

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



September 2009 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.<sup>1</sup> Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.<sup>2</sup>

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*.<sup>3</sup> 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.

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<sup>1</sup> 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).

<sup>2</sup> See the Commission's website, [www.ussc.gov](http://www.ussc.gov), for electronic copies of the 1995-2007 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

<sup>3</sup> See [www.ussc.gov/bf.htm](http://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 August 27, 2009, and for which court documentation was received, coded and edited at the U.S. Sentencing Commission by September 2, 2009. 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	%
<b>TOTAL</b>	<b>22,604</b>	<b>15,092</b>	<b>66.8</b>	<b>7,512</b>	<b>33.2</b>						
Eastern Virginia	1,442	931	64.6	511	35.4	Western Wisconsin	178	126	70.8	52	29.2
Middle Florida	1,294	707	54.6	587	45.4	Massachusetts	172	121	70.3	51	29.7
South Carolina	866	698	80.6	168	19.4	Western Michigan	170	89	52.4	81	47.6
Western Virginia	824	514	62.4	310	37.6	Southern Iowa	170	99	58.2	71	41.8
Western North Carolina	789	372	47.1	417	52.9	Eastern New York	169	89	52.7	80	47.3
Eastern North Carolina	731	426	58.3	305	41.7	Eastern Arkansas	158	105	66.5	53	33.5
Western Texas	606	421	69.5	185	30.5	Northern New York	152	113	74.3	39	25.7
Northern Florida	539	233	43.2	306	56.8	Eastern Kentucky	151	78	51.7	73	48.3
Eastern Texas	519	409	78.8	110	21.2	Northern Mississippi	149	149	100.0	0	0.0
Eastern Missouri	510	444	87.1	66	12.9	Eastern Wisconsin	140	99	70.7	41	29.3
Southern Florida	487	264	54.2	223	45.8	Colorado	128	68	53.1	60	46.9
Northern Texas	445	265	59.6	180	40.4	Northern Georgia	121	71	58.7	50	41.3
Eastern Louisiana	428	197	46.0	231	54.0	Middle Alabama	120	113	94.2	7	5.8
Northern West Virginia	421	416	98.8	5	1.2	New Jersey	116	104	89.7	12	10.3
Southern Georgia	418	215	51.4	203	48.6	Western Pennsylvania	116	104	89.7	12	10.3
Central Illinois	402	156	38.8	246	61.2	Maine	108	60	55.6	48	44.4
Southern New York	398	163	41.0	235	59.0	Southern Indiana	98	55	56.1	43	43.9
Middle Georgia	390	304	77.9	86	22.1	New Hampshire	92	48	52.2	44	47.8
Western Missouri	385	224	58.2	161	41.8	Eastern California	90	89	98.9	1	1.1
Southern Texas	381	274	71.9	107	28.1	Central California	86	61	70.9	25	29.1
Southern Alabama	373	249	66.8	124	33.2	Western Arkansas	84	52	61.9	32	38.1
Maryland	350	259	74.0	91	26.0	Middle Louisiana	79	55	69.6	24	30.4
Southern West Virginia	343	255	74.3	88	25.7	Northern Oklahoma	74	40	54.1	34	45.9
Northern Ohio	328	294	89.6	34	10.4	Alaska	69	41	59.4	28	40.6
Middle Pennsylvania	316	203	64.2	113	35.8	Rhode Island	68	55	80.9	13	19.1
Western Louisiana	301	177	58.8	124	41.2	Nevada	65	57	87.7	8	12.3
Southern Illinois	287	268	93.4	19	6.6	Western Oklahoma	62	62	100.0	0	0.0
Nebraska	287	231	80.5	56	19.5	Middle Tennessee	48	40	83.3	8	16.7
Northern Indiana	270	217	80.4	53	19.6	Western Washington	48	47	97.9	1	2.1
Northern Illinois	267	237	88.8	30	11.2	New Mexico	45	41	91.1	4	8.9
Northern Alabama	263	129	49.0	134	51.0	Northern California	39	39	100.0	0	0.0
Connecticut	256	165	64.5	91	35.5	Delaware	34	25	73.5	9	26.5
Northern Iowa	255	143	56.1	112	43.9	Hawaii	29	25	86.2	4	13.8
Minnesota	253	182	71.9	71	28.1	Vermont	23	23	100.0	0	0.0
Eastern Pennsylvania	249	209	83.9	40	16.1	Oregon	20	19	95.0	1	5.0
Eastern Tennessee	245	158	64.5	87	35.5	Eastern Oklahoma	17	13	76.5	4	23.5
Puerto Rico	241	89	36.9	152	63.1	Utah	17	16	94.1	1	5.9
Southern Ohio	239	207	86.6	32	13.4	Eastern Washington	16	9	56.3	7	43.8
Southern Mississippi	231	195	84.4	36	15.6	Southern California	12	12	100.0	0	0.0
Middle North Carolina	219	120	54.8	99	45.2	Montana	8	4	50.0	4	50.0
Eastern Michigan	211	197	93.4	14	6.6	Virgin Islands	5	5	100.0	0	0.0
Western Tennessee	208	141	67.8	67	32.2	Arizona	3	3	100.0	0	0.0
District of Columbia	207	196	94.7	11	5.3	Idaho	3	2	66.7	1	33.3
Western New York	203	131	64.5	72	35.5	South Dakota	1	1	100.0	0	0.0
Kansas	193	190	98.4	3	1.6	Wyoming	1	1	100.0	0	0.0
Western Kentucky	180	89	49.4	91	50.6						

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 2**

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

<b>Circuit</b>	<b>N</b>	<b>Granted</b>	<b>Denied</b>
<b>TOTAL</b>	<b>22,604</b>	<b>15,092</b>	<b>7,512</b>
FOURTH CIRCUIT	5,985	3,991	1,994
ELEVENTH CIRCUIT	4,005	2,285	1,720
FIFTH CIRCUIT	3,139	2,142	997
EIGHTH CIRCUIT	2,103	1,481	622
SIXTH CIRCUIT	1,780	1,293	487
SEVENTH CIRCUIT	1,642	1,158	484
SECOND CIRCUIT	1,201	684	517
THIRD CIRCUIT	836	650	186
FIRST CIRCUIT	681	373	308
TENTH CIRCUIT	537	431	106
NINTH CIRCUIT	488	408	80
D.C. CIRCUIT	207	196	11

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SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 3****APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT BY  
YEAR OF ORIGINAL SENTENCE<sup>1</sup>**

<b>Fiscal Year</b>	<b>Total</b>	<b>Granted</b>		<b>Denied</b>	
	<b>N</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Total</b>	<b>22,027</b>	<b>14,757</b>	<b>67.0</b>	<b>7,270</b>	<b>33.0</b>
2008	424	127	30.0	297	70.0
2007	3,101	2,141	69.0	960	31.0
2006	3,043	2,194	72.1	849	27.9
2005	2,690	1,847	68.7	843	31.3
2004	2,260	1,583	70.0	677	30.0
2003	2,102	1,432	68.1	670	31.9
2002	1,636	1,100	67.2	536	32.8
2001	1,312	889	67.8	423	32.2
2000	1,178	762	64.7	416	35.3
1999	944	631	66.8	313	33.2
1998	737	467	63.4	270	36.6
1997	567	360	63.5	207	36.5
1996	534	345	64.6	189	35.4
1995	384	239	62.2	145	37.8
1994	365	197	54.0	168	46.0
1993	270	158	58.5	112	41.5
1992	203	121	59.6	82	40.4
1991	115	65	56.5	50	43.5
1990	113	63	55.8	50	44.2
1989	49	36	73.5	13	26.5

<sup>1</sup>Of the 22,604 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 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 4****ORIGIN OF GRANTED MOTION FOR SENTENCE REDUCTION DUE TO  
RETROACTIVE APPLICATION OF CRACK COCAINE AMENDMENT<sup>1</sup>**

<b>CIRCUIT</b>	<b>N</b>	<b>Defendant</b>		<b>Director BOP<sup>2</sup></b>		<b>Court</b>	
		<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>TOTAL</b>	<b>13,741</b>	<b>11,474</b>	<b>83.5</b>	<b>0</b>	<b>0.0</b>	<b>2,267</b>	<b>16.5</b>
D.C. CIRCUIT	171	168	98.2	0	0.0	3	1.8
FIRST CIRCUIT	362	306	84.5	0	0.0	56	15.5
SECOND CIRCUIT	643	436	67.8	0	0.0	207	32.2
THIRD CIRCUIT	558	552	98.9	0	0.0	6	1.1
FOURTH CIRCUIT	3,676	3,117	84.8	0	0.0	559	15.2
FIFTH CIRCUIT	1,846	1,362	73.8	0	0.0	484	26.2
SIXTH CIRCUIT	1,182	1,043	88.2	0	0.0	139	11.8
SEVENTH CIRCUIT	1,128	1,098	97.3	0	0.0	30	2.7
EIGHTH CIRCUIT	1,417	1,315	92.8	0	0.0	102	7.2
NINTH CIRCUIT	319	286	89.7	0	0.0	33	10.3
TENTH CIRCUIT	422	404	95.7	0	0.0	18	4.3
ELEVENTH CIRCUIT	2,017	1,387	68.8	0	0.0	630	31.2

<sup>1</sup>Of the 15,092 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 1,409 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, 13,741 origins were cited for the 13,683 cases.

<sup>2</sup>In 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**

<b>Race/Ethnicity</b>	<b>Total</b>	<b>Granted</b>		<b>Denied<sup>1</sup></b>	
		<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
White	971	887	6.0	84	4.9
Black	14,178	12,687	86.0	1,491	86.9
Hispanic	1,187	1,056	7.2	131	7.6
Other	140	130	0.9	10	0.6
<b>Total</b>	<b>16,476</b>	<b>14,760</b>		<b>1,716</b>	
<b>Citizenship</b>					
U.S. Citizen	15,455	13,825	94.8	1,630	94.9
Non-Citizen	844	757	5.2	87	5.1
<b>Total</b>	<b>16,299</b>	<b>14,582</b>		<b>1,717</b>	
<b>Gender</b>					
Male	15,594	13,960	93.9	1,634	95.0
Female	991	905	6.1	86	5.0
<b>Total</b>	<b>16,585</b>	<b>14,865</b>		<b>1,720</b>	
<b>Average Age</b>					
	<b>30</b>	<b>30</b>		<b>30</b>	

<sup>1</sup>The 1,720 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 5,792 cases in which the court denied the request for a sentence reduction, 3,861 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](http://www.uscc.gov)). Of the remaining 1,931 cases, 334 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, 521 were excluded from this analysis because the offender was not sentenced for a drug offense, 834 were excluded from this analysis because crack cocaine was not involved in the offense, and 242 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

**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 <sup>1</sup>
	%	%	%
<b>Weapon</b>			
Weapon Specific Offense Characteristic	24.0	23.6	27.3
Firearms Mandatory Minimum Applied	9.9	9.6	13.1
<b>Safety Valve</b>	9.4	9.9	4.8
<b>Guideline Role Adjustments</b>			
Aggravating Role (USSG §3B1.1)	9.8	8.9	17.4
Mitigating Role (USSG §3B1.2)	3.0	2.8	4.7
Obstruction Adjustment (USSG §3C1.1)	5.9	5.8	6.9
<b>Sentence Relative to the Guideline Range</b>			
Within Range	69.3	71.0	54.9
Above Range	0.4	0.3	1.2
Below Range	30.3	28.7	43.9
<b>Criminal History Category</b>			
I	22.4	23.1	16.1
II	13.0	13.0	12.7
III	23.0	23.2	21.8
IV	16.8	17.1	14.1
V	10.3	10.2	11.3
VI	14.5	13.4	24.1

<sup>1</sup>The 1,720 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 5,792 cases in which the court denied the request for a sentence reduction, 3,861 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](http://www.ussc.gov)). Of the remaining 1,931 cases, 334 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, 521 were excluded from this analysis because the offender was not sentenced for a drug offense, 834 were excluded from this analysis because crack cocaine was not involved in the offense, and 242 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 7**

**POSITION OF WITHIN RANGE SENTENCES FOR OFFENDERS GRANTED A  
SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE  
CRACK COCAINE AMENDMENT<sup>1</sup>**

	<u>ORIGINAL SENTENCE</u>		<u>CURRENT SENTENCE</u>	
	N	%	N	%
<b>TOTAL</b>	<b>6,029</b>	<b>100.0</b>	<b>6,029</b>	<b>100.0</b>
<b>Guideline Minimum</b>	3,909	64.8	4,044	67.1
<b>Lower Half of Range</b>	1,045	17.3	795	13.2
<b>Midpoint of Range</b>	290	4.8	452	7.5
<b>Upper Half of Range</b>	395	6.6	362	6.0
<b>Guideline Maximum</b>	390	6.5	376	6.2

<sup>1</sup>Of the 15,092 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 7,841 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,812 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 (1,325), the case is missing sentence length or guideline relevant statutory information from the original sentence (413), the new sentence had a guideline minimum and maximum that were identical (177) or the original sentence had a guideline minimum and maximum that were identical (29).

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

Table 8

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF  
CRACK COCAINE AMENDMENT<sup>1</sup>**

<b>CIRCUIT</b>		<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
District	<b>N</b>				
<b>TOTAL</b>	<b>13,553</b>	<b>145</b>	<b>120</b>	<b>25</b>	<b>16.9</b>
<b>D.C. CIRCUIT</b>	<b>129</b>	<b>130</b>	<b>110</b>	<b>20</b>	<b>15.6</b>
District of Columbia	129	130	110	20	15.6
<b>FIRST CIRCUIT</b>	<b>320</b>	<b>118</b>	<b>98</b>	<b>21</b>	<b>17.3</b>
Maine	60	126	104	22	16.8
Massachusetts	85	135	112	23	16.9
New Hampshire	46	94	76	18	19.4
Puerto Rico	83	106	85	21	17.8
Rhode Island	46	126	106	19	15.6
<b>SECOND CIRCUIT</b>	<b>578</b>	<b>119</b>	<b>100</b>	<b>19</b>	<b>15.8</b>
Connecticut	140	113	94	19	17.0
New York					
Eastern	79	117	97	20	17.1
Northern	78	134	113	21	15.6
Southern	145	134	114	20	14.5
Western	120	102	87	15	14.7
Vermont	16	97	78	18	18.6
<b>THIRD CIRCUIT</b>	<b>546</b>	<b>130</b>	<b>108</b>	<b>22</b>	<b>16.3</b>
Delaware	24	160	131	29	17.5
New Jersey	101	118	100	19	16.0
Pennsylvania					
Eastern	171	148	122	26	16.4
Middle	159	120	100	20	16.6
Western	90	119	101	18	15.7
Virgin Islands	1	--	--	--	--
<b>FOURTH CIRCUIT</b>	<b>3,654</b>	<b>151</b>	<b>125</b>	<b>26</b>	<b>16.9</b>
Maryland	221	153	126	27	17.2
North Carolina					
Eastern	414	162	134	28	16.6
Middle	117	149	123	26	16.7
Western	286	178	150	28	15.2
South Carolina	675	151	124	27	17.6
Virginia					
Eastern	852	155	128	28	17.0
Western	489	152	129	24	15.5
West Virginia					
Northern	356	114	93	21	18.2
Southern	244	138	112	25	18.5

**Table 8 (continued)**

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

<b>CIRCUIT</b> District	<b>N</b>	<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
<b>FIFTH CIRCUIT</b>	<b>1,953</b>	<b>142</b>	<b>117</b>	<b>25</b>	<b>17.2</b>
Louisiana					
Eastern	186	135	116	19	13.7
Middle	46	113	98	15	14.4
Western	158	149	123	26	17.0
Mississippi					
Northern	134	122	101	22	17.9
Southern	176	124	103	21	17.4
Texas					
Eastern	404	134	108	25	18.7
Northern	251	174	143	31	18.0
Southern	222	155	128	26	16.2
Western	376	139	115	24	17.3
<b>SIXTH CIRCUIT</b>	<b>1,208</b>	<b>122</b>	<b>102</b>	<b>20</b>	<b>16.2</b>
Kentucky					
Eastern	70	105	87	18	16.3
Western	88	124	106	18	14.5
Michigan					
Eastern	150	148	121	27	16.8
Western	87	93	79	13	14.8
Ohio					
Northern	290	104	87	18	17.3
Southern	202	131	110	21	16.3
Tennessee					
Eastern	154	124	106	18	14.2
Middle	35	145	118	27	16.6
Western	132	137	114	23	16.9
<b>SEVENTH CIRCUIT</b>	<b>1,052</b>	<b>153</b>	<b>125</b>	<b>28</b>	<b>17.7</b>
Illinois					
Central	141	167	138	29	16.8
Northern	207	145	121	24	16.6
Southern	262	168	135	32	18.0
Indiana					
Northern	208	131	109	22	17.2
Southern	42	187	157	30	15.7
Wisconsin					
Eastern	92	130	106	24	18.9
Western	100	162	127	35	21.0
<b>EIGHTH CIRCUIT</b>	<b>1,319</b>	<b>140</b>	<b>116</b>	<b>24</b>	<b>16.8</b>
Arkansas					
Eastern	83	141	116	25	17.9
Western	52	101	85	16	16.7
Iowa					
Northern	123	163	134	29	17.6
Southern	93	160	134	27	16.2
Minnesota	155	167	139	29	16.8
Missouri					
Eastern	413	116	97	19	16.2
Western	179	160	131	29	17.0
Nebraska	221	136	112	24	17.2
North Dakota	0	--	--	--	--
South Dakota	0	--	--	--	--

**Table 8 (continued)**

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

<b>CIRCUIT</b>		<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
District	<b>N</b>				
<b>NINTH CIRCUIT</b>	<b>363</b>	<b>143</b>	<b>119</b>	<b>24</b>	<b>16.1</b>
Alaska	38	157	136	22	14.1
Arizona	3	213	171	42	19.8
California					
Central	51	161	131	30	18.2
Eastern	78	139	116	23	16.2
Northern	36	112	96	16	14.1
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	55	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
<b>TENTH CIRCUIT</b>	<b>385</b>	<b>149</b>	<b>123</b>	<b>26</b>	<b>17.1</b>
Colorado	64	162	133	29	17.4
Kansas	171	128	106	22	16.8
New Mexico	40	141	116	25	17.1
Oklahoma					
Eastern	13	161	134	27	18.4
Northern	37	193	161	32	15.9
Western	45	183	148	35	18.9
Utah	14	120	100	20	16.0
Wyoming	1	--	--	--	--
<b>ELEVENTH CIRCUIT</b>	<b>2,046</b>	<b>165</b>	<b>135</b>	<b>30</b>	<b>17.5</b>
Alabama					
Middle	111	164	135	29	17.0
Northern	100	141	120	22	14.6
Southern	243	190	154	35	18.1
Florida					
Middle	670	164	132	32	18.4
Northern	200	231	188	43	18.1
Southern	250	135	113	23	16.5
Georgia					
Middle	233	128	103	25	19.2
Northern	64	189	154	34	17.8
Southern	175	161	138	23	14.0

<sup>1</sup>Of the 22,604 cases, 577 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 7,270 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 14,757 cases, 1,204 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 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 9****REASONS GIVEN BY SENTENCING COURTS FOR DENIAL OF MOTION<sup>1</sup>**

<b>REASONS</b>	<b>N</b>	<b>%</b>
<b>Offense does not involve crack cocaine</b>	<b>891</b>	<b>10.8</b>
Case does not involve crack cocaine	745	9.0
Sentence is determined by a non-drug guideline	146	1.8
<b>Offender not eligible under §1B1.10</b>	<b>5,472</b>	<b>66.4</b>
Statutory mandatory minimum controls sentence	2,002	24.3
Career Offender or Armed Career Criminal provisions control sentence	1,996	24.2
Case involved more than 4.5 kg of crack cocaine	736	8.9
Guideline range does not change	258	3.1
Base offense level does not change (due to multiple drugs)	221	2.7
Original sentence has been served	178	2.2
Statutory maximum sentence is less than applicable guideline range	74	0.9
Base offense level is 12 or lower	7	0.1
Base offense level is 43	0	0.0
<b>Denied on the merits</b>	<b>1,256</b>	<b>15.3</b>
Offender has already benefitted from departure or variance	469	5.7
18 U.S.C § 3553(a) factors	214	2.6
Protection of the public	182	2.2
Offender subject to guideline reduction at original sentencing	169	2.1
Post-sentencing or post-conviction conduct	145	1.8
Denial because of binding plea	77	0.9
<b>No reason provided/Other reason</b>	<b>623</b>	<b>7.6</b>
No reason provided	351	4.3
Other	272	3.3

<sup>1</sup>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, 8,242 reasons were cited for the 7,512 cases. Of the 351 cases in which the court did not give a reason for the denial, 225 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](http://www.uscc.gov)). Of those 225 cases, a statutory mandatory minimum controlled the sentence in 41 cases, in 24 cases the quantity of crack cocaine in the case exceeded 4.5 Kg, in 31 cases the sentence was determined by a non-drug guideline, in 11 cases no change in the guideline range was found, in 43 cases crack cocaine was not involved, in 51 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 13 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, 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 2008-2009 Datafiles, USSCFY08-USSCFY09.