

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



July 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.uscc.gov, for electronic copies of the 1995-2012 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

³ See www.uscc.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 June 25, 2013 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by June 30, 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	11,937	7,317	61.3	4,620	38.7						
Eastern Virginia	853	582	68.2	271	31.8	Northern Indiana	98	96	98.0	2	2.0
Western North Carolina	661	212	32.1	449	67.9	Eastern Louisiana	94	94	100.0	0	0.0
Western Virginia	466	251	53.9	215	46.1	Eastern New York	93	32	34.4	61	65.6
South Carolina	407	261	64.1	146	35.9	Western Missouri	91	90	98.9	1	1.1
Western Texas	396	267	67.4	129	32.6	Western Wisconsin	85	85	100.0	0	0.0
Southern Georgia	394	130	33.0	264	67.0	Western Pennsylvania	85	51	60.0	34	40.0
Puerto Rico	318	178	56.0	140	44.0	Western Tennessee	83	80	96.4	3	3.6
Northern Florida	317	104	32.8	213	67.2	Northern New York	82	81	98.8	1	1.2
Southern Alabama	316	156	49.4	160	50.6	Eastern Pennsylvania	81	79	97.5	2	2.5
Eastern North Carolina	296	145	49.0	151	51.0	Northern Mississippi	79	66	83.5	13	16.5
Middle North Carolina	290	115	39.7	175	60.3	Western Michigan	78	76	97.4	2	2.6
Northern Iowa	287	80	27.9	207	72.1	Massachusetts	76	42	55.3	34	44.7
Eastern Missouri	270	151	55.9	119	44.1	District of Columbia	71	64	90.1	7	9.9
Western Louisiana	260	101	38.8	159	61.2	Middle Alabama	64	64	100.0	0	0.0
Northern West Virginia	240	239	99.6	1	0.4	Eastern Wisconsin	57	57	100.0	0	0.0
Eastern Texas	237	196	82.7	41	17.3	Maine	53	19	35.8	34	64.2
Middle Florida	235	229	97.4	6	2.6	Eastern Kentucky	51	17	33.3	34	66.7
Western Kentucky	221	61	27.6	160	72.4	Southern New York	48	29	60.4	19	39.6
Southern Iowa	207	59	28.5	148	71.5	Colorado	48	40	83.3	8	16.7
Northern Texas	193	113	58.5	80	41.5	Western Arkansas	45	18	40.0	27	60.0
Middle Pennsylvania	190	144	75.8	46	24.2	Connecticut	43	43	100.0	0	0.0
Central Illinois	183	84	45.9	99	54.1	Central California	42	31	73.8	11	26.2
Nebraska	167	115	68.9	52	31.1	New Hampshire	42	15	35.7	27	64.3
Southern Illinois	159	106	66.7	53	33.3	Northern Oklahoma	41	28	68.3	13	31.7
Maryland	148	129	87.2	19	12.8	Northern California	40	38	95.0	2	5.0
Minnesota	147	72	49.0	75	51.0	Northern Georgia	33	32	97.0	1	3.0
Southern Ohio	146	112	76.7	34	23.3	Alaska	31	31	100.0	0	0.0
Eastern Tennessee	142	100	70.4	42	29.6	Middle Tennessee	27	27	100.0	0	0.0
Southern Texas	140	79	56.4	61	43.6	Eastern California	26	26	100.0	0	0.0
Northern Alabama	139	21	15.1	118	84.9	Western Washington	24	24	100.0	0	0.0
Northern Ohio	138	89	64.5	49	35.5	Rhode Island	23	23	100.0	0	0.0
Northern Illinois	131	129	98.5	2	1.5	Eastern Oklahoma	13	13	100.0	0	0.0
Southern West Virginia	128	104	81.3	24	18.8	New Mexico	13	11	84.6	2	15.4
Southern Indiana	127	45	35.4	82	64.6	Delaware	9	9	100.0	0	0.0
Southern Florida	123	74	60.2	49	39.8	South Dakota	8	8	100.0	0	0.0
Middle Louisiana	118	41	34.7	77	65.3	Nevada	8	8	100.0	0	0.0
Middle Georgia	111	111	100.0	0	0.0	Utah	7	7	100.0	0	0.0
Western Oklahoma	109	47	43.1	62	56.9	Wyoming	6	6	100.0	0	0.0
Kansas	105	105	100.0	0	0.0	Oregon	6	6	100.0	0	0.0
Southern Mississippi	102	102	100.0	0	0.0	Vermont	5	5	100.0	0	0.0
Western New York	102	90	88.2	12	11.8	Eastern Washington	5	3	60.0	2	40.0
Eastern Michigan	102	93	91.2	9	8.8	Southern California	4	4	100.0	0	0.0
New Jersey	98	57	58.2	41	41.8	Hawaii	2	0	0.0	2	100.0
Eastern Arkansas	98	60	61.2	38	38.8						

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	11,937	7,317	4,620
FOURTH CIRCUIT	3,489	2,038	1,451
ELEVENTH CIRCUIT	1,732	921	811
FIFTH CIRCUIT	1,619	1,059	560
EIGHTH CIRCUIT	1,320	653	667
SIXTH CIRCUIT	988	655	333
SEVENTH CIRCUIT	840	602	238
FIRST CIRCUIT	512	277	235
THIRD CIRCUIT	463	340	123
SECOND CIRCUIT	373	280	93
TENTH CIRCUIT	342	257	85
NINTH CIRCUIT	188	171	17
D.C. CIRCUIT	71	64	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	11,877	7,283	61.3	4,594	38.7
2013	1	0	0.0	1	100.0
2012	28	8	28.6	20	71.4
2011	480	170	35.4	310	64.6
2010	1,325	857	64.7	468	35.3
2009	1,726	1,129	65.4	597	34.6
2008	1,665	1,150	69.1	515	30.9
2007	1,310	842	64.3	468	35.7
2006	1,065	665	62.4	400	37.6
2005	821	506	61.6	315	38.4
2004	614	360	58.6	254	41.4
2003	571	325	56.9	246	43.1
2002	383	194	50.7	189	49.3
2001	315	194	61.6	121	38.4
2000	262	136	51.9	126	48.1
1999	247	147	59.5	100	40.5
1998	206	126	61.2	80	38.8
1997	194	107	55.2	87	44.8
1996	169	93	55.0	76	45.0
1995	147	80	54.4	67	45.6
1994	139	74	53.2	65	46.8
1993	98	57	58.2	41	41.8
1992	64	34	53.1	30	46.9
1991	27	15	55.6	12	44.4
1990	16	11	68.8	5	31.3
1989	4	3	75.0	1	25.0

¹ Of the 11,937 cases, 60 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	N	Defendant		Director BOP²		Court	
		N	%	N	%	N	%
TOTAL	6,709	5,513	82.2	0	0.0	1,196	17.8
D.C. CIRCUIT	61	61	100.0	0	0.0	0	0.0
FIRST CIRCUIT	272	251	92.3	0	0.0	21	7.7
SECOND CIRCUIT	264	230	87.1	0	0.0	34	12.9
THIRD CIRCUIT	260	254	97.7	0	0.0	6	2.3
FOURTH CIRCUIT	1,920	1,448	75.4	0	0.0	472	24.6
FIFTH CIRCUIT	956	716	74.9	0	0.0	240	25.1
SIXTH CIRCUIT	600	510	85.0	0	0.0	90	15.0
SEVENTH CIRCUIT	583	575	98.6	0	0.0	8	1.4
EIGHTH CIRCUIT	621	553	89.0	0	0.0	68	11.0
NINTH CIRCUIT	133	103	77.4	0	0.0	30	22.6
TENTH CIRCUIT	249	235	94.4	0	0.0	14	5.6
ELEVENTH CIRCUIT	790	577	73.0	0	0.0	213	27.0

¹ Of the 7,317 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 614 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, 6,709 origins were cited for the 6,703 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	440	408	5.6	32	3.2
Black	7,155	6,251	85.8	904	90.3
Hispanic	621	569	7.8	52	5.2
Other	67	54	0.7	13	1.3
Total	8,283	7,282		1,001	
Citizenship					
U.S. Citizen	7,964	7,005	96.5	959	95.9
Non-Citizen	294	253	3.5	41	4.1
Total	8,258	7,258		1,000	
Gender					
Male	7,926	6,963	95.3	963	96.0
Female	383	343	4.7	40	4.0
Total	8,309	7,306		1,003	
Average Age					
	30	30		31	

¹ The 1,003 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 3,617 cases in which the court denied the request for a sentence reduction, 1,309 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 2,308 cases, 1,722 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, 206 were excluded from this analysis because the offender was not sentenced for a drug offense, 354 were excluded from this analysis because crack cocaine was not involved in the offense, and 26 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	Denied¹
	%	%	%
Weapon			
Weapon Specific Offense Characteristic	28.7	28.3	31.8
Firearms Mandatory Minimum Applied	14.0	13.4	18.4
Safety Valve	5.1	5.6	1.5
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	12.9	11.9	19.9
Mitigating Role (USSG §3B1.2)	1.5	1.6	1.1
Obstruction Adjustment (USSG §3C1.1)	7.6	7.1	10.7
Sentence Relative to the Guideline Range			
Within Range	72.1	72.5	69.2
Above Range	1.0	0.9	1.5
Below Range	26.9	26.6	29.3
Criminal History Category			
I	16.5	17.0	12.8
II	11.5	11.4	12.5
III	20.6	20.5	21.3
IV	17.6	18.1	14.1
V	13.3	13.6	11.1
VI	20.5	19.5	28.3

¹ The 1,003 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 3,617 cases in which the court denied the request for a sentence reduction, 1,309 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 2,308 cases, 1,722 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, 206 were excluded from this analysis because the offender was not sentenced for a drug offense, 354 were excluded from this analysis because crack cocaine was not involved in the offense, and 26 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**

	<u>ORIGINAL SENTENCE</u>		<u>CURRENT SENTENCE</u>	
	N	%	N	%
TOTAL	2,324	100.0	2,324	100.0
Guideline Minimum	1,472	63.3	1,375	59.2
Lower Half of Range	402	17.3	355	15.3
Midpoint of Range	129	5.6	161	6.9
Upper Half of Range	174	7.5	229	9.9
Guideline Maximum	147	6.3	204	8.8

¹ Of the 7,317 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 3,873 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,549 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 (930), the case is missing sentence length or guideline relevant statutory information from the original sentence (539), the new sentence had a guideline minimum and maximum that were identical (386) or the original sentence had a guideline minimum and maximum that were identical (58).

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	6,472	150	121	29	19.9
D.C. CIRCUIT	45	124	99	25	19.7
District of Columbia	45	124	99	25	19.7
FIRST CIRCUIT	246	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	172	108	92	17	15.7
Rhode Island	13	133	112	21	14.7
SECOND CIRCUIT	202	134	108	26	19.9
Connecticut	26	149	128	21	13.2
New York					
Eastern	29	139	103	36	24.4
Northern	55	149	120	30	21.0
Southern	28	116	93	23	20.7
Western	60	122	99	23	19.4
Vermont	4	118	99	19	16.5
THIRD CIRCUIT	287	140	114	26	18.5
Delaware	9	169	144	25	13.4
New Jersey	53	115	91	24	20.6
Pennsylvania					
Eastern	66	179	147	32	17.8
Middle	118	132	106	26	20.2
Western	41	125	108	18	13.4
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	1,785	157	126	31	20.0
Maryland	58	148	118	30	20.5
North Carolina					
Eastern	142	146	116	30	20.4
Middle	114	186	149	37	19.3
Western	154	182	151	31	16.7
South Carolina	251	163	130	33	20.2
Virginia					
Eastern	488	162	132	30	18.4
Western	238	157	130	28	18.2
West Virginia					
Northern	238	120	92	28	25.5
Southern	102	145	110	35	23.9

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	965	144	115	29	21.3
Louisiana					
Eastern	89	129	103	27	21.1
Middle	27	165	136	28	16.8
Western	94	184	152	32	18.3
Mississippi					
Northern	47	144	110	34	24.8
Southern	77	145	115	29	21.6
Texas					
Eastern	195	131	103	28	21.8
Northern	112	181	147	34	19.5
Southern	59	177	141	36	19.6
Western	265	121	95	26	22.9
SIXTH CIRCUIT	621	131	106	25	20.1
Kentucky					
Eastern	10	113	89	24	25.6
Western	61	102	82	20	20.3
Michigan					
Eastern	80	147	116	31	21.2
Western	76	151	126	25	16.6
Ohio					
Northern	86	120	94	25	21.2
Southern	112	139	114	25	19.1
Tennessee					
Eastern	100	123	99	24	21.3
Middle	26	161	126	35	20.3
Western	70	119	96	23	20.5
SEVENTH CIRCUIT	555	165	133	31	19.3
Illinois					
Central	75	158	131	28	18.5
Northern	126	166	137	29	17.2
Southern	104	183	145	37	21.2
Indiana					
Northern	95	145	116	29	20.6
Southern	34	233	189	44	19.5
Wisconsin					
Eastern	55	128	106	22	17.7
Western	66	165	130	35	20.6
EIGHTH CIRCUIT	574	142	115	28	19.5
Arkansas					
Eastern	58	115	90	25	23.9
Western	17	111	90	21	20.3
Iowa					
Northern	72	190	151	39	19.6
Southern	59	185	151	33	17.2
Minnesota	53	147	125	23	15.2
Missouri					
Eastern	136	118	95	23	20.3
Western	58	149	119	30	18.5
Nebraska	114	135	109	26	19.7
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		Average Current Sentence in Months	Average New Sentence in Months	Average Decrease in Months From Current Sentence	Average Percent Decrease From Current Sentence
District	N				
NINTH CIRCUIT	167	114	91	23	20.9
Alaska	31	130	103	27	21.2
Arizona	0	--	--	--	--
California					
Central	30	113	90	23	22.4
Eastern	26	116	93	24	21.7
Northern	36	96	77	18	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	24	104	88	16	15.3
TENTH CIRCUIT	209	164	133	31	18.4
Colorado	35	167	134	33	18.1
Kansas	81	134	111	24	17.1
New Mexico	9	146	128	18	14.0
Oklahoma					
Eastern	13	127	99	28	22.6
Northern	22	171	147	24	14.2
Western	37	249	199	51	20.2
Utah	6	155	117	38	30.4
Wyoming	6	98	72	26	27.4
ELEVENTH CIRCUIT	816	173	139	34	20.4
Alabama					
Middle	63	147	122	26	18.8
Northern	18	197	152	45	21.5
Southern	133	218	173	45	19.9
Florida					
Middle	226	158	129	29	20.5
Northern	90	249	200	49	19.5
Southern	64	142	115	27	18.2
Georgia					
Middle	111	123	95	29	24.0
Northern	30	197	161	36	18.2
Southern	81	152	122	30	20.6

¹ Of the 11,937 cases, 60 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 4,594 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 7,283 cases, 811 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, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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

REASONS	N	%
Offense does not involve crack cocaine	267	5.1
Case does not involve crack cocaine	204	3.9
Sentence is determined by a non-drug guideline	63	1.2
Offender not eligible under §1B1.10	3,483	66.7
Statutory mandatory minimum controls sentence	1,374	26.3
Career Offender or Armed Career Criminal provisions control sentence	961	18.4
Guideline range does not change	700	13.4
Base offense level does not change (due to multiple drugs)	139	2.7
Case involved more than 4.5 kg of crack cocaine	106	2.0
Case involved more than 8.4 kg of crack cocaine	100	1.9
Original sentence has been served	86	1.6
Statutory maximum sentence is less than applicable guideline range	14	0.3
Base offense level is 43	3	0.1
Denied on the merits	756	14.5
Offender has already benefitted from departure or variance	218	4.2
18 U.S.C. § 3553(a) factors	158	3
Offender subject to guideline reduction at original sentencing	108	2.1
Protection of the public	98	1.9
Post-sentencing or post-conviction conduct	68	1.3
Already received crack reduction	59	1.1
Denial because of binding plea	34	0.7
Previous variance or departure for crack/powder disparity	13	0.2
No reason provided/Other reason	714	13.6
No reason provided	519	9.9
Other	195	3.7

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, 5,220 reasons were cited for the 4,620 cases. Of the 519 cases in which the court did not give a reason for the denial, 431 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 431 cases, a statutory mandatory minimum controlled the sentence in 26 cases, in 13 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 22 cases no change in the guideline range was found, in 63 cases crack cocaine was not involved, in 58 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 209 cases the offender was predicted to have been released, in five 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 five cases there was no record on file with the Bureau of Prisons.