

U.S. Sentencing Commission Preliminary Crack Cocaine Retroactivity Data Report



May 2010 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 is another in the Commission's efforts to provide analysis of federal sentencing practices. It provides data concerning recent court decisions considering motions to reduce the length of imprisonment for certain offenders convicted of offenses involving crack cocaine prior to November 1, 2007.

On May 1, 2007, pursuant to 28 U.S.C. § 994(a) and (p), the Commission submitted to Congress amendments to the federal sentencing guidelines that became effective on November 1, 2007. One of those amendments, Amendment 706, modified the drug quantity thresholds in the Drug Quantity Table of §2D1.1 so as to assign, for crack cocaine offenses, base offense levels corresponding to guideline ranges that include the statutory mandatory minimum penalties. Crack cocaine offenses for quantities above and below the mandatory minimum threshold quantities similarly were adjusted downward by two levels. The amendment also included a mechanism to determine a combined base offense level in an offense involving crack cocaine and other controlled substances.

On December 11, 2007, the Commission voted to promulgate Amendment 713, which added Amendment 706 as amended by 711, to the amendments listed in subsection (c) in §1B1.10 that apply retroactively. The Commission voted to make Amendment 713 effective on March 3, 2008. As a result, some incarcerated offenders are eligible to receive a reduction in their sentence under 18 U.S.C. § 3582(c)(2) pursuant to Amendment 706.

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.ussc.gov, for electronic copies of the 1995-2007 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

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

This report provides information on all cases reported to the Commission in which the court considered a motion to reduce a sentence under 18 U.S.C. § 3582(c)(2) for an offender convicted of an offense involving crack cocaine. The data in this report represents information concerning motions decided through May 19, 2010, and for which court documentation was received, coded and edited at the U.S. Sentencing Commission by May 24, 2010. 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	N	Granted		Denied		District	N	Granted		Denied	
		N	%	N	%			N	%	N	%
TOTAL	24,058	15,778	65.6	8,280	34.4						
Eastern Virginia	1,538	1,002	65.1	536	34.9	Massachusetts	195	128	65.6	67	34.4
Middle Florida	1,323	718	54.3	605	45.7	Kansas	195	192	98.5	3	1.5
Western North Carolina	931	418	44.9	513	55.1	Western Kentucky	181	89	49.2	92	50.8
South Carolina	924	720	77.9	204	22.1	Western Wisconsin	178	126	70.8	52	29.2
Eastern North Carolina	855	471	55.1	384	44.9	Southern Iowa	168	99	58.9	69	41.1
Western Virginia	836	515	61.6	321	38.4	Northern New York	160	113	70.6	47	29.4
Western Texas	643	438	68.1	205	31.9	Eastern Arkansas	159	104	65.4	55	34.6
Eastern Texas	560	436	77.9	124	22.1	Eastern Kentucky	153	79	51.6	74	48.4
Northern Florida	556	236	42.4	320	57.6	Northern Mississippi	151	151	100.0	0	0.0
Southern Florida	549	269	49.0	280	51.0	Eastern Wisconsin	142	101	71.1	41	28.9
Eastern Missouri	517	450	87.0	67	13.0	Middle Alabama	136	129	94.9	7	5.1
Southern New York	453	189	41.7	264	58.3	Colorado	131	69	52.7	62	47.3
Northern Texas	450	268	59.6	182	40.4	New Jersey	126	106	84.1	20	15.9
Eastern Louisiana	431	199	46.2	232	53.8	Northern Georgia	123	73	59.3	50	40.7
Northern West Virginia	430	425	98.8	5	1.2	Western Pennsylvania	119	107	89.9	12	10.1
Southern Georgia	429	215	50.1	214	49.9	Maine	107	59	55.1	48	44.9
Maryland	422	307	72.7	115	27.3	Southern Indiana	103	60	58.3	43	41.7
Central Illinois	410	158	38.5	252	61.5	Middle Louisiana	101	66	65.3	35	34.7
Middle Georgia	392	306	78.1	86	21.9	Central California	99	64	64.6	35	35.4
Western Missouri	391	226	57.8	165	42.2	New Hampshire	94	48	51.1	46	48.9
Southern Texas	385	278	72.2	107	27.8	Eastern California	93	92	98.9	1	1.1
Southern Alabama	377	253	67.1	124	32.9	Western Arkansas	85	52	61.2	33	38.8
Southern West Virginia	358	260	72.6	98	27.4	Northern Oklahoma	77	43	55.8	34	44.2
Western Louisiana	353	203	57.5	150	42.5	Alaska	70	41	58.6	29	41.4
Northern Ohio	344	308	89.5	36	10.5	Rhode Island	69	56	81.2	13	18.8
Middle Pennsylvania	336	216	64.3	120	35.7	Nevada	67	58	86.6	9	13.4
Southern Illinois	311	278	89.4	33	10.6	Western Oklahoma	64	64	100.0	0	0.0
Nebraska	305	244	80.0	61	20.0	Middle Tennessee	57	44	77.2	13	22.8
Eastern Tennessee	294	180	61.2	114	38.8	Western Washington	48	47	97.9	1	2.1
Northern Illinois	279	245	87.8	34	12.2	New Mexico	45	41	91.1	4	8.9
Middle North Carolina	277	149	53.8	128	46.2	Northern California	42	42	100.0	0	0.0
Connecticut	273	174	63.7	99	36.3	Delaware	35	26	74.3	9	25.7
Northern Indiana	271	218	80.4	53	19.6	Hawaii	29	25	86.2	4	13.8
Northern Alabama	270	130	48.1	140	51.9	Vermont	23	23	100.0	0	0.0
Eastern Pennsylvania	265	216	81.5	49	18.5	Oregon	20	19	95.0	1	5.0
Minnesota	263	184	70.0	79	30.0	Eastern Oklahoma	17	13	76.5	4	23.5
Puerto Rico	262	94	35.9	168	64.1	Utah	17	16	94.1	1	5.9
Northern Iowa	261	147	56.3	114	43.7	Eastern Washington	16	9	56.3	7	43.8
Eastern Michigan	245	217	88.6	28	11.4	Southern California	13	13	100.0	0	0.0
Southern Ohio	245	210	85.7	35	14.3	Montana	8	4	50.0	4	50.0
Southern Mississippi	235	197	83.8	38	16.2	Virgin Islands	5	5	100.0	0	0.0
Western Michigan	234	122	52.1	112	47.9	South Dakota	4	4	100.0	0	0.0
Western New York	218	137	62.8	81	37.2	Arizona	3	3	100.0	0	0.0
District of Columbia	217	206	94.9	11	5.1	Idaho	3	2	66.7	1	33.3
Western Tennessee	211	141	66.8	70	33.2	Wyoming	1	1	100.0	0	0.0
Eastern New York	197	99	50.3	98	49.7						

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2010 Datafiles, USSCFY08-USSCFY10.

Table 2

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

Circuit	N	Granted	Denied
TOTAL	24,058	15,778	8,280
FOURTH CIRCUIT	6,571	4,267	2,304
ELEVENTH CIRCUIT	4,155	2,329	1,826
FIFTH CIRCUIT	3,309	2,236	1,073
EIGHTH CIRCUIT	2,153	1,510	643
SIXTH CIRCUIT	1,964	1,390	574
SEVENTH CIRCUIT	1,694	1,186	508
SECOND CIRCUIT	1,324	735	589
THIRD CIRCUIT	886	676	210
FIRST CIRCUIT	727	385	342
TENTH CIRCUIT	547	439	108
NINTH CIRCUIT	511	419	92
D.C. CIRCUIT	217	206	11

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2010 Datafiles, USSCFY08-USSCFY10.

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

Fiscal Year	Total	Granted		Denied	
	N	N	%	N	%
Total	23,481	15,421	65.7	8,060	34.3
2009	38	1	2.6	37	97.4
2008	572	147	25.7	425	74.3
2007	3,342	2,285	68.4	1,057	31.6
2006	3,256	2,311	71.0	945	29.0
2005	2,817	1,917	68.1	900	31.9
2004	2,374	1,646	69.3	728	30.7
2003	2,212	1,484	67.1	728	32.9
2002	1,723	1,144	66.4	579	33.6
2001	1,370	910	66.4	460	33.6
2000	1,229	781	63.5	448	36.5
1999	987	645	65.3	342	34.7
1998	780	487	62.4	293	37.6
1997	611	382	62.5	229	37.5
1996	576	362	62.8	214	37.2
1995	419	255	60.9	164	39.1
1994	387	204	52.7	183	47.3
1993	286	163	57.0	123	43.0
1992	215	127	59.1	88	40.9
1991	121	68	56.2	53	43.8
1990	115	65	56.5	50	43.5
1989	51	37	72.5	14	27.5

¹Of the 24,058 cases, 577 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, Preliminary 2008-2010 Datafiles, USSCFY08-USSCFY10.

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

CIRCUIT	Defendant			Director BOP²		Court	
	N	N	%	N	%	N	%
TOTAL	14,381	12,049	83.8	0	0.0	2,332	16.2
D.C. CIRCUIT	181	177	97.8	0	0.0	4	2.2
FIRST CIRCUIT	374	318	85.0	0	0.0	56	15.0
SECOND CIRCUIT	689	475	68.9	0	0.0	214	31.1
THIRD CIRCUIT	579	573	99.0	0	0.0	6	1.0
FOURTH CIRCUIT	3,940	3,354	85.1	0	0.0	586	14.9
FIFTH CIRCUIT	1,933	1,435	74.2	0	0.0	498	25.8
SIXTH CIRCUIT	1,277	1,133	88.7	0	0.0	144	11.3
SEVENTH CIRCUIT	1,155	1,125	97.4	0	0.0	30	2.6
EIGHTH CIRCUIT	1,442	1,339	92.9	0	0.0	103	7.1
NINTH CIRCUIT	330	295	89.4	0	0.0	35	10.6
TENTH CIRCUIT	429	410	95.6	0	0.0	19	4.4
ELEVENTH CIRCUIT	2,052	1,415	69.0	0	0.0	637	31.0

¹Of the 15,778 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 1,458 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, 14,381 origins were cited for the 14,320 cases.

²In nine 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	1,010	917	5.9	93	5.0
Black	14,874	13,266	86.0	1,608	86.8
Hispanic	1,244	1,103	7.2	141	7.6
Other	145	134	0.9	11	0.6
Total	17,273	15,420		1,853	
Citizenship					
U.S. Citizen	16,209	14,443	94.8	1,766	95.3
Non-Citizen	882	794	5.2	88	4.7
Total	17,091	15,237		1,854	
Gender					
Male	16,379	14,612	94.0	1,767	95.2
Female	1,017	927	6.0	90	4.8
Total	17,396	15,539		1,857	
Average Age					
	30	30		30	

¹The 1,857 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 6,423 cases in which the court denied the request for a sentence reduction, 4,212 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 Crack Cocaine Amendment If Made Retroactive' (October 3, 2007) available at www.uscc.gov). Of the remaining 2,211 cases, 495 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2007 and so was excluded from the Commission's prior analysis of eligible offenders, 586 were excluded from this analysis because the offender was not sentenced for a drug offense, 910 were excluded from this analysis because crack cocaine was not involved in the offense, and 220 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2010 Datafiles, USSCFY08-USSCFY10.

Table 6**SELECTED SENTENCING FACTORS FOR OFFENDERS WHO WERE CONSIDERED FOR SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT**

	All Cases	Granted	Denied ¹
	%	%	%
Weapon			
Weapon Specific Offense Characteristic	24.3	23.8	28.0
Firearms Mandatory Minimum Applied	10.3	9.9	13.6
Safety Valve	9.1	9.7	4.5
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	10.1	9.2	17.9
Mitigating Role (USSG §3B1.2)	2.9	2.7	4.5
Obstruction Adjustment (USSG §3C1.1)	6.1	6.0	7.2
Sentence Relative to the Guideline Range			
Within Range	69.2	70.9	55.4
Above Range	0.4	0.3	1.1
Below Range	30.4	28.8	43.5
Criminal History Category			
I	22.1	22.8	15.9
II	12.9	12.9	12.6
III	23.0	23.1	21.7
IV	16.9	17.2	13.8
V	10.3	10.2	11.3
VI	14.9	13.7	24.6

¹The 1,857 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 6,423 cases in which the court denied the request for a sentence reduction, 4,212 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 Crack Cocaine Amendment If Made Retroactive' (October 3, 2007) *available at* www.ussc.gov). Of the remaining 2,211 cases, 495 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2007 and so was excluded from the Commission's prior analysis of eligible offenders, 586 were excluded from this analysis because the offender was not sentenced for a drug offense, 910 were excluded from this analysis because crack cocaine was not involved in the offense, and 220 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2010 Datafiles, USSCFY08-USSCFY10.

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	6,268	100.0	6,268	100.0
Guideline Minimum	4,051	64.6	4,188	66.8
Lower Half of Range	1,095	17.5	841	13.4
Midpoint of Range	299	4.8	465	7.4
Upper Half of Range	415	6.6	382	6.1
Guideline Maximum	408	6.5	392	6.3

¹Of the 15,778 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 8,169 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,901 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 (1,383), the case is missing sentence length or guideline relevant statutory information from the original sentence (449), the new sentence had a guideline minimum and maximum that were identical (184) or the original sentence had a guideline minimum and maximum that were identical (30).

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2010 Datafiles, USSCFY08-USSCFY10.

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	14,206	147	122	26	16.9
D.C. CIRCUIT	138	134	113	21	15.7
District of Columbia	138	134	113	21	15.7
FIRST CIRCUIT	332	120	99	21	17.3
Maine	59	125	103	22	16.7
Massachusetts	92	139	116	23	16.8
New Hampshire	46	94	76	18	19.4
Puerto Rico	88	108	87	21	18.0
Rhode Island	47	125	106	20	15.7
SECOND CIRCUIT	625	122	103	19	15.8
Connecticut	149	115	96	20	17.2
New York					
Eastern	86	121	100	21	17.1
Northern	79	134	113	21	15.6
Southern	169	140	119	21	14.7
Western	126	103	89	15	14.5
Vermont	16	97	78	18	18.6
THIRD CIRCUIT	569	131	109	22	16.2
Delaware	25	165	136	30	17.6
New Jersey	102	119	100	19	15.9
Pennsylvania					
Eastern	176	147	121	26	16.4
Middle	172	123	103	20	16.5
Western	93	120	101	18	15.6
Virgin Islands	1	--	--	--	--
FOURTH CIRCUIT	3,912	155	128	27	16.9
Maryland	266	159	131	28	17.3
North Carolina					
Eastern	460	172	143	29	16.6
Middle	144	149	124	25	16.5
Western	329	188	157	30	15.4
South Carolina	695	154	126	28	17.5
Virginia					
Eastern	914	156	128	27	16.9
Western	490	152	129	24	15.5
West Virginia					
Northern	365	117	95	22	18.2
Southern	249	138	113	26	18.5

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	2,045	144	119	25	17.2
Louisiana					
Eastern	188	135	117	19	13.8
Middle	57	118	100	18	15.3
Western	184	163	135	28	17.1
Mississippi					
Northern	136	123	101	22	17.9
Southern	178	124	103	21	17.4
Texas					
Eastern	429	137	111	26	18.7
Northern	254	175	143	31	18.1
Southern	227	153	128	26	16.2
Western	392	140	116	24	17.3
SIXTH CIRCUIT	1,303	126	105	21	16.2
Kentucky					
Eastern	71	104	87	18	16.3
Western	88	124	106	18	14.5
Michigan					
Eastern	168	155	127	27	16.7
Western	120	102	87	15	15.1
Ohio					
Northern	304	107	89	18	17.2
Southern	205	132	111	21	16.3
Tennessee					
Eastern	176	133	114	20	14.4
Middle	39	149	121	28	17.0
Western	132	137	114	23	16.9
SEVENTH CIRCUIT	1,082	153	125	28	17.7
Illinois					
Central	143	167	138	29	16.8
Northern	218	145	120	24	16.6
Southern	271	168	136	32	18.0
Indiana					
Northern	209	131	108	22	17.2
Southern	47	190	160	31	15.7
Wisconsin					
Eastern	94	131	106	24	18.7
Western	100	162	127	35	21.0
EIGHTH CIRCUIT	1,346	141	116	24	16.8
Arkansas					
Eastern	82	140	115	25	17.9
Western	52	101	85	16	16.7
Iowa					
Northern	127	164	135	29	17.6
Southern	93	160	134	27	16.2
Minnesota	157	173	142	31	17.0
Missouri					
Eastern	419	116	97	19	16.2
Western	180	159	131	29	17.0
Nebraska	233	138	114	25	17.1
North Dakota	0	--	--	--	--
South Dakota	3	136	94	42	32.6

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	373	144	120	24	16.1
Alaska	38	157	136	22	14.1
Arizona	3	213	171	42	19.8
California					
Central	54	164	133	30	18.3
Eastern	81	142	118	24	16.4
Northern	39	115	99	16	14.0
Southern	9	154	133	21	14.5
Guam	0	--	--	--	--
Hawaii	18	125	104	21	16.3
Idaho	2	--	--	--	--
Montana	4	102	90	12	13.1
Nevada	56	155	129	26	16.3
Northern Mariana Islands	0	--	--	--	--
Oregon	14	112	95	17	16.7
Washington					
Eastern	9	138	121	17	12.1
Western	46	143	115	28	17.3
TENTH CIRCUIT	393	150	123	26	17.1
Colorado	65	161	132	29	17.5
Kansas	173	128	106	22	16.8
New Mexico	40	146	120	25	16.8
Oklahoma					
Eastern	13	161	134	27	18.4
Northern	40	191	159	32	16.2
Western	47	185	150	35	18.8
Utah	14	120	100	20	16.0
Wyoming	1	--	--	--	--
ELEVENTH CIRCUIT	2,088	167	137	30	17.6
Alabama					
Middle	127	173	143	30	17.0
Northern	101	138	117	21	14.4
Southern	247	192	156	36	18.0
Florida					
Middle	679	164	132	32	18.4
Northern	203	232	189	44	18.2
Southern	255	139	116	24	16.7
Georgia					
Middle	235	129	104	25	19.2
Northern	66	189	155	34	17.7
Southern	175	162	138	24	14.1

¹Of the 24,058 cases, 577 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 8,060 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 15,421 cases, 1,215 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, Preliminary 2008-2010 Datafiles, USSCFY08-USSCFY10.

Table 9**REASONS GIVEN BY SENTENCING COURTS FOR DENIAL OF MOTION¹**

REASONS	N	%
Offense does not involve crack cocaine	985	10.9
Case does not involve crack cocaine	825	9.1
Sentence is determined by a non-drug guideline	160	1.8
Offender not eligible under §1B1.10	6,032	66.4
Career Offender or Armed Career Criminal provisions control sentence	2,210	24.3
Statutory mandatory minimum controls sentence	2,184	24.0
Case involved more than 4.5 kg of crack cocaine	825	9.1
Guideline range does not change	287	3.2
Base offense level does not change (due to multiple drugs)	246	2.7
Original sentence has been served	192	2.1
Statutory maximum sentence is less than applicable guideline range	81	0.9
Base offense level is 12 or lower	7	0.1
Base offense level is 43	0	0.0
Denied on the merits	1,379	15.2
Offender has already benefitted from departure or variance	481	5.3
Offender subject to guideline reduction at original sentencing	230	2.5
18 U.S.C § 3553(a) factors	225	2.5
Protection of the public	196	2.2
Post-sentencing or post-conviction conduct	158	1.7
Denial because of binding plea	89	1.0
No reason provided/Other reason	690	7.6
No reason provided	399	4.4
Other	291	3.2

¹Courts 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, 9,086 reasons were cited for the 8,280 cases. Of the 399 cases in which the court did not give a reason for the denial, 258 were previously identified as ineligible by the Commission for sentence reduction (*see* 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (October 3, 2007) *available at* www.uscc.gov). Of those 258 cases, a statutory mandatory minimum controlled the sentence in 43 cases, in 26 cases the quantity of crack cocaine in the case exceeded 4.5 Kg, in 37 cases the sentence was determined by a non-drug guideline, in 13 cases no change in the guideline range was found, in 50 cases crack cocaine was not involved, in 55 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 21 cases the offender was predicted to have been released, in eight 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, in three cases the base offense level was 43 and in one case there was no record on file with the Bureau of Prisons.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2010 Datafiles, USSCFY08-USSCFY10.