

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



**September 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.<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 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.

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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 26, 2008 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by August 29, 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	%
<b>TOTAL</b>	<b>13,170</b>	<b>9,703</b>	<b>73.7</b>	<b>3,467</b>	<b>26.3</b>						
Eastern Virginia	821	508	61.9	313	38.1	Western Wisconsin	108	88	81.5	20	18.5
Western Virginia	734	470	64.0	264	36.0	Maine	101	57	56.4	44	43.6
South Carolina	628	533	84.9	95	15.1	Western Tennessee	100	97	97.0	3	3.0
Middle Florida	557	354	63.6	203	36.4	Eastern Wisconsin	97	75	77.3	22	22.7
Western Texas	453	356	78.6	97	21.4	Eastern Kentucky	94	58	61.7	36	38.3
Eastern Missouri	398	364	91.5	34	8.5	Puerto Rico	92	33	35.9	59	64.1
Northern Florida	371	186	50.1	185	49.9	Eastern New York	92	50	54.3	42	45.7
Northern Texas	346	206	59.5	140	40.5	Western Michigan	92	44	47.8	48	52.2
Middle Georgia	333	274	82.3	59	17.7	Colorado	81	42	51.9	39	48.1
Eastern Louisiana	307	165	53.7	142	46.3	Eastern California	78	77	98.7	1	1.3
Southern Alabama	295	206	69.8	89	30.2	New Hampshire	73	43	58.9	30	41.1
Southern Texas	294	227	77.2	67	22.8	Northern Georgia	72	47	65.3	25	34.7
Southern Georgia	280	156	55.7	124	44.3	Western Pennsylvania	69	61	88.4	8	11.6
Central Illinois	255	113	44.3	142	55.7	Middle North Carolina	66	54	81.8	12	18.2
Southern Florida	254	140	55.1	114	44.9	New Jersey	65	63	96.9	2	3.1
Middle Pennsylvania	237	161	67.9	76	32.1	Western Arkansas	65	42	64.6	23	35.4
Nebraska	225	191	84.9	34	15.1	Northern Iowa	63	63	100.0	0	0.0
Northern West Virginia	215	215	100.0	0	0.0	Middle Alabama	61	55	90.2	6	9.8
Southern West Virginia	213	168	78.9	45	21.1	Western Oklahoma	53	53	100.0	0	0.0
Northern Indiana	207	176	85.0	31	15.0	Southern Indiana	51	34	66.7	17	33.3
Southern Illinois	194	192	99.0	2	1.0	Northern Mississippi	47	47	100.0	0	0.0
Eastern Texas	182	151	83.0	31	17.0	Western Washington	45	45	100.0	0	0.0
Connecticut	180	132	73.3	48	26.7	Rhode Island	42	35	83.3	7	16.7
Kansas	177	175	98.9	2	1.1	Northern Oklahoma	40	19	47.5	21	52.5
Northern Ohio	176	175	99.4	1	0.6	Western Kentucky	39	32	82.1	7	17.9
Western Louisiana	172	115	66.9	57	33.1	Central California	33	29	87.9	4	12.1
Southern New York	169	82	48.5	87	51.5	Middle Louisiana	30	25	83.3	5	16.7
Eastern Pennsylvania	160	149	93.1	11	6.9	Nevada	29	27	93.1	2	6.9
Southern Ohio	155	141	91.0	14	9.0	Alaska	28	18	64.3	10	35.7
Western North Carolina	153	107	69.9	46	30.1	New Mexico	28	28	100.0	0	0.0
Maryland	147	117	79.6	30	20.4	Vermont	23	23	100.0	0	0.0
District of Columbia	143	135	94.4	8	5.6	Northern California	21	21	100.0	0	0.0
Northern Illinois	143	136	95.1	7	4.9	Hawaii	21	19	90.5	2	9.5
Southern Mississippi	142	132	93.0	10	7.0	Oregon	18	17	94.4	1	5.6
Western New York	134	85	63.4	49	36.6	Middle Tennessee	14	14	100.0	0	0.0
Eastern North Carolina	131	105	80.2	26	19.8	Utah	14	13	92.9	1	7.1
Minnesota	130	113	86.9	17	13.1	Delaware	13	13	100.0	0	0.0
Northern New York	127	105	82.7	22	17.3	Eastern Oklahoma	12	10	83.3	2	16.7
Eastern Arkansas	126	88	69.8	38	30.2	Eastern Washington	11	4	36.4	7	63.6
Western Missouri	123	81	65.9	42	34.1	Montana	8	4	50.0	4	50.0
Eastern Tennessee	121	98	81.0	23	19.0	Southern California	5	5	100.0	0	0.0
Northern Alabama	121	74	61.2	47	38.8	Idaho	3	2	66.7	1	33.3
Southern Iowa	118	63	53.4	55	46.6	Virgin Islands	2	2	100.0	0	0.0
Massachusetts	111	85	76.6	26	23.4	Arizona	2	2	100.0	0	0.0
Eastern Michigan	110	107	97.3	3	2.7	South Dakota	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**

<b>Circuit</b>	<b>n</b>	<b>Granted</b>	<b>Denied</b>
<b>TOTAL</b>	<b>13,170</b>	<b>9,703</b>	<b>3,467</b>
FOURTH CIRCUIT	3,108	2,277	831
ELEVENTH CIRCUIT	2,344	1,492	852
FIFTH CIRCUIT	1,973	1,424	549
EIGHTH CIRCUIT	1,249	1,006	243
SEVENTH CIRCUIT	1,055	814	241
SIXTH CIRCUIT	901	766	135
SECOND CIRCUIT	725	477	248
THIRD CIRCUIT	546	449	97
FIRST CIRCUIT	419	253	166
TENTH CIRCUIT	405	340	65
NINTH CIRCUIT	302	270	32
D.C. CIRCUIT	143	135	8

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

**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>12,889</b>	<b>9,517</b>	<b>73.8</b>	<b>3,372</b>	<b>26.2</b>
2008	166	67	40.4	99	59.6
2007	1,675	1,250	74.6	425	25.4
2006	1,753	1,379	78.7	374	21.3
2005	1,564	1,167	74.6	397	25.4
2004	1,350	1,025	75.9	325	24.1
2003	1,277	954	74.7	323	25.3
2002	970	722	74.4	248	25.6
2001	821	626	76.2	195	23.8
2000	719	510	70.9	209	29.1
1999	571	429	75.1	142	24.9
1998	457	323	70.7	134	29.3
1997	357	252	70.6	105	29.4
1996	324	231	71.3	93	28.7
1995	224	153	68.3	71	31.7
1994	219	127	58.0	92	42.0
1993	170	108	63.5	62	36.5
1992	119	88	73.9	31	26.1
1991	59	39	66.1	20	33.9
1990	59	39	66.1	20	33.9
1989	35	28	80.0	7	20.0

<sup>1</sup>Of the 13,170 cases, 281 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 AMENDMENT<sup>1</sup>**

CIRCUIT	Defendant			Director BOP <sup>2</sup>		Court	
	n	n	%	n	%	n	%
<b>TOTAL</b>	<b>8,832</b>	<b>7,019</b>	<b>79.5</b>	<b>0</b>	<b>0.0</b>	<b>1,813</b>	<b>20.5</b>
D.C. CIRCUIT	120	118	98.3	0	0.0	2	1.7
FIRST CIRCUIT	250	204	81.6	0	0.0	46	18.4
SECOND CIRCUIT	456	288	63.2	0	0.0	168	36.8
THIRD CIRCUIT	379	373	98.4	0	0.0	6	1.6
FOURTH CIRCUIT	2,073	1,598	77.1	0	0.0	475	22.9
FIFTH CIRCUIT	1,184	769	64.9	0	0.0	415	35.1
SIXTH CIRCUIT	708	617	87.1	0	0.0	91	12.9
SEVENTH CIRCUIT	791	770	97.3	0	0.0	21	2.7
EIGHTH CIRCUIT	968	901	93.1	0	0.0	67	6.9
NINTH CIRCUIT	220	201	91.4	0	0.0	19	8.6
TENTH CIRCUIT	333	319	95.8	0	0.0	14	4.2
ELEVENTH CIRCUIT	1,350	861	63.8	0	0.0	489	36.2

<sup>1</sup>Of the 9,703 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 914 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, 8,832 origins were cited for the 8,789 cases.

<sup>2</sup>In 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**

<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	639	594	6.3	45	5.4
Black	8,860	8,137	85.6	723	86.2
Hispanic	744	679	7.1	65	7.7
Other	97	91	1.0	6	0.7
<b>Total</b>	<b>10,340</b>	<b>9,501</b>		<b>839</b>	
<b>Citizenship</b>					
U.S. Citizen	9,668	8,874	94.6	794	94.6
Non-Citizen	555	510	5.4	45	5.4
<b>Total</b>	<b>10,223</b>	<b>9,384</b>		<b>839</b>	
<b>Gender</b>					
Male	9,706	8,919	93.2	787	93.6
Female	703	649	6.8	54	6.4
<b>Total</b>	<b>10,409</b>	<b>9,568</b>		<b>841</b>	
<b>Average Age</b>					
	<b>30</b>	<b>30</b>		<b>30</b>	

<sup>1</sup>The 841 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 2,626 cases in which the court denied the request for a sentence reduction, 1,788 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 838 cases, 134 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, 228 were excluded from this analysis because the offender was not sentenced for a drug offense, 381 were excluded from this analysis because crack cocaine was not involved in the offense, and 95 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**

	<b>Total</b>	<b>Granted</b>	<b>Denied<sup>1</sup></b>
<b>Weapon</b>			
Weapon Specific Offense Characteristic	23.4%	23.2%	25.4%
Firearms Mandatory Minimum Applied	8.0%	7.7%	11.4%
<b>Safety Valve</b>	11.2%	11.6%	6.6%
<b>Guideline Role Adjustments</b>			
Aggravating Role (USSG §3B1.1)	8.7%	8.0%	16.4%
Mitigating Role (USSG §3B1.2)	3.4%	3.2%	6.2%
Obstruction Adjustment (USSG §3C1.1)	5.3%	5.1%	6.4%
<b>Sentence Relative to the Guideline Range</b>			
Within Range	69.1%	70.2%	56.0%
Above Range	0.4%	0.3%	1.2%
Below Range	30.6%	29.5%	42.8%
<b>Criminal History Category</b>			
I	24.7%	25.3%	18.4%
II	13.7%	13.7%	13.8%
III	23.1%	23.2%	21.6%
IV	16.6%	16.8%	13.3%
V	9.6%	9.5%	10.8%
VI	12.3%	11.5%	22.1%

<sup>1</sup>The 841 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 2,626 cases in which the court denied the request for a sentence reduction, 1,788 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 838 cases, 134 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, 228 were excluded from this analysis because the offender was not sentenced for a drug offense, 381 were excluded from this analysis because crack cocaine was not involved in the offense, and 95 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 AMENDMENT<sup>1</sup>**

	<b>ORIGINAL SENTENCE</b>		<b>CURRENT SENTENCE</b>	
	n	%	n	%
<b>TOTAL</b>	<b>3,950</b>	<b>100.0</b>	<b>3,950</b>	<b>100.0</b>
<b>Guideline Minimum</b>	2,586	65.5	2,656	67.2
<b>Lower Half of Range</b>	670	17.0	506	12.8
<b>Midpoint of Range</b>	202	5.1	299	7.6
<b>Upper Half of Range</b>	236	6.0	229	5.8
<b>Guideline Maximum</b>	256	6.5	260	6.6

<sup>1</sup>Of the 9,703 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 5,168 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,218 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 (969), the case is missing sentence length or guideline relevant statutory information from the original sentence (212), the new sentence had a guideline minimum and maximum that were identical (98) or the original sentence had a guideline minimum and maximum that were identical (19).

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

**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>8,483</b>	<b>135</b>	<b>111</b>	<b>24</b>	<b>17.2</b>
<b>D.C. CIRCUIT</b>	<b>82</b>	<b>124</b>	<b>107</b>	<b>18</b>	<b>14.4</b>
District of Columbia	82	124	107	18	14.4
<b>FIRST CIRCUIT</b>	<b>207</b>	<b>108</b>	<b>89</b>	<b>19</b>	<b>17.5</b>
Maine	57	124	102	22	17.1
Massachusetts	50	127	106	21	16.5
New Hampshire	41	86	69	17	19.9
Puerto Rico	31	78	64	14	18.2
Rhode Island	28	107	91	17	15.9
<b>SECOND CIRCUIT</b>	<b>396</b>	<b>110</b>	<b>93</b>	<b>18</b>	<b>16.1</b>
Connecticut	113	99	82	17	17.5
New York					
Eastern	43	101	85	15	16.5
Northern	75	133	112	21	15.5
Southern	72	132	111	21	15.0
Western	77	93	80	14	15.2
Vermont	16	97	78	18	18.6
<b>THIRD CIRCUIT</b>	<b>361</b>	<b>119</b>	<b>99</b>	<b>20</b>	<b>16.5</b>
Delaware	12	136	110	26	18.8
New Jersey	60	107	90	18	16.5
Pennsylvania					
Eastern	119	136	113	23	16.0
Middle	123	110	91	18	16.9
Western	47	112	95	17	16.1
Virgin Islands	0	--	--	--	--
<b>FOURTH CIRCUIT</b>	<b>2,038</b>	<b>139</b>	<b>115</b>	<b>25</b>	<b>17.4</b>
Maryland	83	131	110	21	16.0
North Carolina					
Eastern	102	133	110	23	16.6
Middle	54	150	123	27	17.3
Western	51	142	120	22	15.2
South Carolina	519	141	115	27	18.1
Virginia					
Eastern	463	157	128	29	17.9
Western	450	148	124	23	15.7
West Virginia					
Northern	158	77	63	14	18.5
Southern	158	122	100	23	18.7

**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>FIFTH CIRCUIT</b>	<b>1269</b>	<b>137</b>	<b>114</b>	<b>23</b>	<b>17.0</b>
Louisiana					
Eastern	156	123	106	16	13.5
Middle	18	76	66	10	13.4
Western	97	126	103	23	17.6
Mississippi					
Northern	33	92	74	18	19.6
Southern	122	119	98	21	18.0
Texas					
Eastern	149	121	98	23	19.0
Northern	195	177	145	31	17.9
Southern	178	151	125	25	16.2
Western	321	138	115	24	17.2
<b>SIXTH CIRCUIT</b>	<b>702</b>	<b>114</b>	<b>95</b>	<b>19</b>	<b>16.5</b>
Kentucky					
Eastern	51	103	86	17	16.3
Western	32	118	98	20	16.6
Michigan					
Eastern	68	133	108	24	17.2
Western	43	86	77	10	12.9
Ohio					
Northern	172	103	85	18	18.0
Southern	138	117	99	19	16.3
Tennessee					
Eastern	96	116	99	17	14.5
Middle	11	113	97	16	15.5
Western	91	128	105	23	17.8
<b>SEVENTH CIRCUIT</b>	<b>731</b>	<b>134</b>	<b>110</b>	<b>24</b>	<b>18.0</b>
Illinois					
Central	101	152	125	27	17.2
Northern	113	118	99	20	16.8
Southern	189	148	120	28	18.6
Indiana					
Northern	170	124	104	21	17.0
Southern	22	177	145	32	17.2
Wisconsin					
Eastern	73	120	97	23	19.4
Western	63	121	96	25	20.6
<b>EIGHTH CIRCUIT</b>	<b>869</b>	<b>123</b>	<b>102</b>	<b>21</b>	<b>16.7</b>
Arkansas					
Eastern	69	139	115	24	17.5
Western	42	103	86	17	17.0
Iowa					
Northern	46	108	90	17	16.7
Southern	60	157	129	27	17.2
Minnesota	90	146	119	27	17.6
Missouri					
Eastern	336	109	92	18	16.1
Western	42	126	104	22	16.1
Nebraska	184	128	106	22	17.0
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>238</b>	<b>134</b>	<b>111</b>	<b>22</b>	<b>16.2</b>
Alaska	15	151	134	18	13.3
Arizona	2	--	--	--	--
California					
Central	27	155	128	27	17.6
Eastern	66	131	109	22	16.6
Northern	19	97	83	14	14.1
Southern	4	190	166	24	13.6
Guam	0	--	--	--	--
Hawaii	13	129	106	23	17.7
Idaho	2	--	--	--	--
Montana	4	102	90	12	13.1
Nevada	26	143	119	24	16.0
Northern Mariana Islands	0	--	--	--	--
Oregon	12	104	87	17	17.7
Washington					
Eastern	4	99	89	10	10.5
Western	44	136	110	26	17.0
<b>TENTH CIRCUIT</b>	<b>297</b>	<b>138</b>	<b>114</b>	<b>24</b>	<b>17.2</b>
Colorado	38	145	119	25	16.9
Kansas	158	123	102	21	16.8
New Mexico	28	131	107	24	17.5
Oklahoma					
Eastern	10	141	114	27	19.9
Northern	16	213	177	36	16.2
Western	36	176	144	33	19.0
Utah	11	115	96	19	15.8
Wyoming	0	--	--	--	--
<b>ELEVENTH CIRCUIT</b>	<b>1293</b>	<b>162</b>	<b>132</b>	<b>30</b>	<b>18.1</b>
Alabama					
Middle	55	169	138	32	18.0
Northern	48	128	109	19	14.7
Southern	202	186	151	35	18.2
Florida					
Middle	329	158	126	32	19.3
Northern	155	223	180	43	18.4
Southern	133	133	110	23	17.1
Georgia					
Middle	210	125	100	25	19.5
Northern	41	179	146	34	18.6
Southern	120	158	135	23	14.0

<sup>1</sup>Of the 13,170 cases, 281 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 3,372 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 9,517 cases, 1,034 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 MOTION<sup>1</sup>**

<b>REASONS</b>	<b>Number</b>	<b>Percent</b>
<b>Offense does not involve crack cocaine</b>	<b>423</b>	<b>11.1</b>
Case does not involve crack cocaine	358	9.4
Sentence is determined by a non-drug guideline	65	1.7
<b>Offender not eligible under §1B1.10</b>	<b>2,478</b>	<b>64.9</b>
Statutory mandatory minimum controls sentence	946	24.8
Career Offender or Armed Career Criminal provisions control sentence	797	20.9
Case involved more than 4.5 kg of crack cocaine	367	9.6
Guideline range does not change	126	3.3
Base offense level does not change (due to multiple drugs)	110	2.9
Original sentence has been served	92	2.4
Statutory maximum sentence is less than applicable guideline range	37	1.0
Base offense level is 12 or lower	3	0.1
Base offense level is 43	0	0.0
<b>Denied on the merits</b>	<b>559</b>	<b>14.6</b>
Offender has already benefitted from departure or variance	277	7.3
18 U.S.C § 3553(a) factors	105	2.8
Protection of the public	96	2.5
Post-sentencing or post-conviction conduct	81	2.1
<b>No reason provided/Other reason</b>	<b>359</b>	<b>9.4</b>
Other	203	5.3
No reason provided	156	4.1

<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, 3,819 reasons were cited for the 3,467 cases. Of the 156 cases in which the court did not give a reason for the denial, 96 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.usc.gov](http://www.usc.gov)). Of those 96 cases, a statutory mandatory minimum controlled the sentence in 21 cases, in 14 cases the quantity of crack cocaine in the case exceeded 4.5 Kg, in 11 cases the sentence was determined by a non-drug guideline, in six cases no change in the guideline range was found, in 18 cases crack cocaine was not involved, in 16 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in four cases the offender was predicted to have been released, in three case 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 one case 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 Datafile, USSCFY08.