

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



July 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 July 8, 2010, and for which court documentation was received, coded and edited at the U.S. Sentencing Commission by July 20, 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	24,209	15,848	65.5	8,361	34.5						
Eastern Virginia	1,548	1,011	65.3	537	34.7	Kansas	196	193	98.5	3	1.5
Middle Florida	1,325	718	54.2	607	45.8	Massachusetts	195	128	65.6	67	34.4
Western North Carolina	936	420	44.9	516	55.1	Western Kentucky	181	89	49.2	92	50.8
South Carolina	926	722	78.0	204	22.0	Western Wisconsin	179	127	70.9	52	29.1
Eastern North Carolina	863	471	54.6	392	45.4	Southern Iowa	169	100	59.2	69	40.8
Western Virginia	838	515	61.5	323	38.5	Northern New York	161	114	70.8	47	29.2
Western Texas	645	438	67.9	207	32.1	Eastern Arkansas	159	104	65.4	55	34.6
Eastern Texas	569	437	76.8	132	23.2	Eastern Kentucky	153	79	51.6	74	48.4
Northern Florida	555	236	42.5	319	57.5	Northern Mississippi	152	152	100.0	0	0.0
Southern Florida	551	270	49.0	281	51.0	Eastern Wisconsin	142	101	71.1	41	28.9
Eastern Missouri	517	450	87.0	67	13.0	Middle Alabama	138	131	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	451	268	59.4	183	40.6	New Jersey	129	106	82.2	23	17.8
Maryland	441	312	70.7	129	29.3	Northern Georgia	124	74	59.7	50	40.3
Southern Georgia	432	215	49.8	217	50.2	Western Pennsylvania	118	106	89.8	12	10.2
Eastern Louisiana	431	199	46.2	232	53.8	Southern Indiana	108	63	58.3	45	41.7
Northern West Virginia	430	425	98.8	5	1.2	Maine	107	59	55.1	48	44.9
Central Illinois	411	160	38.9	251	61.1	Middle Louisiana	101	66	65.3	35	34.7
Middle Georgia	402	308	76.6	94	23.4	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	379	254	67.0	125	33.0	Western Arkansas	85	52	61.2	33	38.8
Southern West Virginia	361	262	72.6	99	27.4	Northern Oklahoma	77	43	55.8	34	44.2
Western Louisiana	356	203	57.0	153	43.0	Western Oklahoma	71	71	100.0	0	0.0
Middle Pennsylvania	344	220	64.0	124	36.0	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
Southern Illinois	318	282	88.7	36	11.3	Nevada	67	58	86.6	9	13.4
Nebraska	305	244	80.0	61	20.0	Middle Tennessee	57	44	77.2	13	22.8
Eastern Tennessee	295	181	61.4	114	38.6	Western Washington	48	47	97.9	1	2.1
Middle North Carolina	283	153	54.1	130	45.9	New Mexico	46	42	91.3	4	8.7
Northern Illinois	282	248	87.9	34	12.1	Northern California	42	42	100.0	0	0.0
Northern Alabama	274	130	47.4	144	52.6	Delaware	35	26	74.3	9	25.7
Connecticut	273	174	63.7	99	36.3	Hawaii	29	25	86.2	4	13.8
Northern Indiana	271	218	80.4	53	19.6	Vermont	23	23	100.0	0	0.0
Puerto Rico	266	94	35.3	172	64.7	Oregon	20	19	95.0	1	5.0
Eastern Pennsylvania	265	216	81.5	49	18.5	Eastern Oklahoma	17	13	76.5	4	23.5
Minnesota	263	184	70.0	79	30.0	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
Southern Ohio	247	211	85.4	36	14.6	Southern California	13	13	100.0	0	0.0
Eastern Michigan	245	217	88.6	28	11.4	Montana	8	4	50.0	4	50.0
Southern Mississippi	235	197	83.8	38	16.2	South Dakota	7	7	100.0	0	0.0
Western Michigan	235	122	51.9	113	48.1	Virgin Islands	5	5	100.0	0	0.0
District of Columbia	220	209	95.0	11	5.0	Arizona	3	3	100.0	0	0.0
Western New York	218	137	62.8	81	37.2	Idaho	3	2	66.7	1	33.3
Western Tennessee	212	143	67.5	69	32.5	Wyoming	1	1	100.0	0	0.0
Eastern New York	199	99	49.7	100	50.3						

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	24,209	15,848	8,361
FOURTH CIRCUIT	6,626	4,291	2,335
ELEVENTH CIRCUIT	4,180	2,336	1,844
FIFTH CIRCUIT	3,325	2,238	1,087
EIGHTH CIRCUIT	2,157	1,514	643
SIXTH CIRCUIT	1,969	1,394	575
SEVENTH CIRCUIT	1,711	1,199	512
SECOND CIRCUIT	1,327	736	591
THIRD CIRCUIT	896	679	217
FIRST CIRCUIT	731	385	346
TENTH CIRCUIT	556	448	108
NINTH CIRCUIT	511	419	92
D.C. CIRCUIT	220	209	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	23,616	15,491	65.6	8,125	34.4
2009	50	2	4.0	48	96.0
2008	587	147	25.0	440	75.0
2007	3,368	2,302	68.3	1,066	31.7
2006	3,279	2,326	70.9	953	29.1
2005	2,833	1,926	68.0	907	32.0
2004	2,377	1,648	69.3	729	30.7
2003	2,222	1,491	67.1	731	32.9
2002	1,728	1,145	66.3	583	33.7
2001	1,374	916	66.7	458	33.3
2000	1,232	783	63.6	449	36.4
1999	993	648	65.3	345	34.7
1998	782	488	62.4	294	37.6
1997	614	383	62.4	231	37.6
1996	578	364	63.0	214	37.0
1995	422	256	60.7	166	39.3
1994	388	205	52.8	183	47.2
1993	285	163	57.2	122	42.8
1992	216	127	58.8	89	41.2
1991	122	69	56.6	53	43.4
1990	115	65	56.5	50	43.5
1989	51	37	72.5	14	27.5

¹Of the 24,209 cases, 593 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	N	Defendant		Director BOP²		Court	
		N	%	N	%	N	%
TOTAL	14,443	12,108	83.8	0	0.0	2,335	16.2
D.C. CIRCUIT	183	179	97.8	0	0.0	4	2.2
FIRST CIRCUIT	374	318	85.0	0	0.0	56	15.0
SECOND CIRCUIT	690	476	69.0	0	0.0	214	31.0
THIRD CIRCUIT	582	576	99.0	0	0.0	6	1.0
FOURTH CIRCUIT	3,960	3,373	85.2	0	0.0	587	14.8
FIFTH CIRCUIT	1,935	1,437	74.3	0	0.0	498	25.7
SIXTH CIRCUIT	1,281	1,137	88.8	0	0.0	144	11.2
SEVENTH CIRCUIT	1,168	1,136	97.3	0	0.0	32	2.7
EIGHTH CIRCUIT	1,443	1,340	92.9	0	0.0	103	7.1
NINTH CIRCUIT	330	295	89.4	0	0.0	35	10.6
TENTH CIRCUIT	438	418	95.4	0	0.0	20	4.6
ELEVENTH CIRCUIT	2,059	1,423	69.1	0	0.0	636	30.9

¹Of the 15,848 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 1,467 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, 14,443 origins were cited for the 14,381 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	1,013	920	5.9	93	5.0
Black	14,946	13,329	86.0	1,617	86.8
Hispanic	1,248	1,106	7.1	142	7.6
Other	146	135	0.9	11	0.6
Total	17,353	15,490		1,863	
Citizenship					
U.S. Citizen	16,285	14,510	94.8	1,775	95.2
Non-Citizen	885	796	5.2	89	4.8
Total	17,170	15,306		1,864	
Gender					
Male	16,456	14,679	94.0	1,777	95.2
Female	1,020	930	6.0	90	4.8
Total	17,476	15,609		1,867	
Average Age					
	30	30		30	

¹The 1,867 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 6,494 cases in which the court denied the request for a sentence reduction, 4,233 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 2,261 cases, 515 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, 591 were excluded from this analysis because the offender was not sentenced for a drug offense, 919 were excluded from this analysis because crack cocaine was not involved in the offense, and 236 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	23.9	28.1
Firearms Mandatory Minimum Applied	10.3	9.9	13.8
Safety Valve	9.1	9.7	4.5
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	10.2	9.2	18.1
Mitigating Role (USSG §3B1.2)	2.9	2.7	4.6
Obstruction Adjustment (USSG §3C1.1)	6.2	6.0	7.2
Sentence Relative to the Guideline Range			
Within Range	69.2	70.9	55.3
Above Range	0.4	0.3	1.1
Below Range	30.4	28.8	43.6
Criminal History Category			
I	22.0	22.8	15.9
II	12.9	12.9	12.6
III	22.9	23.1	21.7
IV	16.9	17.2	13.7
V	10.3	10.2	11.4
VI	14.9	13.8	24.7

¹The 1,867 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 6,494 cases in which the court denied the request for a sentence reduction, 4,233 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 2,261 cases, 515 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, 591 were excluded from this analysis because the offender was not sentenced for a drug offense, 919 were excluded from this analysis because crack cocaine was not involved in the offense, and 236 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	6,291	100.0	6,291	100.0
Guideline Minimum	4,066	64.6	4,204	66.8
Lower Half of Range	1,097	17.4	842	13.4
Midpoint of Range	300	4.8	466	7.4
Upper Half of Range	418	6.6	385	6.1
Guideline Maximum	410	6.5	394	6.3

¹Of the 15,848 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 8,202 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,911 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 (1,391), the case is missing sentence length or guideline relevant statutory information from the original sentence (454), 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	14,276	147	122	26	17.0
D.C. CIRCUIT	141	133	112	21	15.9
District of Columbia	141	133	112	21	15.9
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	626	122	103	19	15.8
Connecticut	149	115	96	20	17.2
New York					
Eastern	86	121	100	21	17.1
Northern	80	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	572	131	110	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	176	124	104	20	16.4
Western	92	120	102	18	15.5
Virgin Islands	1	--	--	--	--
FOURTH CIRCUIT	3,936	155	128	27	16.9
Maryland	271	160	132	29	17.5
North Carolina					
Eastern	460	172	143	29	16.6
Middle	148	151	125	26	16.5
Western	331	187	157	30	15.4
South Carolina	697	154	126	28	17.5
Virginia					
Eastern	923	156	129	27	16.9
Western	490	152	129	24	15.5
West Virginia					
Northern	365	117	95	22	18.2
Southern	251	138	112	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	2,047	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	137	123	101	22	18.0
Southern	178	124	103	21	17.4
Texas					
Eastern	430	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	1,307	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	206	133	111	22	16.3
Tennessee					
Eastern	177	133	114	20	14.4
Middle	39	149	121	28	17.0
Western	134	138	115	24	16.9
SEVENTH CIRCUIT	1,095	154	126	28	17.7
Illinois					
Central	145	167	138	29	17.0
Northern	221	146	121	25	16.7
Southern	275	169	136	32	18.0
Indiana					
Northern	209	131	108	22	17.2
Southern	50	194	163	31	15.6
Wisconsin					
Eastern	94	131	106	24	18.7
Western	101	163	128	35	21.1
EIGHTH CIRCUIT	1,350	141	116	25	16.9
Arkansas					
Eastern	82	140	115	25	17.9
Western	52	101	85	16	16.7
Iowa					
Northern	127	164	135	29	17.6
Southern	94	159	133	26	16.3
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	6	137	78	60	44.1

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	402	152	125	26	17.1
Colorado	65	161	132	29	17.5
Kansas	174	129	107	22	16.8
New Mexico	41	145	120	25	16.8
Oklahoma					
Eastern	13	161	134	27	18.4
Northern	40	191	159	32	16.2
Western	54	194	159	36	18.5
Utah	14	120	100	20	16.0
Wyoming	1	--	--	--	--
ELEVENTH CIRCUIT	2,095	167	136	30	17.6
Alabama					
Middle	129	176	145	31	17.0
Northern	101	138	117	21	14.4
Southern	248	191	156	36	18.1
Florida					
Middle	679	164	132	32	18.4
Northern	203	232	189	44	18.2
Southern	256	139	116	24	16.7
Georgia					
Middle	237	128	103	25	19.2
Northern	67	187	153	34	18.0
Southern	175	162	138	24	14.1

¹Of the 24,209 cases, 593 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 8,125 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 15,491 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	995	10.8
Case does not involve crack cocaine	836	9.1
Sentence is determined by a non-drug guideline	159	1.7
Offender not eligible under §1B1.10	6,082	66.3
Career Offender or Armed Career Criminal provisions control sentence	2,225	24.2
Statutory mandatory minimum controls sentence	2,204	24.0
Case involved more than 4.5 kg of crack cocaine	832	9.1
Guideline range does not change	290	3.2
Base offense level does not change (due to multiple drugs)	247	2.7
Original sentence has been served	195	2.1
Statutory maximum sentence is less than applicable guideline range	82	0.9
Base offense level is 12 or lower	7	0.1
Base offense level is 43	0	0.0
Denied on the merits	1,406	15.3
Offender has already benefitted from departure or variance	485	5.3
Offender subject to guideline reduction at original sentencing	249	2.7
18 U.S.C § 3553(a) factors	227	2.5
Protection of the public	196	2.1
Post-sentencing or post-conviction conduct	159	1.7
Denial because of binding plea	90	1.0
No reason provided/Other reason	699	7.6
No reason provided	406	4.4
Other	293	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, 9,182 reasons were cited for the 8,361 cases. Of the 406 cases in which the court did not give a reason for the denial, 262 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 262 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 38 cases the sentence was determined by a non-drug guideline, in 13 cases no change in the guideline range was found, in 51 cases crack cocaine was not involved, in 56 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 22 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.