

**U.S. Sentencing Commission
Preliminary Crack Retroactivity Data Report
Fair Sentencing Act**



January 2014 Data

Introduction

As part of its ongoing mission, the United States Sentencing Commission provides Congress, the judiciary, the executive branch, and the general public with data extracted from and based on sentencing documents submitted by courts to the Commission.¹ Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.²

The Commission also reports preliminary data for an on-going fiscal year in order to provide real-time analysis of sentencing practices in the federal courts. Since 2005, the Commission has published a series of quarterly reports that are similar in format and methodology to tables and figures produced in the *Sourcebook of Federal Sentencing Statistics* or in the Commission's *Final Report on the Impact of the United States v. Booker on Federal Sentencing*.³ The quarterly reports contain cumulative data for the on-going fiscal year (i.e., data from the start of the fiscal year through the most current quarter).

This report provides data concerning the retroactive application of the guideline amendment implementation of the Fair Sentencing Act (FSA), Pub. L. No. 111–220, signed into law on August 3, 2010. The FSA increased the quantities of crack cocaine that trigger the five and ten-year statutory mandatory minimum penalties — from five grams to 28 grams for five-year mandatory minimums and from 50 to 280 grams for ten-year mandatory minimums — and eliminated the five-year mandatory minimum for simple possession of crack cocaine. Significantly, the FSA gave the Commission emergency amendment authority to temporarily change the guidelines to implement the statutory changes and to add certain enhancements and reductions to the guidelines.

On October 15, 2010 the Commission voted to promulgate Amendment 748, the emergency amendment which took effect on November 1, 2010. Among other changes, Amendment 748 made conforming changes to the guidelines to adjust the crack cocaine quantity levels in the Drug Quantity Table in §2D1.1 to the new statutory minimums, added new aggravating and mitigating factors in drug trafficking cases, and reflected the elimination of the statutory five-year mandatory minimum penalty for simple possession of crack cocaine.

On April 28, 2011, the Commission submitted to Congress, Amendment 750, the permanent guideline amendment implementing the FSA. The three-part amendment (A, B & C)

¹ In each felony or Class A misdemeanor case sentenced in federal court, sentencing courts are required to submit the following documents to the Commission: the judgment and commitment order, the statement of reasons, the plea agreement (if applicable), the indictment or other charging document, and the presentence report. See 28 U.S.C. § 994(w).

² See the Commission's website, www.uscc.gov, for electronic copies of the 1995-2012 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

³ See www.uscc.gov/bf.htm for an electronic copy of the Commission's *Final Report on the Impact of United States v. Booker on Federal Sentencing*.

re-promulgated as permanent the temporary emergency amendment and took effect on November 1, 2011.

On June 30, 2011, the Commission voted to promulgate Amendment 759 which added Parts A and C of Amendment 750 as amendments listed in §1B1.10 (*Reduction in Term of Imprisonment as a Result of an Amended Guideline Range*)(*Policy Statement*) that apply retroactively. Part A contained the changes to the crack cocaine quantity levels in the Drug Quantity Table in §2D1.1. Part C deleted the cross reference in §2D2.1 to reflect the elimination of the statutory minimum for simple possession of crack cocaine. The Commission voted to make Amendment 759 effective November 1, 2011, the same date that Amendment 750 took effect.

The data in this report represents information concerning motions decided through December 31, 2013 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by January 14, 2014. Users of this information are cautioned that the data are preliminary only and subject to change as the Commission receives, analyzes, and reports on additional cases.

In particular, the reader is cautioned with respect to drawing conclusions based on data concerning the denial of motions for sentence reduction pursuant to the crack cocaine amendment, as the judicial districts are employing various methods to prioritize the review of these motions. For example, in many districts, contested motions have not been decided by the court. Consequently, the data the Commission has received to date concerning cases in which the motion for a sentence reduction was denied may not be representative of the decisions that ultimately may be made in all districts or the nation as a whole.

Table 1

GEOGRAPHICAL DISTRIBUTION OF APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT BY DISTRICT

District	Granted		Denied		District	Granted		Denied			
	N	N	%	N		%	N	%	N	%	
TOTAL	12,551	7,496	59.7	5,055	40.3						
Eastern Virginia	873	592	67.8	281	32.2	Northern Indiana	101	99	98.0	2	2.0
Western North Carolina	675	220	32.6	455	67.4	New Jersey	100	58	58.0	42	42.0
Western Virginia	480	251	52.3	229	47.7	Eastern Arkansas	100	61	61.0	39	39.0
South Carolina	419	267	63.7	152	36.3	Eastern Louisiana	96	96	100.0	0	0.0
Southern Georgia	413	130	31.5	283	68.5	Western Pennsylvania	94	53	56.4	41	43.6
Western Texas	401	270	67.3	131	32.7	Western Missouri	92	91	98.9	1	1.1
Eastern North Carolina	399	175	43.9	224	56.1	Western Wisconsin	85	85	100.0	0	0.0
Middle North Carolina	346	127	36.7	219	63.3	Eastern Pennsylvania	84	82	97.6	2	2.4
Puerto Rico	345	188	54.5	157	45.5	Western Tennessee	83	80	96.4	3	3.6
Northern Florida	328	104	31.7	224	68.3	Northern New York	83	81	97.6	2	2.4
Southern Alabama	317	156	49.2	161	50.8	Northern Mississippi	81	67	82.7	14	17.3
Northern Iowa	287	80	27.9	207	72.1	Massachusetts	80	44	55.0	36	45.0
Eastern Missouri	272	153	56.3	119	43.8	District of Columbia	76	69	90.8	7	9.2
Western Louisiana	265	103	38.9	162	61.1	Middle Alabama	66	66	100.0	0	0.0
Eastern Texas	244	196	80.3	48	19.7	Eastern Wisconsin	58	58	100.0	0	0.0
Northern West Virginia	241	240	99.6	1	0.4	Eastern Kentucky	58	24	41.4	34	58.6
Middle Florida	236	230	97.5	6	2.5	Maine	54	19	35.2	35	64.8
Western Kentucky	223	62	27.8	161	72.2	Southern New York	51	32	62.7	19	37.3
Western Michigan	212	79	37.3	133	62.7	Colorado	48	40	83.3	8	16.7
Southern Iowa	207	59	28.5	148	71.5	Connecticut	46	46	100.0	0	0.0
Central Illinois	197	84	42.6	113	57.4	Western Arkansas	45	18	40.0	27	60.0
Northern Texas	194	114	58.8	80	41.2	New Hampshire	45	15	33.3	30	66.7
Middle Pennsylvania	192	145	75.5	47	24.5	Central California	44	33	75.0	11	25.0
Southern Illinois	171	108	63.2	63	36.8	Northern Oklahoma	42	28	66.7	14	33.3
Maryland	170	139	81.8	31	18.2	Northern California	39	37	94.9	2	5.1
Nebraska	166	114	68.7	52	31.3	Northern Georgia	33	32	97.0	1	3.0
Minnesota	153	73	47.7	80	52.3	Alaska	32	32	100.0	0	0.0
Eastern Tennessee	149	106	71.1	43	28.9	Middle Tennessee	27	27	100.0	0	0.0
Southern Ohio	149	113	75.8	36	24.2	Eastern California	26	26	100.0	0	0.0
Northern Alabama	142	21	14.8	121	85.2	Western Washington	26	26	100.0	0	0.0
Southern Texas	142	81	57.0	61	43.0	Rhode Island	25	25	100.0	0	0.0
Northern Ohio	140	91	65.0	49	35.0	New Mexico	14	12	85.7	2	14.3
Northern Illinois	136	134	98.5	2	1.5	Eastern Oklahoma	13	13	100.0	0	0.0
Southern West Virginia	129	104	80.6	25	19.4	Delaware	9	9	100.0	0	0.0
Southern Indiana	129	47	36.4	82	63.6	South Dakota	8	8	100.0	0	0.0
Southern Florida	126	75	59.5	51	40.5	Nevada	8	8	100.0	0	0.0
Middle Louisiana	121	41	33.9	80	66.1	Utah	7	7	100.0	0	0.0
Western Oklahoma	118	48	40.7	70	59.3	Wyoming	6	6	100.0	0	0.0
Middle Georgia	111	111	100.0	0	0.0	Oregon	6	6	100.0	0	0.0
Eastern Michigan	108	99	91.7	9	8.3	Vermont	5	5	100.0	0	0.0
Kansas	106	106	100.0	0	0.0	Eastern Washington	5	3	60.0	2	40.0
Eastern New York	105	34	32.4	71	67.6	Southern California	4	4	100.0	0	0.0
Southern Mississippi	104	104	100.0	0	0.0	Hawaii	2	0	0.0	2	100.0
Western New York	103	91	88.3	12	11.7						

Note: Some districts may not have reported all denials of motions seeking application of the retroactive crack cocaine amendment.

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

Table 2

**GEOGRAPHICAL DISTRIBUTION OF APPLICATION OF
RETROACTIVE CRACK COCAINE AMENDMENT
BY JUDICIAL CIRCUIT**

Circuit	N	Granted	Denied
TOTAL	12,551	7,496	5,055
FOURTH CIRCUIT	3,732	2,115	1,617
ELEVENTH CIRCUIT	1,772	925	847
FIFTH CIRCUIT	1,648	1,072	576
EIGHTH CIRCUIT	1,330	657	673
SIXTH CIRCUIT	1,149	681	468
SEVENTH CIRCUIT	877	615	262
FIRST CIRCUIT	549	291	258
THIRD CIRCUIT	479	347	132
SECOND CIRCUIT	393	289	104
TENTH CIRCUIT	354	260	94
NINTH CIRCUIT	192	175	17
D.C. CIRCUIT	76	69	7

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

Table 3**APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT BY
YEAR OF ORIGINAL SENTENCE¹**

Fiscal Year	Total	Granted		Denied	
	N	N	%	N	%
Total	12,489	7,460	59.7	5,029	40.3
2013	5	0	0.0	5	100.0
2012	46	9	19.6	37	80.4
2011	554	200	36.1	354	63.9
2010	1,417	888	62.7	529	37.3
2009	1,808	1,151	63.7	657	36.3
2008	1,723	1,168	67.8	555	32.2
2007	1,368	861	62.9	507	37.1
2006	1,097	671	61.2	426	38.8
2005	864	515	59.6	349	40.4
2004	639	366	57.3	273	42.7
2003	591	328	55.5	263	44.5
2002	395	200	50.6	195	49.4
2001	329	197	59.9	132	40.1
2000	280	137	48.9	143	51.1
1999	259	152	58.7	107	41.3
1998	216	127	58.8	89	41.2
1997	206	112	54.4	94	45.6
1996	178	97	54.5	81	45.5
1995	156	83	53.2	73	46.8
1994	141	76	53.9	65	46.1
1993	102	58	56.9	44	43.1
1992	67	35	52.2	32	47.8
1991	27	15	55.6	12	44.4
1990	17	11	64.7	6	35.3
1989	4	3	75.0	1	25.0

¹ Of the 12,551 cases, 62 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records.

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

Table 4**ORIGIN OF GRANTED MOTION FOR SENTENCE REDUCTION DUE TO
RETROACTIVE APPLICATION OF CRACK COCAINE AMENDMENT¹**

CIRCUIT	N	Defendant		Director BOP²		Court	
		N	%	N	%	N	%
TOTAL	6,855	5,648	82.4	0	0.0	1,207	17.6
D.C. CIRCUIT	65	65	100.0	0	0.0	0	0.0
FIRST CIRCUIT	285	264	92.6	0	0.0	21	7.4
SECOND CIRCUIT	271	237	87.5	0	0.0	34	12.5
THIRD CIRCUIT	265	259	97.7	0	0.0	6	2.3
FOURTH CIRCUIT	1,986	1,509	76.0	0	0.0	477	24.0
FIFTH CIRCUIT	965	723	74.9	0	0.0	242	25.1
SIXTH CIRCUIT	622	529	85.0	0	0.0	93	15.0
SEVENTH CIRCUIT	593	585	98.7	0	0.0	8	1.3
EIGHTH CIRCUIT	623	555	89.1	0	0.0	68	10.9
NINTH CIRCUIT	136	105	77.2	0	0.0	31	22.8
TENTH CIRCUIT	251	237	94.4	0	0.0	14	5.6
ELEVENTH CIRCUIT	793	580	73.1	0	0.0	213	26.9

¹ Of the 7,496 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 647 were excluded from this analysis because the information received by the Commission prevented a determination of motion origin. Additionally, courts may cite multiple origins for a motion; consequently, the total number of origins cited generally exceeds the total number of cases. In this table, 6,855 origins were cited for the 6,849 cases.

² In two cases, documents provided to the Commission indicated that the Bureau of Prisons Director made a motion. Those cases appear to be clerical errors.

Table 5

DEMOGRAPHIC CHARACTERISTICS OF OFFENDERS CONSIDERED FOR SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT

Race/Ethnicity	Total	Granted		Denied¹	
		N	%	N	%
White	456	418	5.6	38	3.5
Black	7,367	6,394	85.7	973	90.0
Hispanic	650	593	7.9	57	5.3
Other	68	55	0.7	13	1.2
Total	8,541	7,460		1,081	
Citizenship					
U.S. Citizen	8,213	7,180	96.6	1,033	95.6
Non-Citizen	303	256	3.4	47	4.4
Total	8,516	7,436		1,080	
Gender					
Male	8,179	7,138	95.4	1,041	96.1
Female	389	347	4.6	42	3.9
Total	8,568	7,485		1,083	
Average Age					
	30	30		31	

¹ The 1,083 offenders represented in this column are those whom the Commission previously identified as eligible to seek a sentence reduction but whose petition for a reduction was denied by the court. Of the remaining 3,972 cases in which the court denied the request for a sentence reduction, 1,411 were excluded from this analysis because the offender was not previously identified as eligible to seek a sentence reduction for one or more reasons (see 'Analysis of the Impact of the Guideline Implementation of the Fair Sentencing Act If Made Retroactive' (May 20, 2011) available at www.uscc.gov). Of the remaining 2,561 cases, 1,914 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2011 and so was excluded from the Commission's prior analysis of eligible offenders, 233 were excluded from this analysis because the offender was not sentenced for a drug offense, 388 were excluded from this analysis because crack cocaine was not involved in the offense, and 26 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

Table 6

**SELECTED SENTENCING FACTORS FOR OFFENDERS WHO WERE CONSIDERED FOR
SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE CRACK COCAINE
AMENDMENT**

	All Cases	Granted	Denied¹
	%	%	%
Weapon			
Weapon Specific Offense Characteristic	28.8	28.2	32.5
Firearms Mandatory Minimum Applied	14.2	13.6	18.1
Safety Valve	5.0	5.5	1.4
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	13.1	11.9	20.8
Mitigating Role (USSG §3B1.2)	1.5	1.6	1.0
Obstruction Adjustment (USSG §3C1.1)	7.5	7.1	10.8
Sentence Relative to the Guideline Range			
Within Range	71.8	72.2	69.5
Above Range	1.0	0.9	1.4
Below Range	27.2	26.9	29.1
Criminal History Category			
I	16.4	16.9	12.9
II	11.5	11.4	12.4
III	20.6	20.4	21.8
IV	17.6	18.0	14.4
V	13.2	13.6	10.6
VI	20.7	19.7	27.9

¹ The 1,083 offenders represented in this column are those whom the Commission previously identified as eligible to seek a sentence reduction but whose petition for a reduction was denied by the court. Of the remaining 3,972 cases in which the court denied the request for a sentence reduction, 1,411 were excluded from this analysis because the offender was not previously identified as eligible to seek a sentence reduction for one or more reasons (see 'Analysis of the Impact of the Guideline Implementation of the Fair Sentencing Act If Made Retroactive' (May 20, 2011) available at www.ussc.gov). Of the remaining 2,561 cases, 1,914 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2011 and so was excluded from the Commission's prior analysis of eligible offenders, 233 were excluded from this analysis because the offender was not sentenced for a drug offense, 388 were excluded from this analysis because crack cocaine was not involved in the offense, and 26 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

Table 7

**POSITION OF WITHIN RANGE SENTENCES FOR OFFENDERS GRANTED A
SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE
CRACK COCAINE AMENDMENT¹**

	<u>ORIGINAL SENTENCE</u>		<u>CURRENT SENTENCE</u>	
	N	%	N	%
TOTAL	2,353	100.0	2,353	100.0
Guideline Minimum	1,488	63.2	1,396	59.3
Lower Half of Range	408	17.3	358	15.2
Midpoint of Range	129	5.5	162	6.9
Upper Half of Range	177	7.5	231	9.8
Guideline Maximum	151	6.4	206	8.8

¹ Of the 7,496 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 3,920 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,567 cases were excluded from this analysis due to one or more of the following reasons: the case is missing sentence length or guideline relevant statutory information from the new sentence (941), the case is missing sentence length or guideline relevant statutory information from the original sentence (546), the new sentence had a guideline minimum and maximum that were identical (389) or the original sentence had a guideline minimum and maximum that were identical (61).

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

Table 8

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF
CRACK COCAINE AMENDMENT¹**

CIRCUIT		Average Current Sentence in Months	Average New Sentence in Months	Average Decrease in Months From Current Sentence	Average Percent Decrease From Current Sentence
District	N				
TOTAL	6,636	150	121	29	19.9
D.C. CIRCUIT	50	124	100	24	19.0
District of Columbia	50	124	100	24	19.0
FIRST CIRCUIT	259	116	97	19	16.0
Maine	19	119	99	20	15.6
Massachusetts	30	148	118	30	19.4
New Hampshire	13	107	91	17	19.2
Puerto Rico	182	109	93	17	15.5
Rhode Island	15	131	112	19	13.9
SECOND CIRCUIT	209	139	111	28	20.0
Connecticut	28	147	126	21	13.4
New York					
Eastern	31	141	103	38	24.6
Northern	55	149	120	30	21.0
Southern	31	148	117	31	20.9
Western	60	122	99	23	19.4
Vermont	4	118	99	19	16.5
THIRD CIRCUIT	292	140	114	26	18.5
Delaware	9	169	144	25	13.4
New Jersey	54	114	90	23	20.7
Pennsylvania					
Eastern	67	178	147	31	17.6
Middle	119	133	106	26	20.2
Western	43	127	109	18	13.4
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	1,858	158	127	31	19.9
Maryland	67	148	118	31	20.8
North Carolina					
Eastern	171	152	122	30	19.7
Middle	126	187	150	36	18.9
Western	162	181	150	31	16.5
South Carolina	256	163	131	33	20.2
Virginia					
Eastern	497	164	133	31	18.3
Western	238	157	130	28	18.2
West Virginia					
Northern	239	120	92	28	25.5
Southern	102	145	110	35	23.9

Table 8 (continued)

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF
CRACK COCAINE AMENDMENT**

CIRCUIT District	N	Average Current Sentence in Months	Average New Sentence in Months	Average Decrease in Months From Current Sentence	Average Percent Decrease From Current Sentence
FIFTH CIRCUIT	977	145	115	30	21.3
Louisiana					
Eastern	91	130	104	26	20.9
Middle	27	165	136	28	16.8
Western	96	185	152	33	18.4
Mississippi					
Northern	48	145	111	34	24.7
Southern	79	148	117	31	21.8
Texas					
Eastern	195	131	103	28	21.8
Northern	113	181	147	34	19.4
Southern	61	174	139	35	19.4
Western	267	121	95	26	22.9
SIXTH CIRCUIT	644	132	106	26	20.4
Kentucky					
Eastern	14	111	83	29	27.9
Western	62	103	82	20	20.3
Michigan					
Eastern	86	147	116	32	21.7
Western	79	152	126	26	17.0
Ohio					
Northern	88	120	95	25	21.2
Southern	113	138	114	25	19.0
Tennessee					
Eastern	106	128	103	26	21.4
Middle	26	161	126	35	20.3
Western	70	119	96	23	20.5
SEVENTH CIRCUIT	567	166	134	32	19.5
Illinois					
Central	75	158	131	28	18.5
Northern	131	169	139	30	17.5
Southern	105	182	145	38	21.5
Indiana					
Northern	98	146	115	30	21.3
Southern	36	235	190	45	19.5
Wisconsin					
Eastern	56	128	106	22	17.4
Western	66	165	130	35	20.6
EIGHTH CIRCUIT	577	143	115	28	19.6
Arkansas					
Eastern	59	116	91	25	23.9
Western	17	111	90	21	20.3
Iowa					
Northern	72	190	151	39	19.6
Southern	59	185	151	33	17.2
Minnesota	54	147	124	23	15.3
Missouri					
Eastern	137	118	95	23	20.4
Western	59	155	121	33	19.0
Nebraska	113	134	108	26	19.7
North Dakota	0	--	--	--	--
South Dakota	7	100	73	28	19.2

Table 8 (continued)

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF
CRACK COCAINE AMENDMENT**

CIRCUIT		Average Current Sentence in Months	Average New Sentence in Months	Average Decrease in Months From Current Sentence	Average Percent Decrease From Current Sentence
District	N				
NINTH CIRCUIT	171	115	91	23	20.8
Alaska	32	129	102	27	21.0
Arizona	0	--	--	--	--
California					
Central	32	114	91	23	22.1
Eastern	26	116	93	24	21.7
Northern	35	97	79	18	19.3
Southern	4	135	97	38	25.7
Guam	0	--	--	--	--
Hawaii	0	--	--	--	--
Idaho	0	--	--	--	--
Montana	0	--	--	--	--
Nevada	7	171	131	40	21.8
Northern Mariana Islands	0	--	--	--	--
Oregon	6	122	86	36	30.2
Washington					
Eastern	3	67	50	17	27.0
Western	26	105	88	17	16.0
TENTH CIRCUIT	212	164	133	31	18.6
Colorado	35	167	134	33	18.1
Kansas	82	137	112	25	17.3
New Mexico	10	139	120	19	16.7
Oklahoma					
Eastern	13	127	99	28	22.6
Northern	22	171	147	24	14.2
Western	38	248	197	51	20.2
Utah	6	155	117	38	30.4
Wyoming	6	98	72	26	27.4
ELEVENTH CIRCUIT	820	173	139	34	20.4
Alabama					
Middle	65	152	124	27	19.1
Northern	18	197	152	45	21.5
Southern	133	218	173	45	19.9
Florida					
Middle	227	159	129	30	20.5
Northern	90	249	200	49	19.5
Southern	65	143	116	27	18.1
Georgia					
Middle	111	123	95	29	24.0
Northern	30	197	161	36	18.2
Southern	81	152	122	30	20.6

¹ Of the 12,551 cases, 62 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 5,029 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 7,460 cases, 824 were excluded from this analysis because the offender was sentenced to time served and the resulting term of imprisonment could not be determined from the records received by the Commission.

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

Table 9

REASONS GIVEN BY SENTENCING COURTS FOR DENIAL OF MOTION¹

REASONS	N	%
Offense does not involve crack cocaine	287	5.0
Case does not involve crack cocaine	218	3.8
Sentence is determined by a non-drug guideline	69	1.2
Offender not eligible under §1B1.10	3,744	66.1
Statutory mandatory minimum controls sentence	1,458	25.7
Career Offender or Armed Career Criminal provisions control sentence	1,045	18.4
Guideline range does not change	742	13.1
Base offense level does not change (due to multiple drugs)	162	2.9
Case involved more than 8.4 kg of crack cocaine	119	2.1
Case involved more than 4.5 kg of crack cocaine	106	1.9
Original sentence has been served	91	1.6
Statutory maximum sentence is less than applicable guideline range	18	0.3
Base offense level is 43	3	0.1
Denied on the merits	813	14.3
Offender has already benefitted from departure or variance	222	3.9
18 U.S.C. § 3553(a) factors	162	2.9
Offender subject to guideline reduction at original sentencing	131	2.3
Protection of the public	106	1.9
Post-sentencing or post-conviction conduct	74	1.3
Already received crack reduction	71	1.2
Denial because of binding plea	34	0.6
Previous variance or departure for crack/powder disparity	13	0.2
No reason provided/Other reason	840	14.8
No reason provided	629	11.1
Other	211	3.7

¹ Courts may cite multiple reasons for denying a motion; consequently, the total number of reasons cited generally exceeds the total number of cases. In this table, 5,684 reasons were cited for the 5,055 cases. Of the 629 cases in which the court did not give a reason for the denial, 516 were previously identified as ineligible by the Commission for sentence reduction (*see* 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (May 20, 2011) *available at* www.ussc.gov). Of those 516 cases, a statutory mandatory minimum controlled the sentence in 33 cases, in 12 cases the quantity of crack cocaine in the case exceeded 8.4 Kg, in 33 cases the sentence was determined by a non-drug guideline, in 24 cases no change in the guideline range was found, in 71 cases crack cocaine was not involved, in 65 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 266 cases the offender was predicted to have been released, in six cases the Bureau of Prisons informed the Commission that the offender was no longer serving time for the instant offense, in one case the base offense level was 12 or lower, and in five cases there was no record on file with the Bureau of Prisons.

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.