders in fiscal year 2013 was 36-years old, representing a gradual increase over the past decade (from 34-years-old in fiscal year 2004 and 35-years-old in fiscal year 2009). The number of offenders age 30 or younger steadily decreased over the past decade while those age 31 and older steadily increased.

Age of Offenders Over Time
Fiscal Years 2004-2013



Almost half of all federal offenders sentenced in fiscal year 2013 (47.2%) had not completed high school, and only 5.7 percent of offenders had completed college.

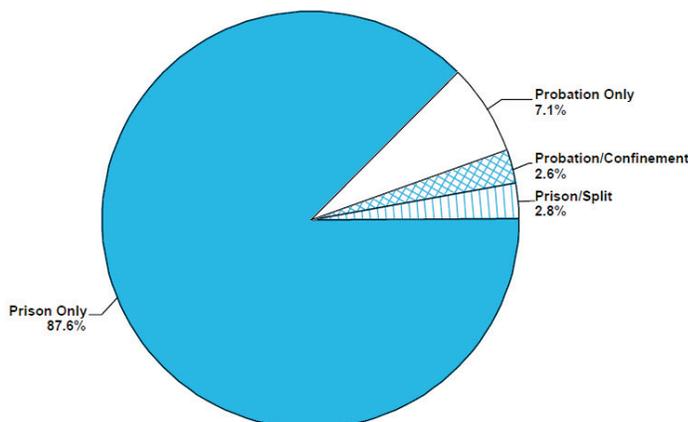
Case Disposition

The vast majority of offenders plead guilty. In fiscal year 2013, 96.9 percent of all convicted defendants pleaded guilty. Of those who did, 46.9 percent received a sentence below the applicable sentencing guideline range, either at the request of the government, at their own request, or initiated by the court. Approximately 60 percent (61.3%) of these below range sentences were requested by the government, usually because the defendant had provided substantial assistance to the government or had agreed to have his or her case handled as part of an early disposition program. In comparison, in the 3.1 percent of cases where the offender did not plead guilty, 41.3 percent received a sentence below the guideline range, although only 7.6 percent of these below range sentences were requested by the government.

Most federal offenders convicted of a felony or Class A misdemeanor receive a sentence of incarceration. In fiscal year 2013, an imprisonment sentence was imposed on 87.6 percent of all offenders. Another 7.1 percent of offenders received a sentence of probation (*i.e.*, where no type of confinement was imposed), a rate that has decreased over time from a high of 14.8 percent in 1993. Among those offenders not sentenced to one of these two types of sentence, 2.6 percent were sentenced to periods of both probation and some type of confinement and 2.8 percent were sentenced to a combination of imprisonment and community confinement, such as in a half-way house or through home confinement.

87.6 percent of federal offenders were sentenced to imprisonment.

Sentence Imposed



70.8 percent of offenders received a sentence of less than five years.

The length of imprisonment imposed on offenders varies greatly depending on the seriousness of the offense and the criminal history of the offender. Offenders committing murder received the longest terms of confinement in fiscal year 2013, at 268 months on average. Crimes involving violations of environment and wildlife statutes were punished least severely, with offenders receiving confinement sentences of four months, on average.

Overall, 70.8 percent of offenders received a sentence of less than five years, 16.6 percent of offenders received a sentence of more than five but less than ten years, and 12.6 percent received a sentence of ten or more years, excluding life imprisonment. In fiscal year 2013, 153 federal offenders were sentenced to life imprisonment while no offenders were sentenced to death.

Monetary fines were imposed in 8.5 percent of all cases in which an individual was sentenced in fiscal year 2013, either as the sole punishment or combined with some other sanction. Fines were most commonly imposed in antitrust cases (81.3%), environmental cases (66.0%), and food/drug cases (43.2%). When the offender was an organization, courts imposed a fine in nearly seven out of every ten cases (66.9%).

Courts ordered restitution to be paid to the victim of the crime in 14.2 percent of all cases in which the offender was an individual. Restitution was most commonly ordered in cases involving embezzlement (91.5%), robbery (77.2%), fraud (70.5%), larceny (69.7%), and arson (63.8%). Restitution was ordered in 28.5 percent of the cases with an organizational offender.

Virtually all offenders who were sentenced to imprisonment also were sentenced to serve a period of supervised release following the completion of their confinement. In fiscal year 2013, 79.5 percent of offenders sentenced to incarceration also were sentenced to serve a period of supervised release. The average length of supervised release imposed was 48 months. The median length of supervised release was 36 months.

The Most Common Crimes

Drugs

Drug offenses were the most common federal crime in fiscal year 2013. Most of the 25,000 drug cases involved the manufacture, sale, or transportation of a drug, while 2,332 of those cases involved the simple possession of a drug.⁴ Offenses involving cocaine, in either powder form or base (crack) form, were the most common drug crimes, accounting for 37.0 percent of the offenders

sentenced under the Chapter Two drug guidelines. In fiscal year 2008, cases involving cocaine were almost evenly split between the two forms of the drug. However, beginning in that year, the portion of crack cocaine cases began to decrease steadily, from 24.4 percent in fiscal year 2008 to 13.0 percent in fiscal year 2013.

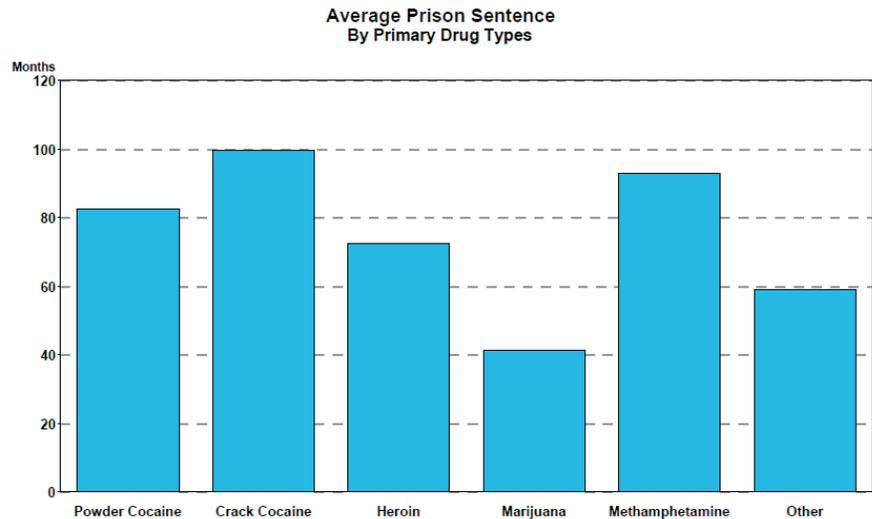
After cases involving cocaine (powder and crack cases combined), methamphetamine offenses were the next most common, representing 24.0 percent of all drug crimes. Fiscal year 2013 was the first year in which methamphetamine offenses outnumbered marijuana cases, which represented 21.6 percent of all drug crimes. Heroin cases were the least common of the major drug offenses, accounting for 9.7 percent of all drug crimes.

Most drug offenders were United States citizens, but the percentage of drug offenders who are citizens varied widely depending on the type of drug involved in the offense. For example, 97.4 percent of crack cocaine offenders were United States citizens, while only 61.5 percent of marijuana offenders were United States citizens.

The race of drug offenders varied even more widely by the type of drug involved in the offense. Almost half (47.9%) of all drug offenders convicted in federal court were Hispanic, while Black offenders comprised 26.5 percent of all drug offenders and White offenders 22.4 percent of all drug offenders. Yet, in crack cocaine cases, 82.7 percent of those convicted were Black, and in methamphetamine cases 37.2 percent of the offenders were White.

Weapons were involved in 16.2 percent of all drug offenses. As with the other aspects of these cases discussed above, the rate of weapon involvement varied depending on the type of drug involved, ranging from 28.5 percent in crack cocaine cases to 10.2 percent in marijuana cases.

In fiscal year 2013, the average punishment for drug crimes ranged from a high of 100 months of imprisonment for crack cocaine offenders (with a median sentence of 78 months) to 41 months for marijuana offenders (with a median sentence of 30 months). Several factors affect the average prison sentence for drug offenders, 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 this, comparisons of the average sentence length in the different types of drug cases should be made cautiously.



An offender's role in the offense also can affect the guideline range that judges consider when imposing punishment. In fiscal year 2013, judges in 17.9 percent of all drug cases determined that the applicable guideline range should be lowered because of the offender's minor or minimal role in the offense. In marijuana cases, this adjustment to the guideline range occurred 25.0 percent of the time. In contrast, courts found such an adjustment warranted in only 4.1 percent of crack cocaine cases. In 7.0 percent of all drug cases, the court determined that the applicable guideline range should be increased because of the offender's role as an organizer, leader, manager, or supervisor.

Mandatory minimum sentences enacted by Congress played a large part in determining the sentence for drug offenders, either outright or through the impact of these statutes on the structure of the guidelines. In fiscal year 2013, crack cocaine offenders and powder cocaine offenders were convicted of an offense that provided for the imposition of a mandatory minimum sentence at rates of 59.8 and 73.2 percent, respectively.⁵ Powder cocaine offenders obtained relief from a mandatory minimum sentence in 30.5 percent of all cases through the "safety valve" exception to such sentences, which requires courts to sentence an offender without regard to any otherwise applicable mandatory minimum punishment when certain conditions are met.⁶ In contrast, only 6.8 percent of crack cocaine offenders obtained this relief.

This difference is due largely to the differing criminal histories of powder cocaine and crack cocaine trafficking offenders. In fiscal year 2013, 57.0 percent of powder cocaine offenders were assigned to Criminal History Category I (offenders with a criminal history score under the sentencing guidelines of zero or one) while just 19.3 percent of crack cocaine offenders were assigned to that

category. Only offenders assigned to Criminal History Category I are eligible to receive the benefit of the safety valve.

Overall, crack cocaine offenders continue to have, on average, a more serious criminal history than any other category of drug offender.⁷ Crack cocaine offenders were assigned to the most serious criminal history category (CHC VI) in 28.5 percent of all crack cocaine cases. In contrast, powder cocaine offenders were assigned to CHC VI in only 9.4 percent of cases. By comparison, 14.9 percent of heroin offenders were assigned to CHC VI and 11.3 percent of methamphetamine offenders were assigned to CHC VI. Offenders convicted of marijuana offenses generally had the least serious criminal histories, with 59.5 percent assigned to CHC I and only 4.3 percent to CHC VI.

Immigration

Immigration offenses⁸ were the second most common serious federal crime in fiscal year 2013, representing 31.2 percent of the federal criminal case load. The majority of these offenses involved either the unlawful reentry into the United States or remaining in the United States without authority (83.2%). Another 10.0 percent involved alien smuggling activities.

Offenders sentenced under the immigration guidelines are different from other federal offenders in several ways. For example, although United States citizens committed the majority of all federal crimes (55.1%), the overwhelming majority (94.1%) of immigration offenses were committed by non-citizens.⁹ Similarly, while Hispanics accounted for only 32.5 percent of non-immigration offenders, they account for 95.1 percent of immigration offenders. Also, immigration offenders had significantly less education than other offenders. Nearly 80 percent of immigration offenders had less than a high school education, compared with less than 35 percent of offenders convicted of other crimes. Additionally, while men committed most federal crimes not involving an immigration offense (83.6%), men committed an even higher proportion of immigration crimes (93.5%).

Firearms and other weapons

Crimes involving firearms¹⁰ accounted for the third largest portion (10.1%) of federal criminal cases in fiscal year 2013. Of the 8,068 firearms cases reported to the Commission, 24.0 percent involved the possession or use of a firearm in connection with a crime of violence or drug trafficking crime.¹¹ More than half of the cases

(50.7%) involved a convicted felon who illegally possessed a firearm.¹²

Of all cases with complete guideline application information reported to the Commission in fiscal year 2013, in 8.0 percent of cases a sentence was enhanced (either through application of an SOC when available or statutorily) because a firearm or other dangerous weapon (e.g., knife) was involved in the offense. A weapon was involved twice as often in drug cases (16.2%). Among drug cases, weapons were present most often in crack cocaine cases (28.5%) and least often in marijuana cases (10.2%).

Fraud

Fraud crimes were 9.8 percent of the total federal criminal convictions for fiscal year 2013. The losses in these cases ranged from \$0 (no loss, in 114 cases) to \$5,900,000,000, with an average loss amount of \$5,293,655 and a median loss amount of \$195,649. Identity theft crimes accounted for a relatively small number (774) of these cases in fiscal year 2013.

The median loss amount in fraud cases was \$195,649.

Organizational Cases

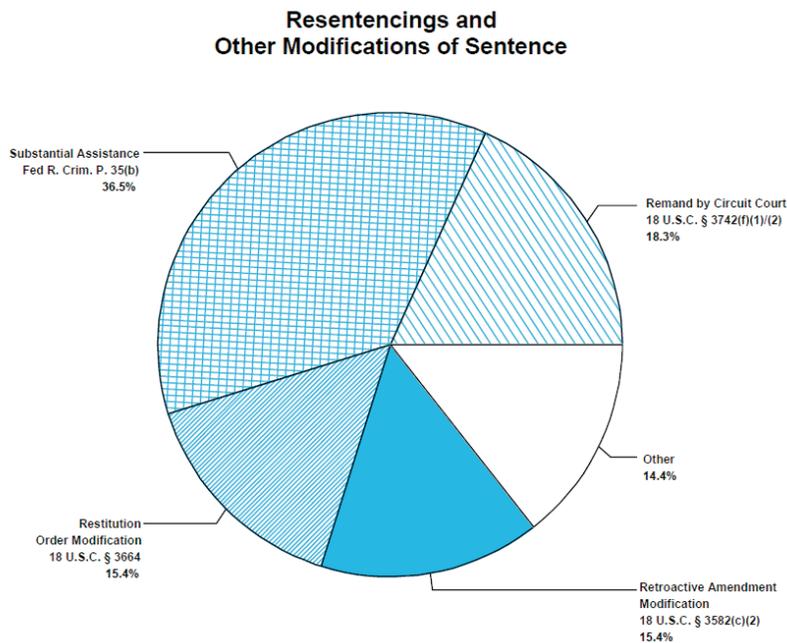
Organizations such as corporations and partnerships can be prosecuted for violating federal criminal law, and 172 organizations were sentenced for at least one federal criminal offense in fiscal year 2013. This number is an 8.0 percent decrease from the 187 cases reported in fiscal year 2012, and the number of organizational defendants continues to be lower than in earlier years. For example, 200 organizational defendants were sentenced in fiscal year 2003, and 255 organizational defendants were sentenced in fiscal year 1999.

Almost ninety-five percent of the organizational offenders sentenced in fiscal year 2013 pled guilty to one or more charges. The most common crimes for which organizational defendants were convicted were environmental and fraud crimes. Organizational offenders were sentenced to pay only a fine in 94 cases. In an additional 21 cases the offender was sentenced to pay restitution to the victim of the crime as well as to pay a fine. In 28 cases, the organization was sentenced to pay restitution only. No fine or restitution was imposed in 29 cases, although other sanctions were imposed in some of these cases. Additionally, of the 172 organizational offenders, 134 received some term of probation, and 41 were ordered to make improvements in compliance or ethics procedures.

Resentencings and Other Modifications of Sentence

In 2013, the Commission received documentation on 4,429 resentencings and other modifications of sentence. The most frequently reported reason was a reduction in sentence for substantial assistance¹⁴ to the government after sentencing (1,618 or 36.5% of all cases).

The second most common type of resentencing reason or modification of sentence was a remand by the court of appeals (809 or 18.3% of all cases). The third most common type of resentencing or modification of sentence was a modification of restitution order (683 or 15.4% of all cases).



For More Information

More information on these cases can be found in the Commission's *2013 Annual Report, 2013 Sourcebook of Federal Sentencing Statistics, and Guideline Application Frequencies for Fiscal Year 2013*. The *Annual Report* and *Sourcebook* are available in hard copy format through the Commission. All three documents, together with other reports on sentencing data, are also available in electronic format at the Commission's website at www.ussc.gov. Additional statistical analyses of these cases can be found through the Commission's "Interactive Sourcebook of Federal Sentencing Statistics" at <http://isb.ussc.gov>.

Endnotes

1. The United States Sentencing Commission is an independent agency in the judicial branch of government. Its principal purposes are (1) to establish sentencing policies and practices for the federal courts, including guidelines to be consulted regarding the appropriate form and severity of punishment for offenders convicted of federal crimes; (2) to advise and assist Congress 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 from the courts on cases in which the defendant has been convicted of a felony or Class A misdemeanor.
3. There were 86,201 individual offender cases reported to the Commission in Fiscal Year 2011. UNITED STATES SENTENCING COMMISSION, 2011 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS, 12 (2012).
4. This number also includes persons convicted of one or more crimes in addition to a drug offense.
5. 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 (f) 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.
6. 18 U.S.C. § 3553(f).
7. Under the guidelines, offenders are assigned to one of six criminal history categories (CHCs) based on their prior criminal history. The criminal history score establishes the CHC for an offender. See UNITED STATES SENTENCING COMMISSION, GUIDELINES MANUAL, Ch.4 (2013). The CHC, along with the final offense level, determines the sentencing range under the guidelines.
8. 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 certificates; fraudulently acquiring passports; alien smuggling; unlawful presence in the United States; or fraudulently acquiring entry documents.
9. Non-citizens primarily are convicted of immigration crimes. Non-citizens were the offenders in only 14.8 percent of federal crimes other than immigration crimes in fiscal year 2013.
10. Firearms 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.
11. *I.e.*, a case in which 18 U.S.C. § 924(c) was the statute of conviction.
12. *I.e.*, a case in which 18 U.S.C. § 922(g) was the statute of conviction.
13. Identity theft crimes are those fraud cases in which one or more of the offenses of conviction was 18 U.S.C. § 1028(a)(7) or 18 U.S.C. § 1028A. The Commission includes these cases with other fraud cases when it reports sentencing statistics.
14. See Fed. R. Crim. P. 35(b).