



Fiscal Year 2018

# Overview of Federal Criminal Cases

UNITED STATES SENTENCING COMMISSION

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# United States Sentencing Commission



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Fiscal Year 2018

# Overview of Federal Criminal Cases

By

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The United States Sentencing Commission<sup>1</sup> received information on 69,524 federal criminal cases in which the offender was sentenced in fiscal year 2018.<sup>2</sup> Among these cases, 69,425 involved an individual offender and 99 involved a corporation or other “organizational” offender. The Commission also received information on 3,241 cases in which the court resentenced the offender or otherwise modified the sentence that had been previously imposed. This publication provides an overview of those cases.



# Federal Caseload at a Glance

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The 69,425 individual original cases reported to the Commission in fiscal year 2018 represent an increase of 2,552 (3.8%) cases from fiscal year 2017. This increase halted a six-year decline in the number of offenders sentenced in the federal courts that began in fiscal year 2011, the year in which the largest number of offenders were sentenced.<sup>3</sup> Over the six-year period since then, the total decline in the number of offenders sentenced was 22.4 percent, although the decrease in fiscal year 2017 was the smallest of any of the prior years.

While the total number of offenders sentenced increased slightly in fiscal year 2018, there were sizable increases among some offenses. The largest increase was in immigration cases, which increased by 3,387 (or 16.5%) from the previous year. Also, firearms cases increased by 753 cases, representing an 11.1 percent increase overall. Offenses involving robbery and extortion or racketeering also increased by more than 100 cases from 2017.

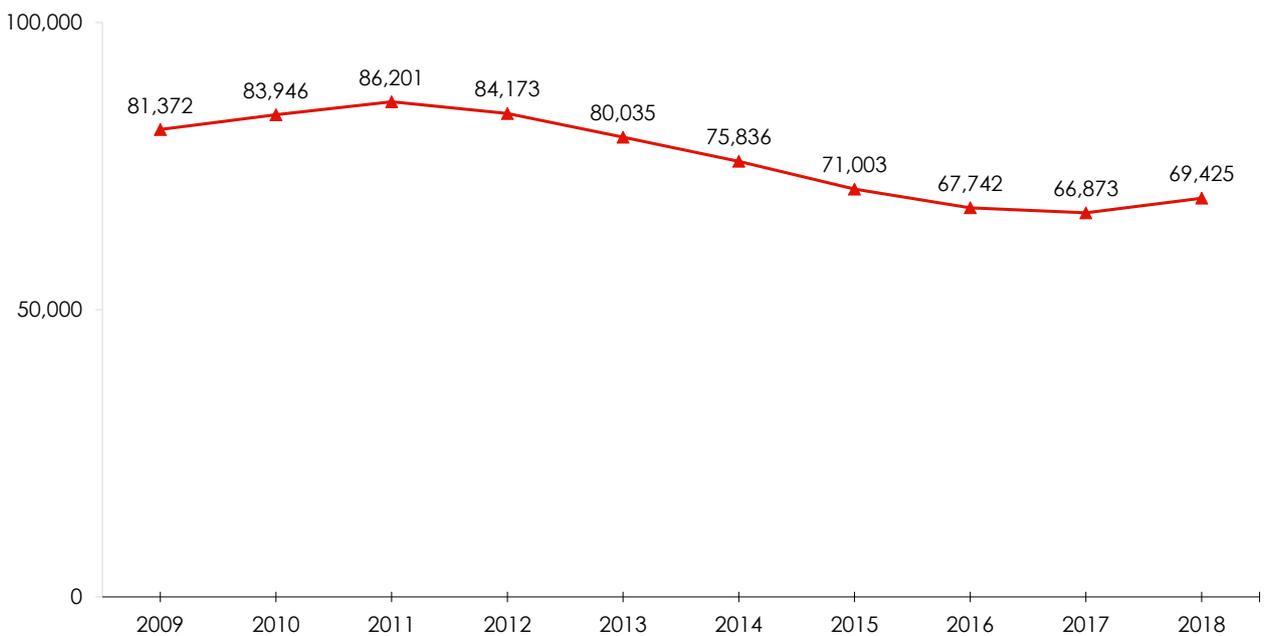
Despite the overall increase for the caseload as a whole, the number of offenders sentenced for some offenses continued to decrease in fiscal year 2018. The largest decrease occurred in drug trafficking crimes, where the 18,747 offenders sentenced were 4.5 percent fewer than the year before. The number of fraud, theft, or embezzlement cases also fell in fiscal year 2018 to 6,620, a 6.1 percent decrease from fiscal year 2017.

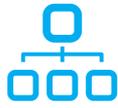
A 3.8% increase in FY18 halted a six-year decline in the number of federal offenders sentenced annually.

Five judicial districts accounted for more than one-third (38.5%) of all individual offenders sentenced in fiscal year 2018. The Western District of Texas reported over ten percent (11.6%) of the total number of individual offenders sentenced, followed

by the Southern District of Texas at 8.8 percent. The next highest districts were the District of Arizona (6.7%), the District of New Mexico (5.7%), and the Southern District of California (5.6%).

**Number of Federal Offenders Over Time**

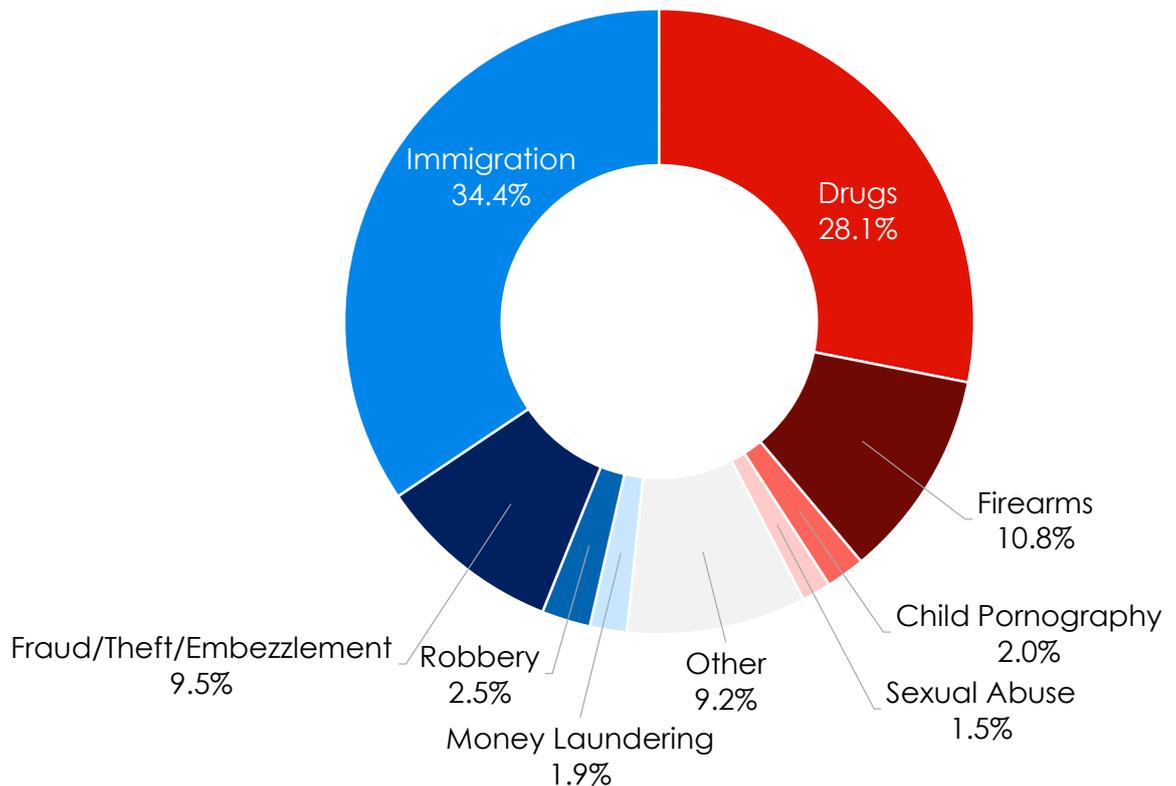




# Federal Offenders by Type of Crime

For more than a decade, cases involving drugs, immigration, firearms, and fraud, theft, or embezzlement comprised the vast majority of federal felonies and Class A misdemeanors. This trend continued in fiscal year 2018, as these crimes accounted for 82.8 percent of all cases reported to the Commission. Of all cases reported that year, 95.7 percent were felony offenses.

**Federal Offenders by Type of Crime**



## » Immigration

Immigration cases resumed their position as the most common federal offense in fiscal year 2018, accounting for 34.4 percent of the total federal caseload. The 23,883 immigration cases represented a 16.5 percent increase from the 20,496 cases reported in fiscal year 2017.

## » Drugs

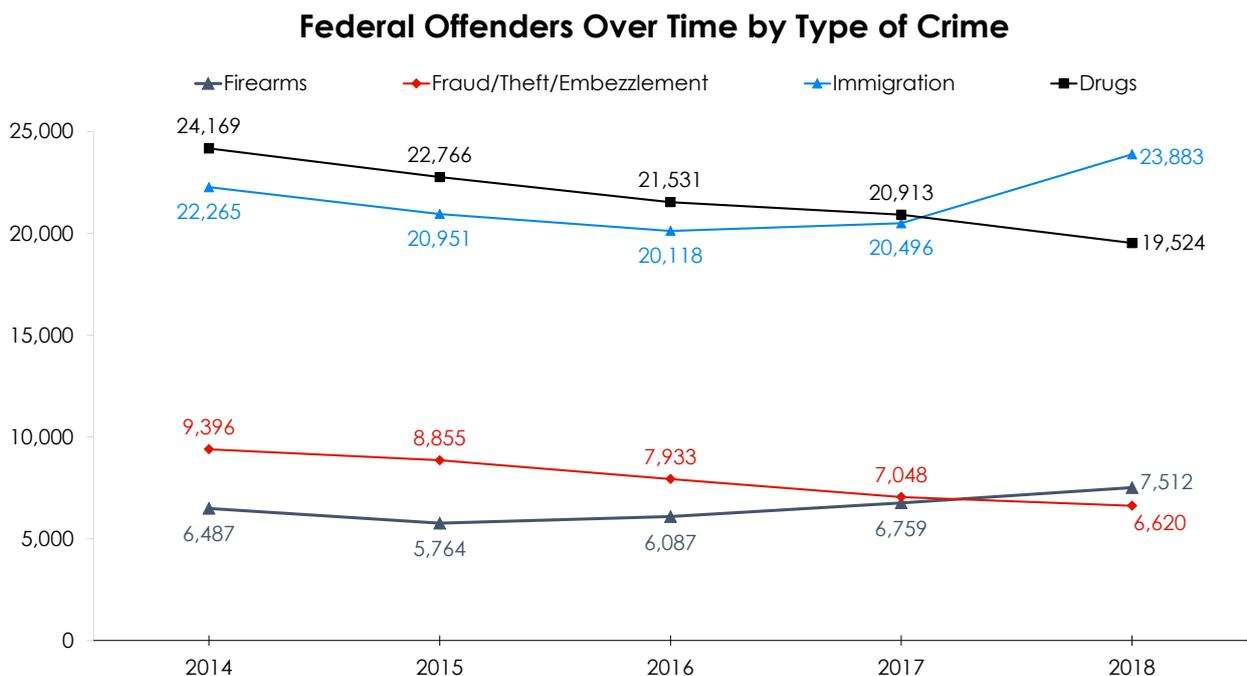
Drug cases were the second most common type of federal case in fiscal year 2018. The 19,524 drug cases reported to the Commission in fiscal year 2018 accounted for 28.1 percent of all cases reported to the Commission. Most of those cases (96.0%) involved drug trafficking offenses. The number of drug crimes decreased by almost 1,400 cases from the year before and have fallen by 19.2 percent over the past five years.<sup>4</sup>

## » Firearms

The other area of significant growth in fiscal year 2018 was in firearms cases. There were 7,512 firearms cases reported to the Commission, accounting for 10.8 percent of the caseload. This was an increase of 753 cases from the number of firearms cases reported the prior year.

## » Fraud, Theft, or Embezzlement

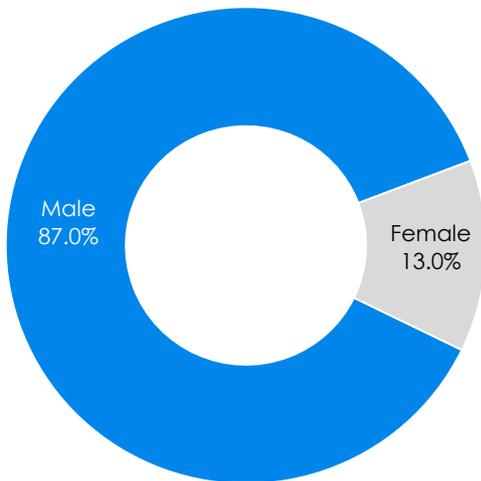
Finally, 6,620 cases involving fraud, theft, or embezzlement were reported to the Commission in 2018. This group of cases accounted for 9.5 percent of the total federal caseload. This number represents a 6.1 percent reduction from the year before and a 29.5 percent decrease from fiscal year 2014.<sup>5</sup>





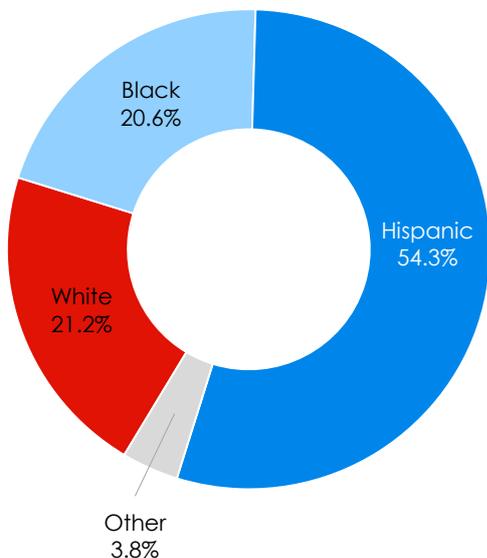
# Individual Offender Characteristics

**Gender**



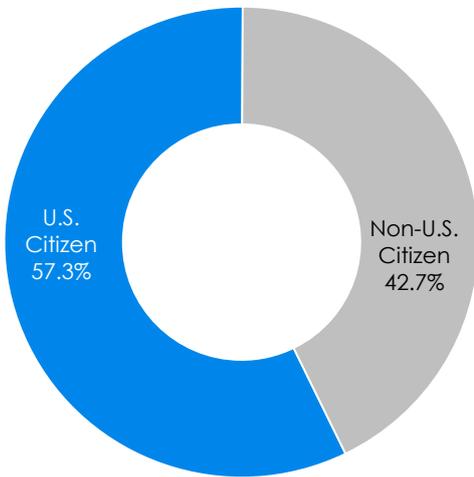
Most offenders are men, and their proportion of the total offender population has remained constant for more than a decade. In fiscal year 2018, 87.0 percent of all offenders were men, compared with 86.0 percent in fiscal year 2014, and 87.1 percent in fiscal year 2009. Among female offenders, the most common crime was drug trafficking (committed by 34.7% of all women offenders).

**Race**



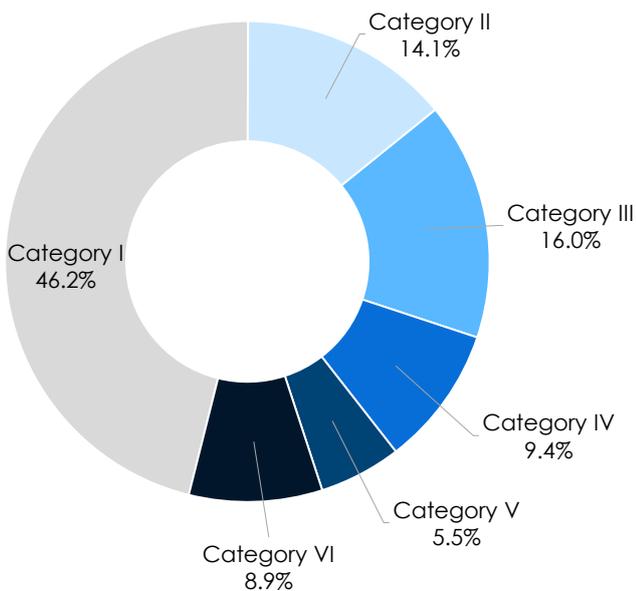
In fiscal year 2018, 54.3 percent of all federal offenders were Hispanic, while 21.2 percent were White, and 20.6 percent were Black.<sup>6</sup> The racial composition of offenders varied widely across offense types. For example, most Hispanic offenders (85.3%) were sentenced for one of two types of offenses—immigration or drug trafficking crimes. Among drug offenders, racial and ethnic background varied depending on the type of drug involved in the crime.

### Citizenship



The majority of federal offenders were United States citizens (57.3%). Most non-citizen offenders committed an immigration offense (74.2%). The next most common offense type among non-citizen offenders was drug trafficking (15.6%). Non-citizens received prison only sentences 95.8 percent of the time, more often than United States citizens (82.8%).

### Criminal History Category



The average age of offenders in fiscal year 2018 was 36 years old, the same as the average age in fiscal year 2014 and only a slight increase from the average age of 35 in 2009. Almost half of all federal offenders sentenced in fiscal year 2018 (46.8%) had not completed high school, and only 5.8 percent of offenders had completed college.

Almost half of offenders were assigned to Criminal History Category (CHC) I (46.2%), the lowest category. About one-third of fiscal year 2018 offenders were assigned to CHC II (14.1%) and CHC III (16.0%). The remaining 23.8 percent fell into CHC IV (9.4%), CHC V (5.5%) and CHC VI (8.9%). In fiscal year 2018, 1,597 offenders were deemed to be “career offenders” and 306 were sentenced as “armed career criminals.”

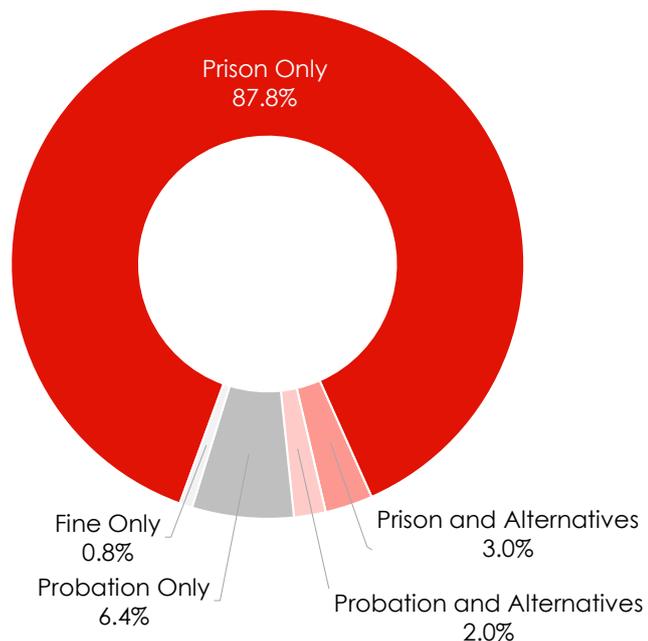


# Case Disposition and Sentence Imposed

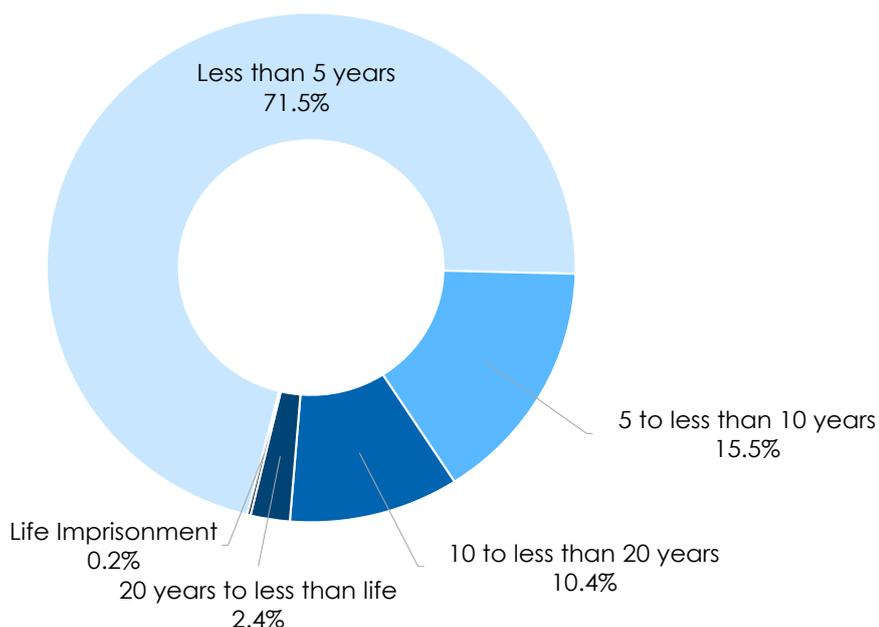
In fiscal year 2018, the vast majority of offenders (97.4%) pleaded guilty. This rate has been consistent for more than 15 years. Defendants charged with more serious crimes were generally more likely to go to trial. Offenders who were convicted of murder, individual rights violations, kidnapping, and arson went to trial in more than ten percent of those cases.

Most federal offenders convicted of a felony or Class A misdemeanor received a sentence of incarceration. In fiscal year 2018, an imprisonment sentence was imposed on 87.8 percent

**Sentence Imposed**



## Average Length of Imprisonment



of all offenders. Another 6.4 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 15.3 percent in 1990.<sup>7</sup> Among those offenders in fiscal year 2018 not sentenced to one of these two types of sentence, 2.0 percent were sentenced to periods of probation and some type of alternative confinement and 3.0 percent were sentenced to a combination of imprisonment and alternative confinement, such as a half-way house or home confinement.<sup>8</sup> An additional one percent (0.8%) of offenders received a fine only sentence.

The sentence imposed in federal cases 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 2018, at 291 months on average. Drug possession and environmental offenses were among those

punished least severely, with offenders receiving confinement sentences of three months, on average.<sup>9</sup>

The average sentence imposed increased for some offenses. Drug trafficking offenders received an average sentence of 76 months, six months longer than the average sentence in fiscal year 2017. The average sentence imposed in fraud, theft or embezzlement cases was 23 months, a one month increase from the prior year. Firearms offenders received an average sentence one month longer than in fiscal year 2017, increasing from 52 to 53 months. The average sentence imposed in immigration cases, however, decreased from 12 to 10 months in fiscal year 2018.<sup>10</sup>

Overall, 71.5 percent of offenders received a sentence of less than five years, 15.5 percent of offenders received a sentence of five years or longer but less than ten years, and 12.8 percent received a sentence of ten years or longer, excluding life imprisonment.

In fiscal year 2018, 138 federal offenders were sentenced to life imprisonment and three offenders were sentenced to death.

Fines were imposed in 7.3 percent of all cases in which an individual offender was sentenced in fiscal year 2018, either as the sole punishment or combined with some other sanction. Fines were most commonly imposed in antitrust (94.3%), food and drug (58.1%), and environmental (55.2%) cases. When the offender was an organization, courts imposed a fine in a majority of the cases (73.7%).

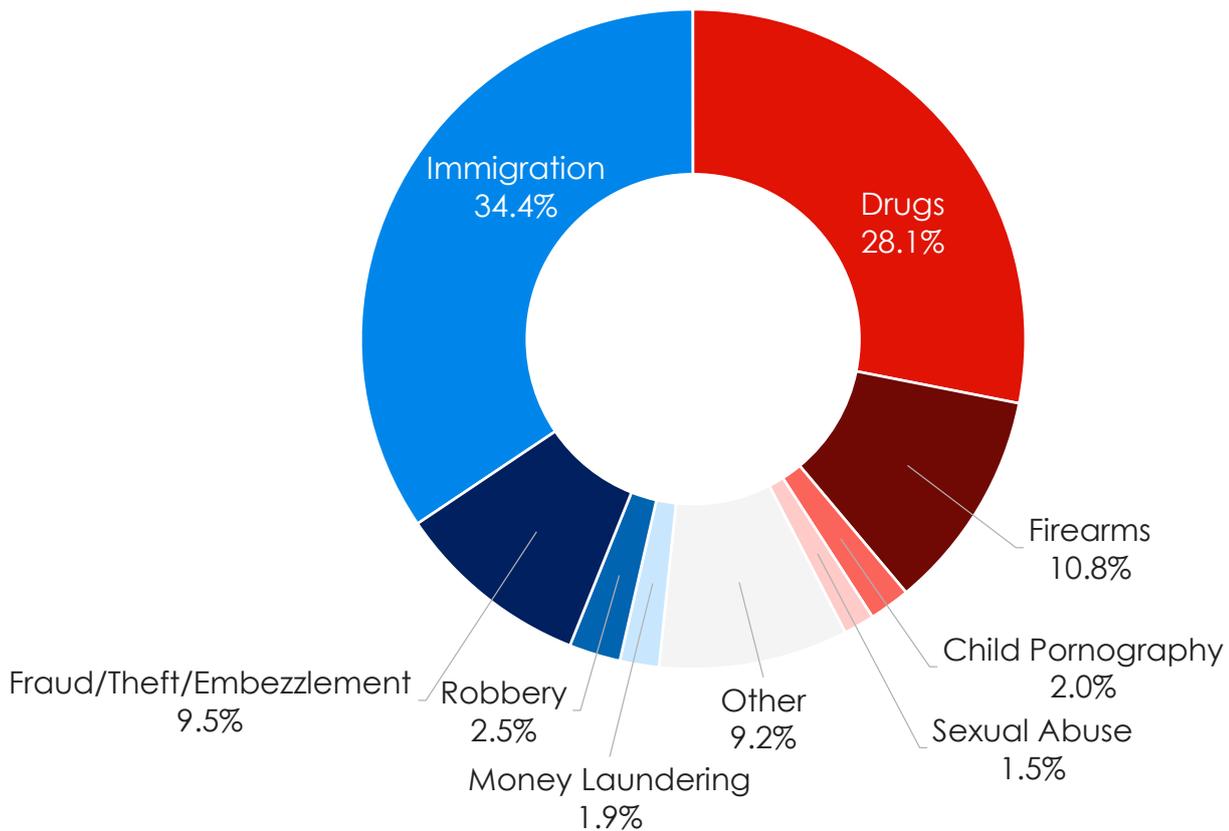
Courts ordered restitution to be paid to the victim of the crime in 14.0 percent of all cases in which an individual was the offender. Restitution was most commonly ordered in cases involving tax (88.4%), antitrust (79.2%), fraud, theft, or embezzlement (76.0%), arson (72.7%), and robbery (71.5%). The total amount of restitution ordered was \$8,155,519,411. Restitution was ordered in 29.3 percent of the cases where the offender was an organization for a total of \$134,878,650.

Most offenders were sentenced to serve a period of supervised release. In fiscal year 2018, 74.7 percent of offenders were sentenced to serve a period of supervised release. In immigration cases, however, supervised release was imposed in 56.5 percent of the cases, reflecting the fact that many immigration offenders are ordered deported from the United States once they complete their incarceration sentence. In contrast, supervised release was ordered in 84.3 percent of cases not involving immigration. The average length of supervised release imposed for all cases was 46 months, and the median length was 36 months. Sexual abuse and child pornography offenders were sentenced to significantly longer periods of supervised release than other offenders. The average length of supervised release imposed was 208 months for sexual abuse cases and 201 months for child pornography cases. The median supervised release for both offenses was 120 months.



# The Most Common Crimes

Federal Offenders by Type of Crime





# Immigration Offenses

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As discussed above, immigration cases were the most common felony and Class A misdemeanor federal crimes in fiscal year 2018. The 23,883 immigration offenses represented 34.4 percent of the cases reported to the Commission. This number is a 16.5 percent increase from fiscal year 2017.

Offenders sentenced under the immigration guidelines differ from other federal offenders in several ways. For example, although United States citizens committed a majority (57.3%) of all offenses in fiscal year 2018, and 83.1 percent of non-immigration offenses, non-citizens accounted for 91.5 percent of immigration offenses. Similarly, while Hispanics accounted for only 32.3 percent of non-immigration offenders, they were 96.3 percent of immigration offenders. Also, immigration offenders had significantly less education than other offenders. Almost 80 percent (79.9%) of immigration offenders had less than a high school education, compared with 32.2 percent of offenders convicted of other crimes. Finally, while men committed a majority (84.0%) of non-immigration offenses, they committed an even higher proportion of immigration crimes (92.7%).

Of the 23,883 immigration offenders, 22,136 offenders (92.7%) were sentenced under one of the four primary immigration guidelines.<sup>11</sup> Most of these offenses involved either the unlawful reentry into the United States or unlawfully remaining in the United States without authority (82.4%). Another 12.8 percent were alien smuggling offenses.



# Drug Offenses

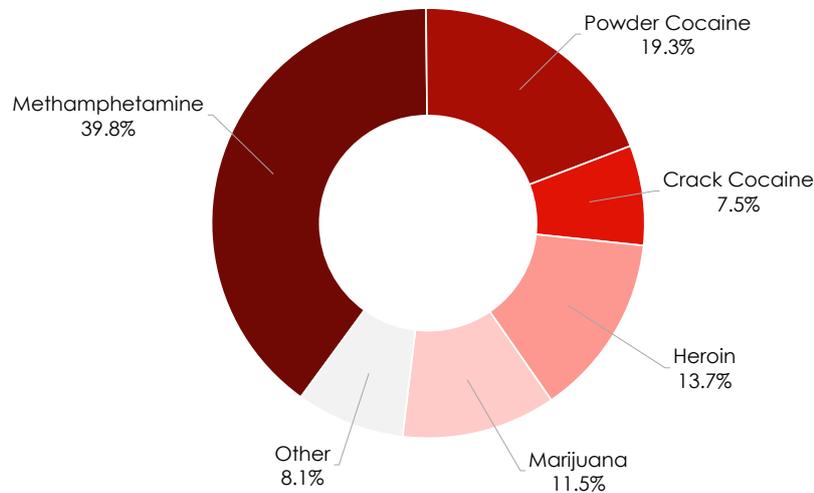
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Drug offenses were the second most common federal crimes in fiscal year 2018. Most of the 19,524 drug cases reported to the Commission involved the manufacture, sale, or transportation of a drug,<sup>12</sup> although 777 of those cases involved a conviction for drug possession. Both of these groups decreased from the levels of the prior year, the continuation of a five-year decline. Drug possession cases decreased over two-thirds (66.9%) since fiscal year 2014, falling by almost forty percent (39.5%) in the past year. Drug trafficking offenses fell by 14.1 percent in the past five years, with 4.5 percent fewer cases reported in fiscal year 2017.<sup>13</sup>

Methamphetamine offenses were the most common drug cases. The 7,554 methamphetamine cases represented 39.8 percent of all drug crimes. The number of methamphetamine cases has increased substantially since 1994, when cases involving that drug type accounted for only 6.4 percent of all drug cases.

Offenses involving cocaine, in either powder form or base (crack) form, were the second most common drug crimes. The 3,655 powder cocaine cases accounted for 19.3 percent of all drug cases while the 1,430 crack cocaine cases accounted for 7.5 percent. The number of crack cocaine cases has fallen by 76.8 percent since fiscal year 2008, the year in which the largest number of those cases were reported to the Commission.<sup>14</sup> That year, the 6,168 crack cocaine cases represented 24.3 percent of all drug cases.

### Primary Drug Type in Federal Drug Cases



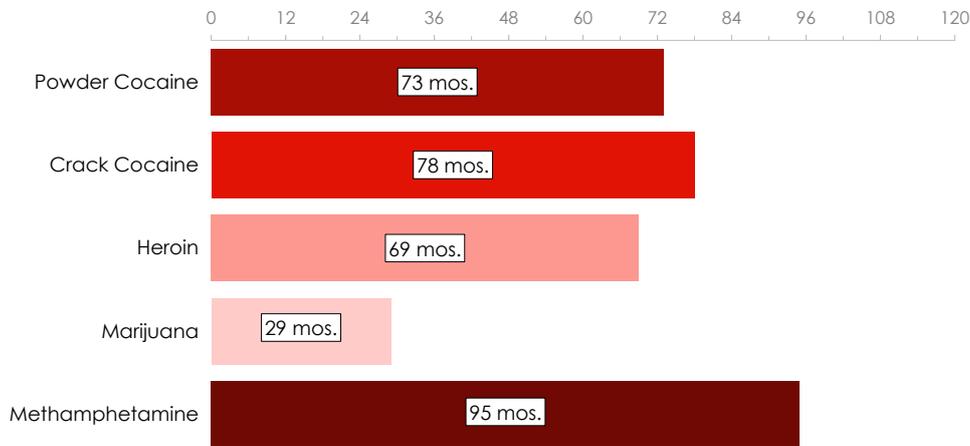
Of the remaining drug cases, heroin cases accounted for 13.7 percent of the cases, marijuana for 11.5 percent, and cases involving “other” drugs, such as fentanyl and oxycodone, accounted for 8.1 percent of all drug offenses. The number of heroin cases has increased by 59.7 percent since fiscal year 2009. Conversely, marijuana cases have declined by almost two-thirds (64.5%) in the past ten years.<sup>15</sup>

Of the 19,524 drug offenders, 18,659 were sentenced under the seven primary drug trafficking guidelines.<sup>16</sup> Most drug trafficking offenders were United States citizens (75.5%), although the citizenship of drug offenders varied widely depending on the type of drug involved in the offense. For example, 97.9 percent of crack cocaine drug trafficking offenders were United States citizens, while only 53.1 percent of marijuana drug trafficking offenders were citizens.

The race of drug trafficking offenders varied even more widely by the type of drug involved in the offense. Almost half (48.2%) of all drug trafficking offenders convicted in federal court were Hispanic, while Black offenders constituted 24.9 percent of all drug trafficking offenders, and White offenders were 24.1 percent of all drug trafficking offenders. Yet, in crack cocaine cases, 80.0 percent of those convicted were Black, and in marijuana cases 72.2 percent of the offenders were Hispanic. In “other” drug cases, 41.4 percent of those convicted were White.

Most drug trafficking offenders (83.4%) were male. Men comprised 92.2 percent of crack cocaine traffickers and 78.0 percent of methamphetamine traffickers. The 1,653 female methamphetamine offenders represent over half (53.3%) of all female drug traffickers.

### Average Sentence Length of Drug Trafficking Offenders (in months)



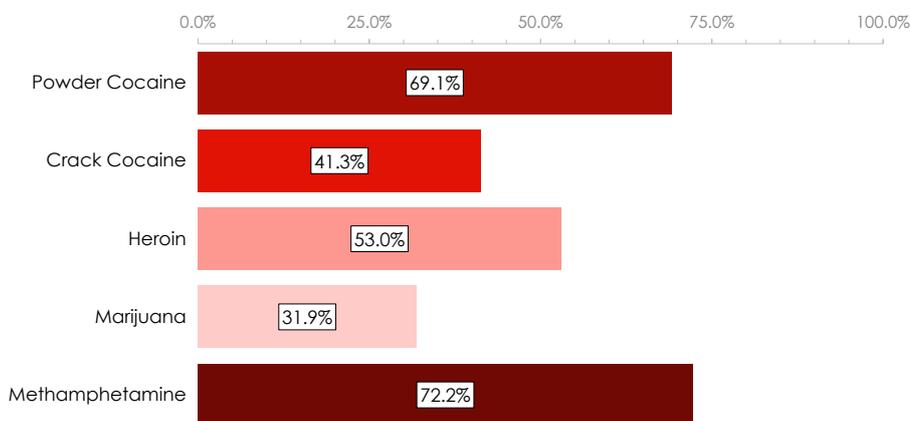
Weapons were involved in 21.8 percent of all drug trafficking offenses. As with the other aspects of these cases, the rate of weapon involvement varied depending on the type of drug involved, ranging from 37.7 percent in crack cocaine cases to 11.3 percent in marijuana cases.

The length of sentences imposed in drug trafficking cases generally increased from fiscal year 2017. The largest increase in average sentence occurred in cases involving methamphetamine, where the average sentence length increased from 88 months to 95 months, an 8.0 percent increase from fiscal year 2017. The only drug cases where the average sentence declined involved crack cocaine, as the average sentence decreased by 2.5 percent from 80 to 78 months.

For the fourth year in a row, methamphetamine drug trafficking offenses were the most severely punished drug crime, with an average sentence length of 95 months (and a median sentence of 77 months). Marijuana drug trafficking offenders had the lowest average sentence in fiscal year 2018 at 29 months (with a median sentence of 18 months).

Several factors can affect the sentence imposed in drug offenses, 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. Mandatory minimum sentences enacted by Congress<sup>17</sup> play 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.<sup>18</sup> In fiscal year

### Application of Mandatory Minimum Penalties in Drug Trafficking Cases



2018, over half (58.5%) of all drug trafficking offenders were convicted of an offense carrying a mandatory minimum penalty.

In fiscal year 2018, methamphetamine drug trafficking offenders and powder cocaine drug trafficking offenders were convicted of an offense that carried a mandatory minimum penalty at the highest rates—72.2 percent in methamphetamine cases and 69.1 percent in powder cocaine cases.<sup>19</sup> Mandatory minimum penalties were least common in drug trafficking cases involving marijuana, accounting for 31.9 percent of those cases.

In fiscal year 2018, enhanced penalties under 21 U.S.C. § 851 were sought by the government in 1,261 drug trafficking cases where the offender had been convicted previously of one or more felony drug offenses. However, in 20.1 percent of those cases the government eventually withdrew

the enhancement prior to sentencing.<sup>20</sup> Many offenders convicted of an offense carrying a mandatory minimum penalty are able to obtain relief from that penalty through the “safety valve” exception to such sentences, which requires courts to sentence the offender without regard to any otherwise applicable mandatory minimum punishment when certain conditions are met.<sup>21</sup> Powder cocaine drug trafficking offenders obtained relief from a mandatory minimum sentence through the use of the safety valve most often, in 37.7 percent of all powder cocaine drug trafficking cases. In contrast, only 2.3 percent of crack cocaine drug trafficking offenders obtained this relief.

This difference is due largely to the differing criminal histories of powder cocaine and crack cocaine drug trafficking offenders. In fiscal year 2018, 64.5 percent of powder cocaine drug trafficking offenders were



In 20% of 21 U.S.C. § 851 filings, the government withdrew the enhancement before sentencing.

assigned to Criminal History Category I (offenders with a criminal history score under the sentencing guidelines of zero or one) while just 19.0 percent of crack cocaine drug trafficking offenders were assigned to that category. In fiscal year 2018, only offenders assigned to CHC I were eligible to receive the benefit of the safety valve.<sup>22</sup>

Overall, crack cocaine offenders have a more serious criminal history than any other group of drug traffickers.<sup>23</sup> Crack cocaine offenders were assigned to the most serious Criminal History Category (CHC VI) in 24.4 percent of all crack cocaine drug trafficking cases. In contrast, powder cocaine drug trafficking offenders were assigned to CHC VI in only 7.3 percent of cases. By comparison, 15.3 percent of heroin drug trafficking offenders and 15.0 percent of methamphetamine drug trafficking offenders were assigned to CHC VI. Drug traffickers convicted of marijuana offenses generally had the least serious criminal

histories, with 61.2 percent assigned to CHC I and only 4.5 percent to CHC VI.

An offender's role in the offense also can affect the guideline range the judge considers when imposing a sentence. In fiscal year 2018, the applicable guideline range was lowered in 20.6 percent of all drug trafficking cases because of the offender's minor or minimal role in the offense. This adjustment applied in 41.9 percent of marijuana cases compared to only 4.1 percent of crack cocaine cases. In 7.0 percent of all drug trafficking cases, the applicable guideline range was increased because of the offender's role as an organizer, leader, manager, or supervisor.



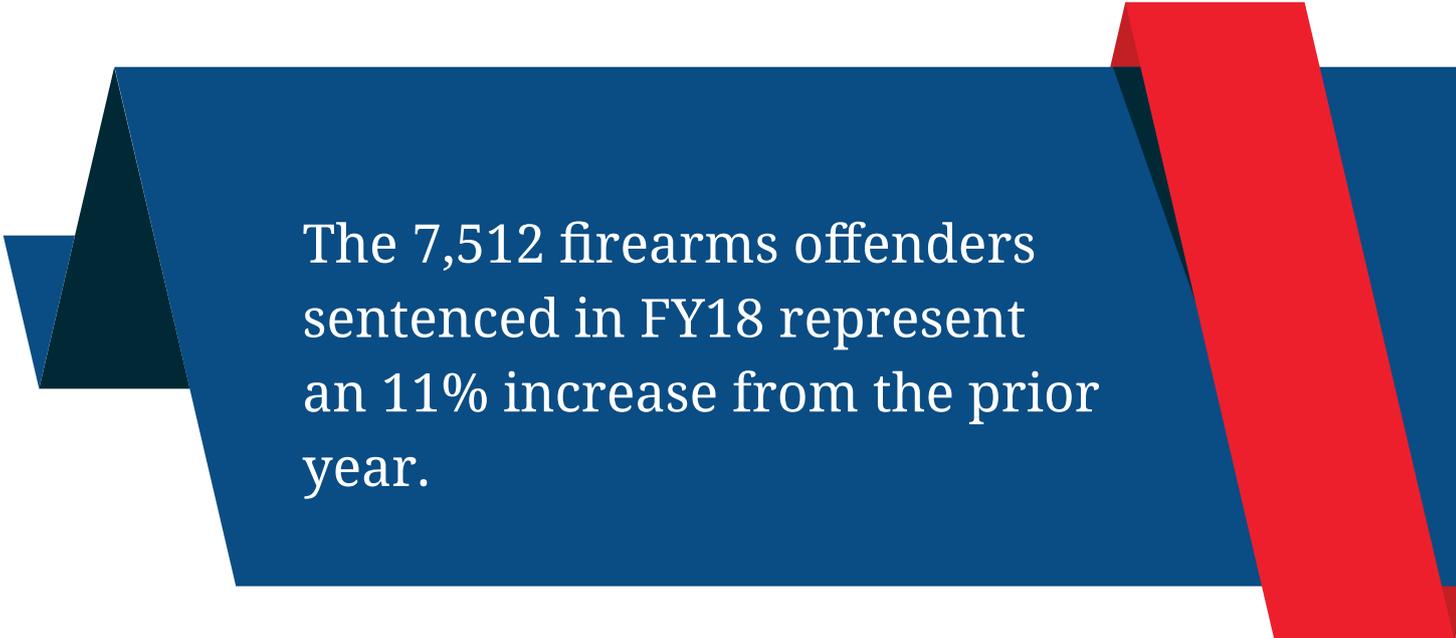
# Firearms Offenses

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Crimes involving firearms<sup>24</sup> accounted for 10.8 percent of the total number of federal criminal convictions in fiscal year 2018. The 7,512 firearms cases reported to the Commission represent an increase of 11.1 percent from the prior year. Of the 7,512 firearms cases, most (7,467) were sentenced under one of the five primary firearms guidelines.<sup>25</sup>

Most of firearms offenses involved either the unlawful receipt, possession or transportation of firearms or ammunition or prohibited transactions involving firearms or ammunition (94.2%). Of all firearms cases, 7.1 percent involved the possession or use of a firearm in connection with a crime of violence or drug trafficking crime,<sup>26</sup> and in 4.7 percent of firearms cases this was the only count of conviction. More than two-thirds of firearms cases (67.8%) involved the illegal possession of a firearm, usually by a convicted felon.<sup>27</sup>

Firearms offenders were primarily United States citizens (95.2%) and male (95.9%). Over half (52.6%) were Black, 25.9 percent were White, and 18.4 percent were Hispanic. In fiscal year 2018, almost half (45.2%) of firearms offenders were age 30 or younger. Over one-third (36.9%) did not completed high school while 46.5 percent completed high school and 16.6 percent attended or completed college.



The 7,512 firearms offenders sentenced in FY18 represent an 11% increase from the prior year.

In fiscal year 2018, 10.5 percent of firearms offenders were convicted of a firearm offense carrying a mandatory minimum penalty.<sup>28</sup> Among those firearm offenders convicted of possession or use of a firearm in connection with a crime of violence or drug trafficking crime, almost two-thirds (62.3%) were convicted of an offense carrying a five-year mandatory minimum penalty. An additional 21.8 percent of the cases involving these offenders carried a seven-year minimum penalty, and 15.9 percent carried a minimum penalty of ten years or longer.

In certain other types of cases, the court may consider the possession or use of a dangerous weapon when determining the sentence. In the cases with complete guideline application information reported to the Commission in fiscal year 2018, the sentences imposed in 9.8 percent of the cases were enhanced (either through application of a specific offense characteristic under the sentencing guidelines or by statute) because a firearm or other dangerous weapon (e.g., knife) was involved in the offense.



# Economic Offenses

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A total of 8,143 offenders were sentenced under one of the basic economic guidelines in fiscal year 2018.<sup>29</sup> Cases involving theft, property destruction, or fraud were the largest portion of these cases (73.0%). The 6,620 fraud, theft, or embezzlement cases reported to the Commission accounted for the fourth largest portion (9.5%) of all federal criminal convictions for fiscal year 2018, a decrease of 6.1 percent from the prior year.

About 40 percent (39.6%) of economic offenders were White, 36.3 percent were Black, and 17.6 percent were Hispanic. Most were United States citizens (88.2%) and about three-fourths (74.5%) of economic crime offenders were male. These offenders were, on average, older and more educated than fiscal year 2018 offenders. Almost half of economic offenders were age 41 and older (46.1%) and 47.5 percent completed at least some college.

The losses in these cases ranged from no loss (367 cases) to more than \$20 billion (one case). The average loss amount was \$4,653,016 and the median loss amount was \$62,000.



# Organizational Offenses

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Organizations such as corporations and partnerships can be prosecuted for violating federal criminal law, and 99 organizations were sentenced in fiscal year 2018. This number compares with 131 cases reported in fiscal year 2017. It is the lowest number of organizational defendants reported since the Commission began reporting this information in 1996 and is a continuation of the decrease in the number of these cases over the past fifteen years. By comparison, in fiscal year 2009, there were 177 defendants and in fiscal year 2004, there were 130 organizational defendants. Among these defendants, seventy percent (70.0%) were corporations, 22.5 percent were limited liability companies, and 3.8 percent were partnerships.

Most organizational offenders (62.9%) had less than 50 employees. Only 16.1 percent had 1,000 or more employees. Over 20 percent (20.2%) of organizations were in the business of manufacturing, production, design, inspection, sales and distribution and about 15 percent (15.2%) were in retail trade.

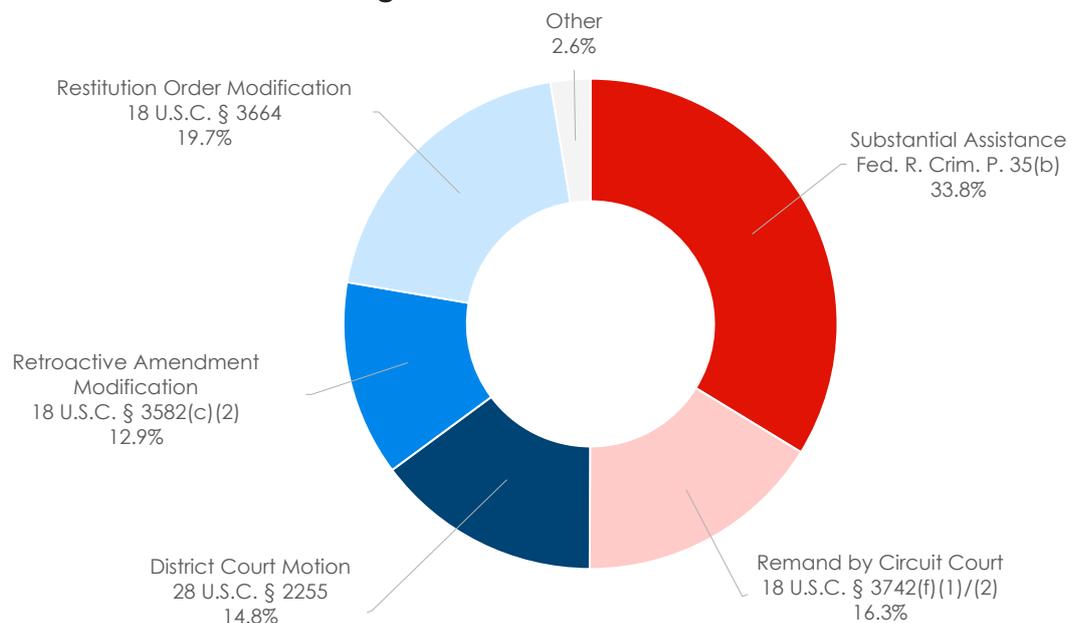
Of the 99 organizational offenders, 94.9 percent pleaded guilty to one or more charges in fiscal year 2018. The most common crimes for which organizational defendants were convicted were fraud and environmental crimes. In 52 cases, a fine was the sole financial component of the sentence imposed. In an additional 21 cases the organization was sentenced to pay restitution to the victim of the crime as well as to pay a fine. In eight cases, the sole financial component of the sentence was the payment of restitution. Organizations were ordered to pay \$134,878,650 in restitution and \$176,282,322 in fines for a total of \$311,160,972. No fine or restitution was imposed in 18 cases, although other sanctions were ordered in some of these cases. Additionally, of the 99 organizational offenders, 75 were sentenced to some term of probation, and 25 were ordered to make improvements in compliance or ethics programs.



# Resentencings and Other Modifications of Sentence

In fiscal year 2018, the Commission received documentation on 3,241 resentencings and other modifications of sentence. This represents a 38.2 percent decline from last year. The most frequently reported reason given for these types of cases was a reduction in sentence for substantial assistance<sup>30</sup> to the government in investigating or prosecuting another person after the offender was sentenced (1,095 cases; 33.8% of all resentencing and modification cases). The second most common reason was the modification of a restitution order (640 cases). The third most common type of resentencing or modification of sentence was a resentencing after remand by a court of appeals (527 cases).

**Resentencings and Other Modifications of Sentence**



## 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; (3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues; and (4) to devise and conduct seminars and workshops providing continuing studies for persons engaged in the sentencing field.

2 The Commission receives information from the courts on cases in which the defendant has been convicted of a felony or a Class A misdemeanor. See U.S. SENTENCING COMM'N, *Guidelines Manual*, §1B1.9 (Nov. 2018) [hereinafter USSG]. The fiscal year for the federal government begins on October 1 and ends on September 30. The fiscal year is designated by the calendar year in which it ends.

3 In fiscal year 2011, 86,201 individual offenders were sentenced. U.S. SENTENCING COMM'N, 2011 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS iv (2012), <https://www.ussc.gov/research/sourcebook/archive/sourcebook-2011>.

4 Due to methodological changes, direct comparisons between data from fiscal year 2018 cannot always be made to data reported in the *Sourcebook of Federal Sentencing Statistics* for years before fiscal year 2018. For more information on these methodological changes, see U.S. SENTENCING COMM'N, 2018 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS 29 (2019), <https://www.ussc.gov/research/sourcebook-2018>.

5 *Id.*

6 Information on race of the offender is obtained from the Presentence Investigation Report and recorded in separate categories of race and ethnicity. Race data indicate whether the offender is White, Black, Native American or Alaskan Native, Asian or Pacific Islander, Multiracial, or "Other". Ethnicity data indicate whether an offender is of Hispanic origin. Offenders whose ethnic background is designated as Hispanic are represented as Hispanic in all analysis in this report regardless of racial background.

7 See U.S. SENTENCING COMM'N, 1990 ANNUAL REPORT 53 (1991), <https://www.ussc.gov/about/annual-report/archive/annual-report-1990>.

8 For more information concerning the use of alternative sentences in the federal system, see *generally* COURTNEY SEMISCH, U.S. SENTENCING COMM'N., ALTERNATIVE SENTENCES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM (2015), <https://www.ussc.gov/research/research-publications/2015-report-alternative-sentencing-federal-criminal-justice-system>.

9 Probation sentences are included in the calculation of average sentence as zero months. Over half (52.2%) of environmental offenders and 23.6 percent of drug possession offenders received a sentence of probation with no type of confinement. Over half (55.2%) of environmental offenders and 30.4 percent of drug possession offenders were fined as part of their sentence.

10 See 2018 SOURCEBOOK, *supra* note 4.

11 The immigration guidelines are USSG §§2L1.1 (Alien Smuggling), 2L1.2 (Unlawful Entering or Remaining in the United States), 2L2.1 (Trafficking in Immigration Documents, or Making False or Fraudulent Immigration Statements), and 2L2.2 (Acquiring Fraudulent Immigration Documents). Complete guideline information was not available for the remaining immigration offenders.

12 This number also includes persons convicted of one or more crimes in addition to a drug offense.

13 See 2018 SOURCEBOOK, *supra* note 4.

14 *Id.*

15 *Id.*

16 The drug trafficking guidelines are USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of a Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), 2D1.10 (Endangering Human Life While Manufacturing), or 2D1.14 (Narco-Terrorism).

17 For more information on the use of mandatory minimum penalties generally, see U.S. SENTENCING COMM'N, OVERVIEW OF MANDATORY MINIMUM PENALTIES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM (2017), <https://www.ussc.gov/research/research-reports/2017-overview-mandatory-minimum-penalties-federal-criminal-justice-system>. For information on the use of mandatory minimum penalties in drug cases, see U.S. SENTENCING COMM'N, MANDATORY MINIMUM PENALTIES FOR DRUG OFFENSES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM (2017), <https://www.ussc.gov/research/research-reports/mandatory-minimum-penalties-drug-offenses-federal-system>.

18 The Commission's general practice has been to incorporate statutory minimum penalties into the structure of the guidelines. For example, in drug trafficking cases, the offense levels that correspond to the drug quantities that trigger the statutory mandatory minimum penalties provide for a sentencing range for an offender with no prior criminal history that includes the statutory penalty. The remaining sentencing ranges are extrapolated upward and downward from the guideline ranges that include the mandatory minimum penalties. See generally USSG, App. C, amend. 782 (effective Nov. 1, 2014).

19 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.

20 For more information about the use of enhanced penalties in drug trafficking cases, see U.S. SENTENCING COMM'N, APPLICATION AND IMPACT OF 21 U.S.C. § 851: ENHANCED PENALTIES FOR FEDERAL DRUG TRAFFICKING OFFENDERS (2018), <https://www.ussc.gov/research/research-reports/application-and-impact-section-851-enhancements>.

21 See 18 U.S.C. § 3553(f).

22 Congress has since expanded the criminal history limitation on the eligibility for the statutory safety

valve of 18 U.S.C. § 3553(f). See First Step Act of 2018, Pub. L. No. 115–391, § 402, 132 Stat. 5194. This change applies to cases in which the conviction was entered on or after the date of enactment of the act (December 21, 2018).

23 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 generally USSG, Ch.4. The CHC, along with the final offense level, determines the sentencing range under the guidelines.

24 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.

25 The primary firearms guidelines are USSG §§2K1.3 (Unlawful Receipt, Possession, or Transportation of Explosive Materials), 2K1.4 (Arson or Property Damage by Use of Explosives), 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition), 2K2.4 (Use of Firearm During or in Relation to Certain Crimes), and 2K2.5 (Possession of Firearm or Dangerous Weapon in Federal Facility or in School Zone).

26 *I.e.*, a case in which 18 U.S.C. § 924(c) was a statute of conviction.

27 *I.e.*, a case in which 18 U.S.C. § 922(g)(1) was a statute of conviction.

28 Mandatory minimum penalties apply to violations of 18 U.S.C. § 924(c) and 18 U.S.C. § 924(e).

29 The basic economic offense guidelines include USSG §§2B1.1 (Theft, Property Destruction, and Fraud Offenses), 2B1.4 (Insider Trading), 2B1.5 (Cultural Heritage Resources), 2B2.1 (Burglary), 2B3.1 (Robbery), 2B3.2 (Extortion), 2B4.1 (Bribery), 2B5.1 (Counterfeiting), and 2B5.3 (Copyright).

30 See Fed R. Crim. P. 35(b). For more information about cases involving a resentencing for substantial assistance to the government after sentencing, see KEVIN BLACKWELL & JILL BAISINGER, U.S. SENTENCING COMM'N, THE USE OF FEDERAL RULE OF CRIMINAL PROCEDURE 35(b) (2016), <https://www.ussc.gov/research/research-publications/use-federal-rule-criminal-procedure-35b>.



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## For More Information

More information on federal sentencing data can be found in the Commission's *2018 Sourcebook of Federal Sentencing Statistics and Guideline Application Frequencies for Fiscal Year 2018*. The *Sourcebook* is available in hard copy format through the Commission. Both documents, together with other reports on sentencing data, are also available in electronic format at the Commission's website at [www.ussc.gov](http://www.ussc.gov).

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