

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



July 2008 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 and analyzed from 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 prior to November 1, 2007 of offenses involving crack cocaine.

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 approve Amendment 713 which amended §1B1.10 of the guidelines to include Amendment 706, as amended by Amendment 711, in the list of amendments 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 1, 2008 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by July 7, 2008. 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 some 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 any one district 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	9,769	7,513	76.9	2,256	23.1						
Western Virginia	601	411	68.4	190	31.6	Eastern Tennessee	75	59	78.7	16	21.3
Eastern Virginia	531	328	61.8	203	38.2	Western Michigan	73	39	53.4	34	46.6
South Carolina	463	407	87.9	56	12.1	Eastern Michigan	72	72	100.0	0	0.0
Middle Florida	384	330	85.9	54	14.1	Eastern New York	71	42	59.2	29	40.8
Western Texas	345	285	82.6	60	17.4	Eastern Kentucky	65	41	63.1	24	36.9
Northern Texas	306	184	60.1	122	39.9	Eastern Wisconsin	63	54	85.7	9	14.3
Eastern Missouri	303	278	91.7	25	8.3	Eastern California	59	59	100.0	0	0.0
Middle Georgia	303	253	83.5	50	16.5	New Hampshire	58	29	50.0	29	50.0
Northern Florida	288	171	59.4	117	40.6	Colorado	55	29	52.7	26	47.3
Southern Alabama	226	156	69.0	70	31.0	Western Arkansas	51	35	68.6	16	31.4
Eastern Louisiana	214	126	58.9	88	41.1	Western Tennessee	49	49	100.0	0	0.0
Southern Texas	203	158	77.8	45	22.2	Northern Iowa	49	49	100.0	0	0.0
Northern West Virginia	192	192	100.0	0	0.0	Middle Alabama	48	42	87.5	6	12.5
Southern Florida	184	102	55.4	82	44.6	Northern Georgia	46	27	58.7	19	41.3
Southern Georgia	183	111	60.7	72	39.3	Western Washington	42	42	100.0	0	0.0
Central Illinois	182	87	47.8	95	52.2	Western Pennsylvania	41	35	85.4	6	14.6
Middle Pennsylvania	180	128	71.1	52	28.9	New Jersey	40	39	97.5	1	2.5
Southern Illinois	172	170	98.8	2	1.2	Southern Indiana	39	29	74.4	10	25.6
Southern West Virginia	170	139	81.8	31	18.2	Middle North Carolina	36	29	80.6	7	19.4
Nebraska	167	145	86.8	22	13.2	Rhode Island	34	30	88.2	4	11.8
Kansas	159	157	98.7	2	1.3	Western Oklahoma	31	31	100.0	0	0.0
Northern Indiana	152	139	91.4	13	8.6	Western Kentucky	30	24	80.0	6	20.0
Northern Ohio	151	150	99.3	1	0.7	Northern Oklahoma	28	6	21.4	22	78.6
Connecticut	149	113	75.8	36	24.2	Middle Louisiana	27	23	85.2	4	14.8
Southern Ohio	142	129	90.8	13	9.2	Northern Mississippi	25	25	100.0	0	0.0
Eastern Pennsylvania	141	136	96.5	5	3.5	Central California	23	20	87.0	3	13.0
Western Louisiana	138	94	68.1	44	31.9	Puerto Rico	21	14	66.7	7	33.3
Eastern Texas	131	113	86.3	18	13.7	Vermont	21	21	100.0	0	0.0
Maryland	125	99	79.2	26	20.8	Alaska	20	14	70.0	6	30.0
District of Columbia	121	114	94.2	7	5.8	New Mexico	19	19	100.0	0	0.0
Northern New York	113	98	86.7	15	13.3	Hawaii	18	16	88.9	2	11.1
Western New York	98	61	62.2	37	37.8	Northern California	15	15	100.0	0	0.0
Southern New York	95	51	53.7	44	46.3	Oregon	15	15	100.0	0	0.0
Eastern North Carolina	93	77	82.8	16	17.2	Nevada	14	13	92.9	1	7.1
Southern Iowa	92	47	51.1	45	48.9	Middle Tennessee	9	9	100.0	0	0.0
Northern Illinois	91	89	97.8	2	2.2	Montana	8	4	50.0	4	50.0
Western Wisconsin	88	75	85.2	13	14.8	Delaware	7	7	100.0	0	0.0
Western North Carolina	86	59	68.6	27	31.4	Eastern Washington	7	2	28.6	5	71.4
Southern Mississippi	86	82	95.3	4	4.7	Eastern Oklahoma	7	5	71.4	2	28.6
Maine	85	43	50.6	42	49.4	Southern California	4	4	100.0	0	0.0
Eastern Arkansas	84	62	73.8	22	26.2	Utah	4	3	75.0	1	25.0
Northern Alabama	84	50	59.5	34	40.5	Idaho	3	2	66.7	1	33.3
Western Missouri	83	57	68.7	26	31.3	Virgin Islands	2	2	100.0	0	0.0
Massachusetts	81	64	79.0	17	21.0	South Dakota	1	1	100.0	0	0.0
Minnesota	78	67	85.9	11	14.1	Arizona	1	1	100.0	0	0.0

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

Table 2**GEOGRAPHICAL DISTRIBUTION OF APPLICATION OF
RETROACTIVE CRACK COCAINE AMENDMENT
BY JUDICIAL CIRCUIT**

Circuit	n	Granted	Denied
TOTAL	9,769	7,513	2,256
FOURTH CIRCUIT	2,297	1,741	556
ELEVENTH CIRCUIT	1,746	1,242	504
FIFTH CIRCUIT	1,475	1,090	385
EIGHTH CIRCUIT	908	741	167
SEVENTH CIRCUIT	787	643	144
SIXTH CIRCUIT	666	572	94
SECOND CIRCUIT	547	386	161
THIRD CIRCUIT	411	347	64
TENTH CIRCUIT	303	250	53
FIRST CIRCUIT	279	180	99
NINTH CIRCUIT	229	207	22
D.C. CIRCUIT	121	114	7

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

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

Fiscal Year	Total	Granted		Denied	
	n	n	%	n	%
Total	9,683	7,450	76.9	2,233	23.1
2008	105	49	46.7	56	53.3
2007	1,215	931	76.6	284	23.4
2006	1,280	1,028	80.3	252	19.7
2005	1,149	883	76.8	266	23.2
2004	1,007	809	80.3	198	19.7
2003	996	772	77.5	224	22.5
2002	753	581	77.2	172	22.8
2001	635	503	79.2	132	20.8
2000	551	414	75.1	137	24.9
1999	440	339	77.0	101	23.0
1998	348	270	77.6	78	22.4
1997	267	198	74.2	69	25.8
1996	258	191	74.0	67	26.0
1995	172	125	72.7	47	27.3
1994	163	104	63.8	59	36.2
1993	128	85	66.4	43	33.6
1992	100	79	79.0	21	21.0
1991	50	37	74.0	13	26.0
1990	44	32	72.7	12	27.3
1989	22	20	90.9	2	9.1

¹Of the 9,769 cases, 86 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 Datafile, USSCFY08.

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	6,837	5,262	77.0	0	0.0	1,575	23.0
D.C. CIRCUIT	100	98	98.0	0	0.0	2	2.0
FIRST CIRCUIT	178	146	82.0	0	0.0	32	18.0
SECOND CIRCUIT	367	215	58.6	0	0.0	152	41.4
THIRD CIRCUIT	284	282	99.3	0	0.0	2	0.7
FOURTH CIRCUIT	1,597	1,186	74.3	0	0.0	411	25.7
FIFTH CIRCUIT	901	543	60.3	0	0.0	358	39.7
SIXTH CIRCUIT	537	473	88.1	0	0.0	64	11.9
SEVENTH CIRCUIT	627	616	98.2	0	0.0	11	1.8
EIGHTH CIRCUIT	714	661	92.6	0	0.0	53	7.4
NINTH CIRCUIT	166	153	92.2	0	0.0	13	7.8
TENTH CIRCUIT	246	239	97.2	0	0.0	7	2.8
ELEVENTH CIRCUIT	1,120	650	58.0	0	0.0	470	42.0

¹Of the 7,513 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 715 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, 6,837 origins were cited for the 6,798 cases.

²In six 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	525	489	6.6	36	6.1
Black	6,841	6,326	85.3	515	86.7
Hispanic	568	530	7.1	38	6.4
Other	77	72	1.0	5	0.8
Total	8,011	7,417		594	
Citizenship					
U.S. Citizen	7,479	6,916	94.4	563	94.8
Non-Citizen	440	409	5.6	31	5.2
Total	7,919	7,325		594	
Gender					
Male	7,473	6,920	92.7	553	92.9
Female	583	541	7.3	42	7.1
Total	8,056	7,461		595	
Average Age					
	30	30		30	

¹The 595 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 1,661 cases in which the court denied the request for a sentence reduction, 1,184 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 477 cases, 81 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, 134 were excluded from this analysis because the offender was not sentenced for a drug offense, 239 were excluded from this analysis because crack cocaine was not involved in the offense, and 23 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

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

	Total	Granted	Denied¹
Weapon			
Weapon Specific Offense Characteristic	23.2%	23.0%	24.7%
Firearms Mandatory Minimum Applied	7.1%	6.8%	11.6%
Safety Valve	11.9%	12.4%	6.3%
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	8.0%	7.4%	15.6%
Mitigating Role (USSG §3B1.2)	3.7%	3.4%	6.7%
Obstruction Adjustment (USSG §3C1.1)	5.1%	4.9%	6.7%
Sentence Relative to the Guideline Range			
Within Range	69.2%	70.1%	57.3%
Above Range	0.4%	0.3%	1.2%
Below Range	30.5%	29.6%	41.5%
Criminal History Category			
I	25.4%	26.0%	17.8%
II	13.9%	13.9%	13.8%
III	23.1%	23.1%	22.9%
IV	16.3%	16.5%	13.6%
V	9.5%	9.4%	11.3%
VI	11.8%	11.1%	20.5%

¹The 595 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 1,661 cases in which the court denied the request for a sentence reduction, 1,184 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 477 cases, 81 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, 134 were excluded from this analysis because the offender was not sentenced for a drug offense, 239 were excluded from this analysis because crack cocaine was not involved in the offense, and 23 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

Table 7

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

	ORIGINAL SENTENCE		CURRENT SENTENCE	
	n	%	n	%
TOTAL	3,145	100.0	3,145	100.0
Guideline Minimum	2,070	65.8	2,141	68.1
Lower Half of Range	511	16.2	393	12.5
Midpoint of Range	166	5.3	230	7.3
Upper Half of Range	196	6.2	180	5.7
Guideline Maximum	202	6.4	201	6.4

¹Of the 7,513 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 4,099 received a sentence within the guideline range at both their original and current sentencing. Of these, 954 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 (792), the case is missing sentence length or guideline relevant statutory information from the original sentence (138), the new sentence had a guideline minimum and maximum that were identical (69), or the original sentence had a guideline minimum and maximum that were identical (14).

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

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	6,499	131	108	23	17.3
D.C. CIRCUIT	66	124	107	17	13.5
District of Columbia	66	124	107	17	13.5
FIRST CIRCUIT	142	102	84	18	18.0
Maine	43	122	100	22	17.3
Massachusetts	36	117	97	20	17.1
New Hampshire	27	68	55	13	20.1
Puerto Rico	13	69	55	14	20.7
Rhode Island	23	102	85	17	16.9
SECOND CIRCUIT	317	108	91	17	16.1
Connecticut	95	89	74	15	17.2
New York					
Eastern	37	97	83	14	16.2
Northern	70	137	115	22	15.5
Southern	45	132	110	22	15.5
Western	55	92	80	13	14.5
Vermont	15	100	81	19	18.6
THIRD CIRCUIT	267	117	97	20	16.6
Delaware	7	137	111	26	18.9
New Jersey	38	100	84	16	15.9
Pennsylvania					
Eastern	107	138	114	24	16.0
Middle	93	101	84	17	17.2
Western	22	107	89	18	17.6
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	1,564	135	112	24	17.3
Maryland	65	129	108	21	16.1
North Carolina					
Eastern	75	140	115	25	17.3
Middle	29	174	142	32	17.8
Western	21	126	112	13	10.9
South Carolina	400	130	107	24	17.9
Virginia					
Eastern	304	158	129	29	18.2
Western	401	147	124	23	15.7
West Virginia					
Northern	138	75	61	14	18.5
Southern	131	117	95	22	18.7

Table 8 (continued)

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

CIRCUIT		Average	Average	Average Decrease	Average Percent
District	n	Current	New	in Months From	Decrease From
		Sentence	Sentence	Current Sentence	Current Sentence
		in Months	in Months		
FIFTH CIRCUIT	952	134	111	23	17.2
Louisiana					
Eastern	120	114	98	15	13.5
Middle	16	75	65	10	13.9
Western	76	112	93	20	17.4
Mississippi					
Northern	11	106	84	22	21.5
Southern	74	115	94	21	18.0
Texas					
Eastern	111	118	95	23	19.1
Northern	175	173	143	31	18.0
Southern	113	154	128	26	16.3
Western	256	131	108	23	17.6
SIXTH CIRCUIT	529	107	89	18	17.0
Kentucky					
Eastern	36	97	81	16	15.7
Western	24	108	89	19	17.1
Michigan					
Eastern	46	133	109	25	17.6
Western	38	86	76	10	12.9
Ohio					
Northern	149	99	81	18	18.3
Southern	127	113	94	18	16.5
Tennessee					
Eastern	58	111	94	17	15.2
Middle	7	107	91	16	17.0
Western	44	111	88	23	19.8
SEVENTH CIRCUIT	578	131	106	24	18.4
Illinois					
Central	77	139	115	24	17.0
Northern	74	113	92	20	17.7
Southern	169	147	119	28	18.6
Indiana					
Northern	135	118	97	21	17.8
Southern	17	180	147	32	16.8
Wisconsin					
Eastern	52	118	95	23	19.5
Western	54	121	95	26	21.2
EIGHTH CIRCUIT	625	113	94	19	16.6
Arkansas					
Eastern	45	110	91	18	16.4
Western	35	98	83	15	16.3
Iowa					
Northern	32	96	82	14	15.4
Southern	46	150	125	26	17.0
Minnesota	51	139	112	27	18.3
Missouri					
Eastern	253	103	87	17	16.2
Western	23	109	90	20	16.2
Nebraska	140	120	99	21	17.1
North Dakota	0	--	--	--	--
South Dakota	0	--	--	--	--

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	178	125	104	20	16.4
Alaska	11	161	142	18	14.1
Arizona	1	--	--	--	--
California					
Central	19	143	120	24	17.1
Eastern	48	120	100	20	16.7
Northern	13	101	85	16	14.8
Southern	3	173	143	30	17.4
Guam	0	--	--	--	--
Hawaii	11	119	98	21	17.4
Idaho	2	--	--	--	--
Montana	4	102	90	12	13.1
Nevada	13	136	113	23	16.8
Northern Mariana Islands	0	--	--	--	--
Oregon	10	93	75	17	18.9
Washington					
Eastern	2	--	--	--	--
Western	41	125	104	21	16.4
TENTH CIRCUIT	222	132	109	23	17.3
Colorado	27	141	116	26	17.3
Kansas	141	122	101	21	16.9
New Mexico	19	120	98	22	18.3
Oklahoma					
Eastern	5	163	137	27	16.3
Northern	4	241	196	45	18.9
Western	24	167	136	31	19.0
Utah	2	--	--	--	--
Wyoming	0	--	--	--	--
ELEVENTH CIRCUIT	1059	160	130	30	18.2
Alabama					
Middle	42	152	125	28	17.9
Northern	25	130	112	18	13.7
Southern	152	188	153	35	18.2
Florida					
Middle	307	157	125	32	19.2
Northern	141	226	183	43	18.2
Southern	97	134	112	23	17.1
Georgia					
Middle	195	121	97	24	19.4
Northern	23	147	121	26	17.7
Southern	77	147	125	22	14.0

¹Of the 9,769 cases, 86 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 2,233 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 7,450 cases, 951 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 Datafile, USSCFY08.

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

REASONS	Number	Percent
Offense does not involve crack cocaine	253	10.2
Case does not involve crack cocaine	213	8.6
Sentence is determined by a non-drug guideline	40	1.6
Offender not eligible under §1B1.10	1,616	65.4
Statutory mandatory minimum controls sentence	637	25.8
Career Offender or Armed Career Criminal provision controls sentence	484	19.6
Case involved more than 4.5 kg of crack cocaine	248	10.0
Base offense level does not change (due to multiple drugs)	82	3.3
Guideline range does not change	77	3.1
Original sentence has been served	62	2.5
Statutory maximum sentence is less than applicable guideline range	23	0.9
Base offense level is 12 or lower	3	0.1
Base offense level is 43	0	0.0
Denied on the merits	376	15.2
Offender has already benefitted from departure or variance	187	7.6
18 U.S.C § 3553(a) factors	70	2.8
Protection of the public	63	2.6
Post-sentencing or post-conviction conduct	56	2.3
No reason provided/Other reason	225	9.1
Other	124	5.0
No reason provided	101	4.1

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, 2,470 reasons were cited for the 2,256 cases. Of the 102 cases in which the court did not give a reason for the denial, 65 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.ussc.gov). Of those 65 cases, a statutory mandatory minimum controlled the sentence in 18 cases, in nine cases the quantity of crack cocaine in the case exceeded 4.5 kg, in six cases the sentence was determined by a non-drug guideline, in five cases no change in the guideline range was found, in 11 cases crack cocaine was not involved, in eight cases Career Offender or Armed Career Criminal provisions controlled the sentence, in three cases the offender was predicted to have been released, and in two cases the Bureau of Prisons informed the Commission that the offender was no longer serving time for the instant offense.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.