

U.S. Sentencing Commission
Preliminary Crack Retroactivity Data Report
Fair Sentencing Act



April 2013 Data

Introduction

As part of its ongoing mission, the United States Sentencing Commission provides Congress, the judiciary, the executive branch, and the general public with data extracted from and based on sentencing documents submitted by courts to the Commission.¹ Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.²

The Commission also reports preliminary data for an on-going fiscal year in order to provide real-time analysis of sentencing practices in the federal courts. Since 2005, the Commission has published a series of quarterly reports that are similar in format and methodology to tables and figures produced in the *Sourcebook of Federal Sentencing Statistics* or in the Commission's *Final Report on the Impact of the United States v. Booker on Federal Sentencing*.³ The quarterly reports contain cumulative data for the on-going fiscal year (i.e., data from the start of the fiscal year through the most current quarter).

This report provides data concerning the retroactive application of the guideline amendment implementation of the Fair Sentencing Act (FSA), Pub. L. No. 111–220, signed into law on August 3, 2010. The FSA increased the quantities of crack cocaine that trigger the five and ten-year statutory mandatory minimum penalties — from five grams to 28 grams for five-year mandatory minimums and from 50 to 280 grams for ten-year mandatory minimums — and eliminated the five-year mandatory minimum for simple possession of crack cocaine. Significantly, the FSA gave the Commission emergency amendment authority to temporarily change the guidelines to implement the statutory changes and to add certain enhancements and reductions to the guidelines.

On October 15, 2010 the Commission voted to promulgate Amendment 748, the emergency amendment which took effect on November 1, 2010. Among other changes, Amendment 748 made conforming changes to the guidelines to adjust the crack cocaine quantity levels in the Drug Quantity Table in §2D1.1 to the new statutory minimums, added new aggravating and mitigating factors in drug trafficking cases, and reflected the elimination of the statutory five-year mandatory minimum penalty for simple possession of crack cocaine.

On April 28, 2011, the Commission submitted to Congress, Amendment 750, the permanent guideline amendment implementing the FSA. The three-part amendment (A, B & C)

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 1995-2011 *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*.

re-promulgated as permanent the temporary emergency amendment and took effect on November 1, 2011.

On June 30, 2011, the Commission voted to promulgate Amendment 759 which added Parts A and C of Amendment 750 as amendments listed in §1B1.10 (*Reduction in Term of Imprisonment as a Result of an Amended Guideline Range*)(*Policy Statement*) that apply retroactively. Part A contained the changes to the crack cocaine quantity levels in the Drug Quantity Table in §2D1.1. Part C deleted the cross reference in §2D2.1 to reflect the elimination of the statutory minimum for simple possession of crack cocaine. The Commission voted to make Amendment 759 effective November 1, 2011, the same date that Amendment 750 took effect.

The data in this report represents information concerning motions decided through March 31, 2013 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by April 4, 2013. Users of this information are cautioned that the data are preliminary only and subject to change as the Commission receives, analyzes, and reports on additional cases.

In particular, the reader is cautioned with respect to drawing conclusions based on data concerning the denial of motions for sentence reduction pursuant to the crack cocaine amendment, as the judicial districts are employing various methods to prioritize the review of these motions. For example, in many districts, contested motions have not been decided by the court. Consequently, the data the Commission has received to date concerning cases in which the motion for a sentence reduction was denied may not be representative of the decisions that ultimately may be made in all districts or the nation as a whole.

Table 1

GEOGRAPHICAL DISTRIBUTION OF APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT BY DISTRICT

District	N	Granted		Denied		District	N	Granted		Denied	
		N	%	N	%			N	%	N	%
TOTAL	11,393	7,084	62.2	4,309	37.8						
Eastern Virginia	815	554	68.0	261	32.0	Eastern Louisiana	92	92	100.0	0	0.0
Western North Carolina	648	207	31.9	441	68.1	New Jersey	87	55	63.2	32	36.8
Western Virginia	465	251	54.0	214	46.0	Western Missouri	85	84	98.8	1	1.2
South Carolina	405	259	64.0	146	36.0	Western Wisconsin	85	85	100.0	0	0.0
Western Texas	394	266	67.5	128	32.5	Eastern New York	84	26	31.0	58	69.0
Southern Georgia	391	130	33.2	261	66.8	Western Tennessee	83	80	96.4	3	3.6
Southern Alabama	313	154	49.2	159	50.8	Northern New York	80	79	98.8	1	1.3
Northern Florida	312	104	33.3	208	66.7	Western Pennsylvania	80	49	61.3	31	38.8
Northern Iowa	287	80	27.9	207	72.1	Western Michigan	77	75	97.4	2	2.6
Puerto Rico	280	159	56.8	121	43.2	Northern Mississippi	76	66	86.8	10	13.2
Eastern Missouri	265	148	55.8	117	44.2	Eastern Pennsylvania	75	73	97.3	2	2.7
Western Louisiana	252	100	39.7	152	60.3	Massachusetts	73	42	57.5	31	42.5
Eastern North Carolina	248	127	51.2	121	48.8	District of Columbia	68	61	89.7	7	10.3
Northern West Virginia	239	239	100.0	0	0.0	Middle Alabama	58	58	100.0	0	0.0
Middle Florida	234	228	97.4	6	2.6	Eastern Wisconsin	54	54	100.0	0	0.0
Eastern Texas	232	194	83.6	38	16.4	Maine	53	19	35.8	34	64.2
Middle North Carolina	232	103	44.4	129	55.6	Colorado	48	40	83.3	8	16.7
Southern Iowa	204	56	27.5	148	72.5	Eastern Kentucky	47	14	29.8	33	70.2
Northern Texas	191	111	58.1	80	41.9	Southern New York	44	25	56.8	19	43.2
Middle Pennsylvania	184	139	75.5	45	24.5	New Hampshire	42	15	35.7	27	64.3
Central Illinois	177	84	47.5	93	52.5	Connecticut	41	41	100.0	0	0.0
Nebraska	166	114	68.7	52	31.3	Western Arkansas	41	17	41.5	24	58.5
Western Kentucky	147	57	38.8	90	61.2	Northern Oklahoma	40	28	70.0	12	30.0
Minnesota	144	71	49.3	73	50.7	Northern California	38	36	94.7	2	5.3
Southern Illinois	142	102	71.8	40	28.2	Central California	36	26	72.2	10	27.8
Southern Ohio	141	110	78.0	31	22.0	Northern Georgia	31	30	96.8	1	3.2
Southern Texas	139	78	56.1	61	43.9	Alaska	29	29	100.0	0	0.0
Eastern Tennessee	137	95	69.3	42	30.7	Eastern California	26	26	100.0	0	0.0
Maryland	131	117	89.3	14	10.7	Middle Tennessee	26	26	100.0	0	0.0
Southern West Virginia	126	102	81.0	24	19.0	Western Washington	23	23	100.0	0	0.0
Northern Illinois	126	124	98.4	2	1.6	Rhode Island	21	21	100.0	0	0.0
Northern Ohio	122	82	67.2	40	32.8	Eastern Oklahoma	13	13	100.0	0	0.0
Southern Florida	122	74	60.7	48	39.3	New Mexico	12	10	83.3	2	16.7
Southern Indiana	120	41	34.2	79	65.8	Delaware	9	9	100.0	0	0.0
Northern Alabama	118	20	16.9	98	83.1	South Dakota	8	8	100.0	0	0.0
Middle Louisiana	112	41	36.6	71	63.4	Nevada	8	8	100.0	0	0.0
Middle Georgia	110	110	100.0	0	0.0	Utah	7	7	100.0	0	0.0
Kansas	105	105	100.0	0	0.0	Wyoming	6	6	100.0	0	0.0
Western New York	101	89	88.1	12	11.9	Oregon	6	6	100.0	0	0.0
Western Oklahoma	101	45	44.6	56	55.4	Vermont	5	5	100.0	0	0.0
Southern Mississippi	100	100	100.0	0	0.0	Eastern Washington	5	3	60.0	2	40.0
Eastern Arkansas	97	60	61.9	37	38.1	Southern California	4	4	100.0	0	0.0
Eastern Michigan	96	87	90.6	9	9.4	Hawaii	2	0	0.0	2	100.0
Northern Indiana	94	93	98.9	1	1.1						

Note: Some districts may not have reported all denials of motions seeking application of the retroactive crack cocaine amendment.

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

Table 2

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

Circuit	N	Granted	Denied
TOTAL	11,393	7,084	4,309
FOURTH CIRCUIT	3,309	1,959	1,350
ELEVENTH CIRCUIT	1,689	908	781
FIFTH CIRCUIT	1,588	1,048	540
EIGHTH CIRCUIT	1,297	638	659
SIXTH CIRCUIT	876	626	250
SEVENTH CIRCUIT	798	583	215
FIRST CIRCUIT	469	256	213
THIRD CIRCUIT	435	325	110
SECOND CIRCUIT	355	265	90
TENTH CIRCUIT	332	254	78
NINTH CIRCUIT	177	161	16
D.C. CIRCUIT	68	61	7

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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

Fiscal Year	Total	Granted		Denied	
	N	N	%	N	%
Total	11,337	7,050	62.2	4,287	37.8
2012	24	6	25.0	18	75.0
2011	397	142	35.8	255	64.2
2010	1,260	826	65.6	434	34.4
2009	1,663	1,101	66.2	562	33.8
2008	1,599	1,116	69.8	483	30.2
2007	1,251	818	65.4	433	34.6
2006	1,027	643	62.6	384	37.4
2005	792	495	62.5	297	37.5
2004	594	351	59.1	243	40.9
2003	552	319	57.8	233	42.2
2002	363	186	51.2	177	48.8
2001	304	188	61.8	116	38.2
2000	248	132	53.2	116	46.8
1999	237	144	60.8	93	39.2
1998	201	124	61.7	77	38.3
1997	183	102	55.7	81	44.3
1996	159	90	56.6	69	43.4
1995	141	78	55.3	63	44.7
1994	137	73	53.3	64	46.7
1993	95	54	56.8	41	43.2
1992	64	34	53.1	30	46.9
1991	27	15	55.6	12	44.4
1990	15	10	66.7	5	33.3
1989	4	3	75.0	1	25.0

¹ Of the 11,393 cases, 56 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, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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	6,495	5,315	81.8	0	0.0	1,180	18.2
D.C. CIRCUIT	59	59	100.0	0	0.0	0	0.0
FIRST CIRCUIT	251	230	91.6	0	0.0	21	8.4
SECOND CIRCUIT	250	217	86.8	0	0.0	33	13.2
THIRD CIRCUIT	250	244	97.6	0	0.0	6	2.4
FOURTH CIRCUIT	1,844	1,372	74.4	0	0.0	472	25.6
FIFTH CIRCUIT	946	708	74.8	0	0.0	238	25.2
SIXTH CIRCUIT	576	492	85.4	0	0.0	84	14.6
SEVENTH CIRCUIT	564	556	98.6	0	0.0	8	1.4
EIGHTH CIRCUIT	608	542	89.1	0	0.0	66	10.9
NINTH CIRCUIT	125	96	76.8	0	0.0	29	23.2
TENTH CIRCUIT	246	232	94.3	0	0.0	14	5.7
ELEVENTH CIRCUIT	776	567	73.1	0	0.0	209	26.9

¹ Of the 7,084 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 594 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, 6,495 origins were cited for the 6,490 cases.

² In two 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	425	394	5.6	31	3.3
Black	6,924	6,073	86.1	851	90.1
Hispanic	583	534	7.6	49	5.2
Other	66	53	0.8	13	1.4
Total	7,998	7,054		944	
Citizenship					
U.S. Citizen	7,689	6,785	96.5	904	96.0
Non-Citizen	283	245	3.5	38	4.0
Total	7,972	7,030		942	
Gender					
Male	7,644	6,738	95.3	906	95.9
Female	375	336	4.7	39	4.1
Total	8,019	7,074		945	
Average Age					
	30	30		31	

¹ The 945 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 3,364 cases in which the court denied the request for a sentence reduction, 1,233 were excluded from this analysis because the offender was not previously identified as eligible to seek a sentence reduction for one or more reasons (see 'Analysis of the Impact of the Guideline Implementation of the Fair Sentencing Act If Made Retroactive' (May 20, 2011) available at www.uscc.gov). Of the remaining 2,131 cases, 1,583 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2011 and so was excluded from the Commission's prior analysis of eligible offenders, 195 were excluded from this analysis because the offender was not sentenced for a drug offense, 331 were excluded from this analysis because crack cocaine was not involved in the offense, and 22 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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

	All Cases	Granted	Denied ¹
	%	%	%
Weapon			
Weapon Specific Offense Characteristic	28.9	28.4	32.8
Firearms Mandatory Minimum Applied	13.7	13.2	17.2
Safety Valve	5.2	5.7	1.6
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	12.8	11.8	19.8
Mitigating Role (USSG §3B1.2)	1.5	1.6	1.1
Obstruction Adjustment (USSG §3C1.1)	7.5	7.2	10.5
Sentence Relative to the Guideline Range			
Within Range	72.2	72.7	68.7
Above Range	1.0	0.9	1.5
Below Range	26.8	26.4	29.8
Criminal History Category			
I	16.6	17.1	13.1
II	11.5	11.4	12.8
III	20.6	20.5	20.8
IV	17.6	18.1	14.2
V	13.3	13.6	11.2
VI	20.4	19.4	27.8

¹ The 945 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 3,364 cases in which the court denied the request for a sentence reduction, 1,233 were excluded from this analysis because the offender was not previously identified as eligible to seek a sentence reduction for one or more reasons (*see* 'Analysis of the Impact of the Guideline Implementation of the Fair Sentencing Act If Made Retroactive' (May 20, 2011) *available at* www.ussc.gov). Of the remaining 2,131 cases, 1,583 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2011 and so was excluded from the Commission's prior analysis of eligible offenders, 195 were excluded from this analysis because the offender was not sentenced for a drug offense, 331 were excluded from this analysis because crack cocaine was not involved in the offense, and 22 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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	2,271	100.0	2,271	100.0
Guideline Minimum	1,439	63.4	1,347	59.3
Lower Half of Range	397	17.5	346	15.2
Midpoint of Range	125	5.5	157	6.9
Upper Half of Range	167	7.4	223	9.8
Guideline Maximum	143	6.3	198	8.7

¹ Of the 7,084 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 3,777 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,506 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 (909), the case is missing sentence length or guideline relevant statutory information from the original sentence (528), the new sentence had a guideline minimum and maximum that were identical (373) or the original sentence had a guideline minimum and maximum that were identical (51).

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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	6,245	149	120	29	20.0
D.C. CIRCUIT	42	122	98	24	19.4
District of Columbia	42	122	98	24	19.4
FIRST CIRCUIT	225	115	97	19	16.2
Maine	19	119	99	20	15.6
Massachusetts	29	149	119	30	18.8
New Hampshire	13	107	91	17	19.2
Puerto Rico	153	108	92	16	15.5
Rhode Island	11	131	109	22	15.7
SECOND CIRCUIT	188	132	106	26	19.6
Connecticut	24	144	123	21	13.3
New York					
Eastern	23	139	106	34	21.1
Northern	53	147	118	30	21.1
Southern	24	105	83	23	22.3
Western	60	122	99	23	19.4
Vermont	4	118	99	19	16.5
THIRD CIRCUIT	273	139	112	26	19.0
Delaware	9	169	144	25	13.4
New Jersey	51	116	92	25	21.3
Pennsylvania					
Eastern	60	176	143	33	18.9
Middle	114	131	105	26	20.4
Western	39	125	107	18	13.6
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	1,705	155	125	31	20.1
Maryland	46	144	115	29	20.3
North Carolina					
Eastern	124	143	114	30	20.3
Middle	102	183	147	37	19.4
Western	148	181	150	32	16.8
South Carolina	249	163	130	33	20.3
Virginia					
Eastern	460	160	130	30	18.4
Western	238	157	130	28	18.2
West Virginia					
Northern	237	121	92	28	25.5
Southern	101	144	110	34	23.8

Table 8 (continued)
**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF
 CRACK COCAINE AMENDMENT**

CIRCUIT District	N	Average Current Sentence in Months	Average New Sentence in Months	Average Decrease in Months From Current Sentence	Average Percent Decrease From Current Sentence
FIFTH CIRCUIT	953	144	115	29	21.2
Louisiana					
Eastern	87	129	103	26	20.8
Middle	27	165	136	28	16.8
Western	93	184	152	33	18.3
Mississippi					
Northern	46	145	112	34	24.0
Southern	75	145	116	29	21.5
Texas					
Eastern	193	130	102	28	21.8
Northern	110	180	146	34	19.6
Southern	58	178	142	36	19.7
Western	264	121	95	26	22.8
SIXTH CIRCUIT	594	129	104	25	20.4
Kentucky					
Eastern	8	118	96	21	22.3
Western	57	100	80	20	20.7
Michigan					
Eastern	75	144	112	32	21.9
Western	75	148	123	24	16.5
Ohio					
Northern	79	120	94	26	21.8
Southern	110	138	113	25	19.3
Tennessee					
Eastern	95	121	97	24	21.7
Middle	25	158	124	34	20.3
Western	70	119	96	23	20.5
SEVENTH CIRCUIT	537	164	133	31	19.1
Illinois					
Central	75	158	131	28	18.5
Northern	121	165	136	29	17.0
Southern	100	179	143	36	21.1
Indiana					
Northern	92	146	118	28	20.1
Southern	30	237	192	45	19.2
Wisconsin					
Eastern	53	130	108	22	17.4
Western	66	165	130	35	20.6
EIGHTH CIRCUIT	561	143	115	28	19.5
Arkansas					
Eastern	58	115	90	25	23.9
Western	16	112	91	21	20.6
Iowa					
Northern	72	190	151	39	19.6
Southern	56	186	153	33	16.6
Minnesota	53	147	125	23	15.2
Missouri					
Eastern	133	118	95	23	20.3
Western	53	152	121	31	19.2
Nebraska	113	135	109	26	19.6
North Dakota	0	--	--	--	--
South Dakota	7	100	73	28	19.2

Table 8 (continued)

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

CIRCUIT District	N	Average Current Sentence in Months	Average New Sentence in Months	Average Decrease in Months From Current Sentence	Average Percent Decrease From Current Sentence
NINTH CIRCUIT	157	114	90	23	21.0
Alaska	29	131	104	27	21.4
Arizona	0	--	--	--	--
California					
Central	26	116	92	24	22.2
Eastern	26	116	93	24	21.7
Northern	34	89	73	17	19.7
Southern	4	135	97	38	25.7
Guam	0	--	--	--	--
Hawaii	0	--	--	--	--
Idaho	0	--	--	--	--
Montana	0	--	--	--	--
Nevada	7	171	131	40	21.8
Northern Mariana Islands	0	--	--	--	--
Oregon	6	122	86	36	30.2
Washington					
Eastern	3	67	50	17	27.0
Western	22	105	88	17	16.1
TENTH CIRCUIT	206	162	131	31	18.9
Colorado	35	167	134	33	18.1
Kansas	81	134	111	24	17.1
New Mexico	8	156	137	19	14.0
Oklahoma					
Eastern	13	127	99	28	22.6
Northern	22	171	147	24	14.2
Western	35	243	191	52	23.0
Utah	6	155	117	38	30.4
Wyoming	6	98	72	26	27.4
ELEVENTH CIRCUIT	804	172	138	34	20.4
Alabama					
Middle	57	140	115	24	18.5
Northern	18	194	149	45	22.2
Southern	131	219	174	45	19.9
Florida					
Middle	225	158	128	29	20.5
Northern	90	249	200	49	19.5
Southern	64	142	115	27	18.2
Georgia					
Middle	110	122	94	28	24.1
Northern	28	193	159	35	17.9
Southern	81	152	122	30	20.6

¹ Of the 11,393 cases, 56 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 4,287 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 7,050 cases, 805 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.

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

REASONS	N	%
Offense does not involve crack cocaine	250	5.2
Case does not involve crack cocaine	188	3.9
Sentence is determined by a non-drug guideline	62	1.3
Offender not eligible under §1B1.10	3,220	66.2
Statutory mandatory minimum controls sentence	1,266	26.0
Career Offender or Armed Career Criminal provisions control sentence	872	17.9
Guideline range does not change	663	13.6
Base offense level does not change (due to multiple drugs)	134	2.8
Case involved more than 4.5 kg of crack cocaine	106	2.2
Case involved more than 8.4 kg of crack cocaine	89	1.8
Original sentence has been served	74	1.5
Statutory maximum sentence is less than applicable guideline range	13	0.3
Base offense level is 43	3	0.1
Denied on the merits	681	14.0
Offender has already benefitted from departure or variance	214	4.4
18 U.S.C. § 3553(a) factors	151	3.1
Protection of the public	84	1.7
Offender subject to guideline reduction at original sentencing	80	1.6
Post-sentencing or post-conviction conduct	57	1.2
Already received crack reduction	52	1.1
Denial because of binding plea	30	0.6
Previous variance or departure for crack/powder disparity	13	0.3
No reason provided/Other reason	710	14.6
No reason provided	523	10.8
Other	187	3.8

¹ 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, 4,861 reasons were cited for the 4,309 cases. Of the 523 cases in which the court did not give a reason for the denial, 425 were previously identified as ineligible by the Commission for sentence reduction (*see* 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (May 20, 2011) *available at* www.ussc.gov). Of those 425 cases, a statutory mandatory minimum controlled the sentence in 26 cases, in 12 cases the quantity of crack cocaine in the case exceeded 8.4 Kg, in 29 cases the sentence was determined by a non-drug guideline, in 21 cases no change in the guideline range was found, in 52 cases crack cocaine was not involved, in 57 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 215 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 and in six cases there was no record on file with the Bureau of Prisons.

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.