

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



**April 2011 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 © 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 1995-2009 *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 April 7, 2011, and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by April 14, 2011. 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>25,515</b>	<b>16,433</b>	<b>64.4</b>	<b>9,082</b>	<b>35.6</b>						
Eastern Virginia	1,641	1,058	64.5	583	35.5	Eastern New York	212	102	48.1	110	51.9
Middle Florida	1,353	727	53.7	626	46.3	Kansas	198	195	98.5	3	1.5
Western North Carolina	970	433	44.6	537	55.4	Northern Mississippi	193	154	79.8	39	20.2
South Carolina	941	728	77.4	213	22.6	Western Kentucky	182	90	49.5	92	50.5
Eastern North Carolina	895	481	53.7	414	46.3	Western Wisconsin	180	128	71.1	52	28.9
Western Virginia	850	517	60.8	333	39.2	Southern Iowa	171	101	59.1	70	40.9
Western Texas	667	446	66.9	221	33.1	Western Pennsylvania	166	127	76.5	39	23.5
Middle North Carolina	598	283	47.3	315	52.7	Northern New York	165	114	69.1	51	30.9
Eastern Texas	586	440	75.1	146	24.9	Eastern Arkansas	162	106	65.4	56	34.6
Northern Florida	580	240	41.4	340	58.6	Eastern Kentucky	153	79	51.6	74	48.4
Southern Florida	571	279	48.9	292	51.1	Eastern Wisconsin	145	103	71.0	42	29.0
Eastern Missouri	519	452	87.1	67	12.9	Middle Alabama	140	133	95.0	7	5.0
Maryland	507	338	66.7	169	33.3	New Jersey	135	108	80.0	27	20.0
Southern New York	477	199	41.7	278	58.3	Colorado	132	70	53.0	62	47.0
Northern Texas	461	278	60.3	183	39.7	Northern Georgia	128	78	60.9	50	39.1
Middle Georgia	459	319	69.5	140	30.5	Middle Louisiana	113	78	69.0	35	31.0
Southern Georgia	457	220	48.1	237	51.9	Maine	111	60	54.1	51	45.9
Northern West Virginia	433	428	98.8	5	1.2	Southern Indiana	109	64	58.7	45	41.3
Eastern Louisiana	432	199	46.1	233	53.9	Central California	107	66	61.7	41	38.3
Central Illinois	414	161	38.9	253	61.1	New Hampshire	102	50	49.0	52	51.0
Southern West Virginia	392	271	69.1	121	30.9	Eastern California	96	94	97.9	2	2.1
Western Missouri	391	226	57.8	165	42.2	Western Oklahoma	93	91	97.8	2	2.2
Southern Texas	388	281	72.4	107	27.6	Western Arkansas	86	53	61.6	33	38.4
Southern Alabama	382	256	67.0	126	33.0	Northern Oklahoma	79	45	57.0	34	43.0
Western Louisiana	367	211	57.5	156	42.5	Alaska	71	42	59.2	29	40.8
Northern Ohio	355	317	89.3	38	10.7	Rhode Island	70	57	81.4	13	18.6
Middle Pennsylvania	354	226	63.8	128	36.2	Nevada	67	58	86.6	9	13.4
Southern Illinois	354	310	87.6	44	12.4	Middle Tennessee	61	48	78.7	13	21.3
Nebraska	316	250	79.1	66	20.9	Western Washington	48	47	97.9	1	2.1
Western Michigan	311	167	53.7	144	46.3	New Mexico	48	44	91.7	4	8.3
Eastern Tennessee	309	191	61.8	118	38.2	Northern California	42	42	100.0	0	0.0
Northern Alabama	290	136	46.9	154	53.1	Delaware	36	26	72.2	10	27.8
Northern Illinois	285	251	88.1	34	11.9	Hawaii	29	25	86.2	4	13.8
Connecticut	283	180	63.6	103	36.4	Vermont	23	23	100.0	0	0.0
Northern Indiana	276	223	80.8	53	19.2	Oregon	20	19	95.0	1	5.0
Puerto Rico	275	95	34.5	180	65.5	Utah	18	17	94.4	1	5.6
Minnesota	274	188	68.6	86	31.4	Eastern Oklahoma	17	13	76.5	4	23.5
Eastern Pennsylvania	267	218	81.6	49	18.4	Eastern Washington	16	9	56.3	7	43.8
Northern Iowa	261	147	56.3	114	43.7	Southern California	13	13	100.0	0	0.0
Southern Ohio	253	216	85.4	37	14.6	Montana	8	4	50.0	4	50.0
Eastern Michigan	250	222	88.8	28	11.2	South Dakota	7	7	100.0	0	0.0
Southern Mississippi	235	197	83.8	38	16.2	Virgin Islands	5	5	100.0	0	0.0
District of Columbia	225	214	95.1	11	4.9	Arizona	3	3	100.0	0	0.0
Western New York	220	138	62.7	82	37.3	Idaho	3	2	66.7	1	33.3
Massachusetts	214	139	65.0	75	35.0	Wyoming	1	1	100.0	0	0.0
Western Tennessee	213	143	67.1	70	32.9						

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2011 Datafiles, USSCFY08-USSCFY11.

**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>25,515</b>	<b>16,433</b>	<b>9,082</b>
FOURTH CIRCUIT	7,227	4,537	2,690
ELEVENTH CIRCUIT	4,360	2,388	1,972
FIFTH CIRCUIT	3,442	2,284	1,158
EIGHTH CIRCUIT	2,187	1,530	657
SIXTH CIRCUIT	2,087	1,473	614
SEVENTH CIRCUIT	1,763	1,240	523
SECOND CIRCUIT	1,380	756	624
THIRD CIRCUIT	963	710	253
FIRST CIRCUIT	772	401	371
TENTH CIRCUIT	586	476	110
NINTH CIRCUIT	523	424	99
D.C. CIRCUIT	225	214	11

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SOURCE: U.S. Sentencing Commission, Preliminary 2008-2011 Datafiles, USSCFY08-USSCFY11.

**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>24,922</b>	<b>16,070</b>	<b>64.5</b>	<b>8,852</b>	<b>35.5</b>
2010	14	1	7.1	13	92.9
2009	83	5	6.0	78	94.0
2008	649	158	24.3	491	75.7
2007	3,590	2,407	67.0	1,183	33.0
2006	3,423	2,404	70.2	1,019	29.8
2005	2,991	2,004	67.0	987	33.0
2004	2,485	1,696	68.2	789	31.8
2003	2,333	1,541	66.1	792	33.9
2002	1,808	1,184	65.5	624	34.5
2001	1,450	956	65.9	494	34.1
2000	1,292	809	62.6	483	37.4
1999	1,040	670	64.4	370	35.6
1998	817	507	62.1	310	37.9
1997	654	402	61.5	252	38.5
1996	606	374	61.7	232	38.3
1995	442	260	58.8	182	41.2
1994	418	218	52.2	200	47.8
1993	303	168	55.4	135	44.6
1992	222	131	59.0	91	41.0
1991	127	72	56.7	55	43.3
1990	121	66	54.5	55	45.5
1989	54	37	68.5	17	31.5

1 Of the 25,515 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 2008-2011 Datafiles, USSCFY08-USSCFY11.

**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>15,002</b>	<b>12,634</b>	<b>84.2</b>	<b>0</b>	<b>0.0</b>	<b>2,368</b>	<b>15.8</b>
D.C. CIRCUIT	188	184	97.9	0	0.0	4	2.1
FIRST CIRCUIT	390	334	85.6	0	0.0	56	14.4
SECOND CIRCUIT	705	488	69.2	0	0.0	217	30.8
THIRD CIRCUIT	609	603	99.0	0	0.0	6	1.0
FOURTH CIRCUIT	4,199	3,605	85.9	0	0.0	594	14.1
FIFTH CIRCUIT	1,981	1,468	74.1	0	0.0	513	25.9
SIXTH CIRCUIT	1,355	1,208	89.2	0	0.0	147	10.8
SEVENTH CIRCUIT	1,207	1,176	97.4	0	0.0	31	2.6
EIGHTH CIRCUIT	1,459	1,356	92.9	0	0.0	103	7.1
NINTH CIRCUIT	334	299	89.5	0	0.0	35	10.5
TENTH CIRCUIT	467	446	95.5	0	0.0	21	4.5
ELEVENTH CIRCUIT	2,108	1,467	69.6	0	0.0	641	30.4

<sup>1</sup> Of the 16,433 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 1,492 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, 15,002 origins were cited for the 14,941 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	1,045	949	5.9	96	4.8
Black	15,603	13,849	86.2	1,754	87.0
Hispanic	1,284	1,133	7.0	151	7.5
Other	154	140	0.9	14	0.7
<b>Total</b>	<b>18,086</b>	<b>16,071</b>		<b>2,015</b>	
<b>Citizenship</b>					
U.S. Citizen	16,971	15,052	94.8	1,919	95.2
Non-Citizen	928	831	5.2	97	4.8
<b>Total</b>	<b>17,899</b>	<b>15,883</b>		<b>2,016</b>	
<b>Gender</b>					
Male	17,166	15,247	94.1	1,919	95.0
Female	1,049	949	5.9	100	5.0
<b>Total</b>	<b>18,215</b>	<b>16,196</b>		<b>2,019</b>	
<b>Average Age</b>					
	<b>30</b>	<b>30</b>		<b>30</b>	

<sup>1</sup> The 2,019 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 7,063 cases in which the court denied the request for a sentence reduction, 4,602 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 2,461 cases, 610 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, 645 were excluded from this analysis because the offender was not sentenced for a drug offense, 976 were excluded from this analysis because crack cocaine was not involved in the offense, and 230 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2011 Datafiles, USSCFY08-USSCFY11.

**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	24.6	24.2	28.3
Firearms Mandatory Minimum Applied	10.5	10.1	13.9
<b>Safety Valve</b>	8.8	9.4	4.2
<b>Guideline Role Adjustments</b>			
Aggravating Role (USSG §3B1.1)	10.5	9.4	18.4
Mitigating Role (USSG §3B1.2)	2.9	2.7	4.4
Obstruction Adjustment (USSG §3C1.1)	6.3	6.2	7.4
<b>Sentence Relative to the Guideline Range</b>			
Within Range	69.3	71.0	56.0
Above Range	0.4	0.4	1.1
Below Range	30.2	28.6	42.9
<b>Criminal History Category</b>			
I	21.7	22.5	15.8
II	12.8	12.8	12.7
III	23.0	23.1	21.8
IV	16.9	17.3	13.7
V	10.4	10.3	10.9
VI	15.2	14.0	25.1

<sup>1</sup> The 2,019 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 7,063 cases in which the court denied the request for a sentence reduction, 4,602 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 2,461 cases, 610 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, 645 were excluded from this analysis because the offender was not sentenced for a drug offense, 976 were excluded from this analysis because crack cocaine was not involved in the offense, and 230 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2011 Datafiles, USSCFY08-USSCFY11.

**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>6,522</b>	<b>100.0</b>	<b>6,522</b>	<b>100.0</b>
<b>Guideline Minimum</b>	4,173	64.0	4,314	66.1
<b>Lower Half of Range</b>	1,156	17.7	898	13.8
<b>Midpoint of Range</b>	316	4.8	485	7.4
<b>Upper Half of Range</b>	445	6.8	407	6.2
<b>Guideline Maximum</b>	432	6.6	418	6.4

<sup>1</sup> Of the 16,433 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 8,538 received a sentence within the guideline range at both their original and current sentencing. Of these, 2,016 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 (1,448), the case is missing sentence length or guideline relevant statutory information from the original sentence (492), the new sentence had a guideline minimum and maximum that were identical (204) or the original sentence had a guideline minimum and maximum that were identical (36).

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2011 Datafiles, USSCFY08-USSCFY11.

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>14,843</b>	<b>150</b>	<b>124</b>	<b>26</b>	<b>17.0</b>
<b>D.C. CIRCUIT</b>	<b>145</b>	<b>134</b>	<b>112</b>	<b>22</b>	<b>16.2</b>
District of Columbia	145	134	112	22	16.2
<b>FIRST CIRCUIT</b>	<b>347</b>	<b>124</b>	<b>102</b>	<b>22</b>	<b>17.3</b>
Maine	60	126	104	22	16.8
Massachusetts	102	149	124	26	16.9
New Hampshire	48	99	80	19	19.3
Puerto Rico	89	108	87	21	18.0
Rhode Island	48	126	106	20	15.8
<b>SECOND CIRCUIT</b>	<b>646</b>	<b>125</b>	<b>105</b>	<b>20</b>	<b>15.9</b>
Connecticut	155	117	97	20	17.2
New York					
Eastern	89	125	103	22	17.2
Northern	80	134	113	21	15.6
Southern	179	144	121	22	14.8
Western	127	104	89	15	14.7
Vermont	16	97	78	18	18.6
<b>THIRD CIRCUIT</b>	<b>602</b>	<b>132</b>	<b>111</b>	<b>22</b>	<b>16.2</b>
Delaware	25	165	136	30	17.6
New Jersey	104	120	101	19	15.9
Pennsylvania					
Eastern	177	147	121	26	16.4
Middle	182	126	105	20	16.3
Western	113	124	105	19	15.7
Virgin Islands	1	--	--	--	--
<b>FOURTH CIRCUIT</b>	<b>4,177</b>	<b>158</b>	<b>131</b>	<b>27</b>	<b>16.9</b>
Maryland	297	163	134	29	17.6
North Carolina					
Eastern	469	173	144	30	16.6
Middle	277	172	144	29	16.1
Western	343	191	160	31	15.4
South Carolina	703	155	127	28	17.6
Virginia					
Eastern	969	159	132	28	16.9
Western	492	152	129	24	15.5
West Virginia					
Northern	367	118	96	22	18.2
Southern	260	139	113	26	18.7

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>2,093</b>	<b>145</b>	<b>120</b>	<b>25</b>	<b>17.2</b>
Louisiana					
Eastern	188	135	117	19	13.8
Middle	69	129	110	20	15.8
Western	192	166	137	29	17.1
Mississippi					
Northern	139	126	103	23	18.0
Southern	178	124	103	21	17.4
Texas					
Eastern	433	138	111	26	18.7
Northern	264	176	145	32	18.1
Southern	230	153	127	26	16.2
Western	400	140	116	24	17.3
<b>SIXTH CIRCUIT</b>	<b>1,386</b>	<b>130</b>	<b>109</b>	<b>21</b>	<b>16.1</b>
Kentucky					
Eastern	71	104	87	18	16.3
Western	89	126	108	18	14.5
Michigan					
Eastern	173	155	128	27	16.5
Western	165	128	109	20	15.3
Ohio					
Northern	313	108	90	18	17.1
Southern	211	134	112	22	16.5
Tennessee					
Eastern	187	140	119	21	14.5
Middle	43	153	124	29	17.0
Western	134	138	115	24	16.9
<b>SEVENTH CIRCUIT</b>	<b>1,135</b>	<b>160</b>	<b>130</b>	<b>29</b>	<b>17.7</b>
Illinois					
Central	146	169	139	30	17.0
Northern	224	147	122	25	16.7
Southern	303	181	147	35	18.1
Indiana					
Northern	213	136	113	24	17.2
Southern	51	194	163	31	15.5
Wisconsin					
Eastern	96	133	109	24	18.6
Western	102	165	129	36	21.2
<b>EIGHTH CIRCUIT</b>	<b>1,364</b>	<b>141</b>	<b>117</b>	<b>25</b>	<b>16.9</b>
Arkansas					
Eastern	83	141	116	25	17.9
Western	53	102	86	17	16.7
Iowa					
Northern	127	164	135	29	17.6
Southern	95	159	133	27	16.4
Minnesota	160	174	143	32	17.0
Missouri					
Eastern	421	116	97	19	16.1
Western	180	159	131	29	17.0
Nebraska	239	140	115	25	16.9
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**

<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>377</b>	<b>145</b>	<b>121</b>	<b>24</b>	<b>16.1</b>
Alaska	38	157	136	22	14.1
Arizona	3	213	171	42	19.8
California					
Central	56	168	136	32	18.6
Eastern	83	144	120	24	16.3
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
<b>TENTH CIRCUIT</b>	<b>428</b>	<b>153</b>	<b>126</b>	<b>27</b>	<b>17.1</b>
Colorado	65	161	132	29	17.5
Kansas	176	129	107	22	16.9
New Mexico	43	146	122	25	16.5
Oklahoma					
Eastern	13	161	134	27	18.4
Northern	42	188	157	31	16.0
Western	74	187	153	35	18.5
Utah	14	120	100	20	16.0
Wyoming	1	--	--	--	--
<b>ELEVENTH CIRCUIT</b>	<b>2,143</b>	<b>167</b>	<b>137</b>	<b>30</b>	<b>17.6</b>
Alabama					
Middle	131	176	145	31	17.0
Northern	106	141	120	22	14.4
Southern	250	192	156	36	18.1
Florida					
Middle	688	164	133	32	18.4
Northern	206	232	189	43	18.1
Southern	265	142	117	24	16.8
Georgia					
Middle	246	130	105	25	19.2
Northern	71	188	154	34	17.8
Southern	180	162	139	23	14.0

<sup>1</sup> Of the 25,515 cases, 593 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 8,852 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 16,070 cases, 1,227 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 2008-2011 Datafiles, USSCFY08-USSCFY11.

**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>1,054</b>	<b>10.6</b>
Case does not involve crack cocaine	877	8.8
Sentence is determined by a non-drug guideline	177	1.8
<b>Offender not eligible under §1B1.10</b>	<b>6,611</b>	<b>66.4</b>
Career Offender or Armed Career Criminal provisions control sentence	2,434	24.5
Statutory mandatory minimum controls sentence	2,370	23.8
Case involved more than 4.5 kg of crack cocaine	900	9.0
Guideline range does not change	325	3.3
Base offense level does not change (due to multiple drugs)	272	2.7
Original sentence has been served	219	2.2
Statutory maximum sentence is less than applicable guideline range	84	0.8
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>1,484</b>	<b>15.0</b>
Offender has already benefitted from departure or variance	494	5.0
Offender subject to guideline reduction at original sentencing	294	3
18 U.S.C § 3553(a) factors	238	2.4
Protection of the public	206	2.1
Post-sentencing or post-conviction conduct	160	1.6
Denial because of binding plea	92	0.9
<b>No reason provided/Other reason</b>	<b>797</b>	<b>8.1</b>
No reason provided	443	4.5
Other	354	3.6

<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, 9,946 reasons were cited for the 9,082 cases. Of the 443 cases in which the court did not give a reason for the denial, 293 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 293 cases, a statutory mandatory minimum controlled the sentence in 46 cases, in 32 cases the quantity of crack cocaine in the case exceeded 4.5 Kg, in 40 cases the sentence was determined by a non-drug guideline, in 14 cases no change in the guideline range was found, in 55 cases crack cocaine was not involved, in 64 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 27 cases the offender was predicted to have been released, in nine 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 two case there was no record on file with the Bureau of Prisons.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2011 Datafiles, USSCFY08-USSCFY11.