

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



October 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 September 30, 2013 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by October 7, 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	12,363	7,416	60.0	4,947	40.0						
Eastern Virginia	862	585	67.9	277	32.1	New Jersey	100	58	58.0	42	42.0
Western North Carolina	671	218	32.5	453	67.5	Eastern Arkansas	99	61	61.6	38	38.4
Western Virginia	478	251	52.5	227	47.5	Northern Indiana	99	97	98.0	2	2.0
South Carolina	415	265	63.9	150	36.1	Eastern Louisiana	95	95	100.0	0	0.0
Southern Georgia	407	130	31.9	277	68.1	Western Pennsylvania	93	52	55.9	41	44.1
Western Texas	400	270	67.5	130	32.5	Western Missouri	91	90	98.9	1	1.1
Eastern North Carolina	342	158	46.2	184	53.8	Western Wisconsin	85	85	100.0	0	0.0
Puerto Rico	341	186	54.5	155	45.5	Eastern Pennsylvania	83	81	97.6	2	2.4
Middle North Carolina	333	123	36.9	210	63.1	Western Tennessee	83	80	96.4	3	3.6
Northern Florida	321	104	32.4	217	67.6	Northern New York	83	81	97.6	2	2.4
Southern Alabama	316	156	49.4	160	50.6	Northern Mississippi	80	67	83.8	13	16.3
Northern Iowa	287	80	27.9	207	72.1	Massachusetts	79	43	54.4	36	45.6
Eastern Missouri	272	153	56.3	119	43.8	District of Columbia	73	66	90.4	7	9.6
Western Louisiana	262	101	38.5	161	61.5	Middle Alabama	66	66	100.0	0	0.0
Eastern Texas	243	196	80.7	47	19.3	Eastern Wisconsin	57	57	100.0	0	0.0
Northern West Virginia	240	239	99.6	1	0.4	Maine	54	19	35.2	35	64.8
Middle Florida	235	229	97.4	6	2.6	Eastern Kentucky	51	17	33.3	34	66.7
Western Kentucky	223	62	27.8	161	72.2	Southern New York	49	30	61.2	19	38.8
Western Michigan	211	78	37.0	133	63.0	Colorado	48	40	83.3	8	16.7
Southern Iowa	207	59	28.5	148	71.5	Connecticut	46	46	100.0	0	0.0
Northern Texas	194	114	58.8	80	41.2	Western Arkansas	45	18	40.0	27	60.0
Central Illinois	194	84	43.3	110	56.7	New Hampshire	45	15	33.3	30	66.7
Middle Pennsylvania	191	145	75.9	46	24.1	Central California	44	33	75.0	11	25.0
Nebraska	167	115	68.9	52	31.1	Northern Oklahoma	42	28	66.7	14	33.3
Southern Illinois	164	108	65.9	56	34.1	Northern California	39	37	94.9	2	5.1
Maryland	157	132	84.1	25	15.9	Northern Georgia	33	32	97.0	1	3.0
Minnesota	150	72	48.0	78	52.0	Alaska	32	32	100.0	0	0.0
Southern Ohio	149	113	75.8	36	24.2	Middle Tennessee	27	27	100.0	0	0.0
Eastern Tennessee	145	103	71.0	42	29.0	Eastern California	26	26	100.0	0	0.0
Northern Alabama	142	21	14.8	121	85.2	Western Washington	26	26	100.0	0	0.0
Southern Texas	141	80	56.7	61	43.3	Rhode Island	24	24	100.0	0	0.0
Northern Ohio	140	91	65.0	49	35.0	New Mexico	14	12	85.7	2	14.3
Northern Illinois	133	131	98.5	2	1.5	Eastern Oklahoma	13	13	100.0	0	0.0
Southern Indiana	129	47	36.4	82	63.6	Delaware	9	9	100.0	0	0.0
Southern West Virginia	128	104	81.3	24	18.8	South Dakota	8	8	100.0	0	0.0
Southern Florida	124	74	59.7	50	40.3	Nevada	8	8	100.0	0	0.0
Middle Louisiana	120	41	34.2	79	65.8	Utah	7	7	100.0	0	0.0
Western Oklahoma	115	48	41.7	67	58.3	Wyoming	6	6	100.0	0	0.0
Middle Georgia	111	111	100.0	0	0.0	Oregon	6	6	100.0	0	0.0
Kansas	106	106	100.0	0	0.0	Vermont	5	5	100.0	0	0.0
Eastern Michigan	105	96	91.4	9	8.6	Eastern Washington	5	3	60.0	2	40.0
Southern Mississippi	104	104	100.0	0	0.0	Southern California	4	4	100.0	0	0.0
Western New York	102	90	88.2	12	11.8	Hawaii	2	0	0.0	2	100.0
Eastern New York	102	33	32.4	69	67.6						

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	12,363	7,416	4,947
FOURTH CIRCUIT	3,626	2,075	1,551
ELEVENTH CIRCUIT	1,755	923	832
FIFTH CIRCUIT	1,639	1,068	571
EIGHTH CIRCUIT	1,326	656	670
SIXTH CIRCUIT	1,134	667	467
SEVENTH CIRCUIT	861	609	252
FIRST CIRCUIT	543	287	256
THIRD CIRCUIT	476	345	131
SECOND CIRCUIT	387	285	102
TENTH CIRCUIT	351	260	91
NINTH CIRCUIT	192	175	17
D.C. CIRCUIT	73	66	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	12,302	7,381	60.0	4,921	40.0
2013	3	0	0.0	3	100.0
2012	40	9	22.5	31	77.5
2011	521	183	35.1	338	64.9
2010	1,387	874	63.0	513	37.0
2009	1,794	1,148	64.0	646	36.0
2008	1,709	1,159	67.8	550	32.2
2007	1,354	856	63.2	498	36.8
2006	1,090	669	61.4	421	38.6
2005	855	512	59.9	343	40.1
2004	631	362	57.4	269	42.6
2003	584	325	55.7	259	44.3
2002	391	197	50.4	194	49.6
2001	319	195	61.1	124	38.9
2000	278	137	49.3	141	50.7
1999	253	147	58.1	106	41.9
1998	215	127	59.1	88	40.9
1997	200	109	54.5	91	45.5
1996	174	95	54.6	79	45.4
1995	151	81	53.6	70	46.4
1994	141	76	53.9	65	46.1
1993	99	57	57.6	42	42.4
1992	65	34	52.3	31	47.7
1991	27	15	55.6	12	44.4
1990	17	11	64.7	6	35.3
1989	4	3	75.0	1	25.0

¹ Of the 12,363 cases, 61 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	6,793	5,590	82.3	0	0.0	1,203	17.7
D.C. CIRCUIT	62	62	100.0	0	0.0	0	0.0
FIRST CIRCUIT	282	261	92.6	0	0.0	21	7.4
SECOND CIRCUIT	268	234	87.3	0	0.0	34	12.7
THIRD CIRCUIT	265	259	97.7	0	0.0	6	2.3
FOURTH CIRCUIT	1,953	1,477	75.6	0	0.0	476	24.4
FIFTH CIRCUIT	963	722	75.0	0	0.0	241	25.0
SIXTH CIRCUIT	611	520	85.1	0	0.0	91	14.9
SEVENTH CIRCUIT	588	580	98.6	0	0.0	8	1.4
EIGHTH CIRCUIT	622	554	89.1	0	0.0	68	10.9
NINTH CIRCUIT	136	105	77.2	0	0.0	31	22.8
TENTH CIRCUIT	251	237	94.4	0	0.0	14	5.6
ELEVENTH CIRCUIT	792	579	73.1	0	0.0	213	26.9

¹ Of the 7,416 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 629 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, 6,793 origins were cited for the 6,787 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	452	415	5.6	37	3.5
Black	7,286	6,328	85.7	958	90.0
Hispanic	641	585	7.9	56	5.3
Other	66	53	0.7	13	1.2
Total	8,445	7,381		1,064	
Citizenship					
U.S. Citizen	8,122	7,102	96.5	1,020	96.0
Non-Citizen	298	255	3.5	43	4.0
Total	8,420	7,357		1,063	
Gender					
Male	8,085	7,060	95.3	1,025	96.2
Female	386	345	4.7	41	3.8
Total	8,471	7,405		1,066	
Average Age					
	30	30		31	

¹ The 1,066 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 3,881 cases in which the court denied the request for a sentence reduction, 1,386 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 2,495 cases, 1,867 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, 224 were excluded from this analysis because the offender was not sentenced for a drug offense, 378 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	28.8	28.3	32.3
Firearms Mandatory Minimum Applied	14.1	13.5	18.2
Safety Valve	5.1	5.6	1.4
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	13.0	11.8	20.8
Mitigating Role (USSG §3B1.2)	1.5	1.6	1.0
Obstruction Adjustment (USSG §3C1.1)	7.6	7.1	10.7
Sentence Relative to the Guideline Range			
Within Range	71.9	72.3	69.2
Above Range	1.0	0.9	1.4
Below Range	27.1	26.7	29.4
Criminal History Category			
I	16.4	17.0	12.9
II	11.4	11.3	12.5
III	20.7	20.5	21.9
IV	17.7	18.1	14.4
V	13.2	13.6	10.7
VI	20.6	19.5	27.8

¹ The 1,066 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 3,881 cases in which the court denied the request for a sentence reduction, 1,386 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 2,495 cases, 1,867 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, 224 were excluded from this analysis because the offender was not sentenced for a drug offense, 378 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	2,342	100.0	2,342	100.0
Guideline Minimum	1,482	63.3	1,388	59.3
Lower Half of Range	406	17.3	357	15.2
Midpoint of Range	129	5.5	162	6.9
Upper Half of Range	175	7.5	230	9.8
Guideline Maximum	150	6.4	205	8.8

¹ Of the 7,416 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 3,905 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,563 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 (940), the case is missing sentence length or guideline relevant statutory information from the original sentence (545), the new sentence had a guideline minimum and maximum that were identical (387) or the original sentence had a guideline minimum and maximum that were identical (60).

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	6,564	150	121	29	19.9
D.C. CIRCUIT	47	123	99	24	19.5
District of Columbia	47	123	99	24	19.5
FIRST CIRCUIT	256	114	96	18	16.1
Maine	19	119	99	20	15.6
Massachusetts	30	148	118	30	19.4
New Hampshire	13	107	91	17	19.2
Puerto Rico	180	107	91	16	15.5
Rhode Island	14	132	113	19	13.7
SECOND CIRCUIT	206	136	109	27	19.8
Connecticut	28	147	126	21	13.4
New York					
Eastern	30	138	103	35	23.8
Northern	55	149	120	30	21.0
Southern	29	128	102	26	20.8
Western	60	122	99	23	19.4
Vermont	4	118	99	19	16.5
THIRD CIRCUIT	290	140	114	26	18.5
Delaware	9	169	144	25	13.4
New Jersey	54	114	90	23	20.7
Pennsylvania					
Eastern	66	179	147	32	17.8
Middle	119	133	106	26	20.2
Western	42	125	108	17	13.2
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	1,821	157	126	31	20.0
Maryland	61	149	118	31	20.7
North Carolina					
Eastern	154	147	117	29	20.0
Middle	122	184	148	36	19.1
Western	160	181	150	31	16.6
South Carolina	255	163	131	33	20.2
Virginia					
Eastern	491	163	133	31	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	973	145	115	30	21.3
Louisiana					
Eastern	90	130	104	26	21.0
Middle	27	165	136	28	16.8
Western	94	184	152	32	18.3
Mississippi					
Northern	48	145	111	34	24.7
Southern	79	148	117	31	21.8
Texas					
Eastern	195	131	103	28	21.8
Northern	113	181	147	34	19.4
Southern	60	175	140	35	19.5
Western	267	121	95	26	22.9
SIXTH CIRCUIT	633	131	106	26	20.3
Kentucky					
Eastern	10	113	89	24	25.6
Western	62	103	82	20	20.3
Michigan					
Eastern	83	145	114	31	21.9
Western	78	153	127	26	16.7
Ohio					
Northern	88	120	95	25	21.2
Southern	113	138	114	25	19.0
Tennessee					
Eastern	103	124	100	24	21.4
Middle	26	161	126	35	20.3
Western	70	119	96	23	20.5
SEVENTH CIRCUIT	561	165	133	32	19.4
Illinois					
Central	75	158	131	28	18.5
Northern	128	165	136	29	17.3
Southern	105	182	145	38	21.5
Indiana					
Northern	96	146	116	30	21.0
Southern	36	235	190	45	19.5
Wisconsin					
Eastern	55	128	106	22	17.7
Western	66	165	130	35	20.6
EIGHTH CIRCUIT	576	142	115	28	19.5
Arkansas					
Eastern	59	116	91	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	137	118	95	23	20.4
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	171	115	91	23	20.8
Alaska	32	129	102	27	21.0
Arizona	0	--	--	--	--
California					
Central	32	114	91	23	22.1
Eastern	26	116	93	24	21.7
Northern	35	97	79	18	19.3
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	26	105	88	17	16.0
TENTH CIRCUIT	212	164	133	31	18.6
Colorado	35	167	134	33	18.1
Kansas	82	137	112	25	17.3
New Mexico	10	139	120	19	16.7
Oklahoma					
Eastern	13	127	99	28	22.6
Northern	22	171	147	24	14.2
Western	38	248	197	51	20.2
Utah	6	155	117	38	30.4
Wyoming	6	98	72	26	27.4
ELEVENTH CIRCUIT	818	173	139	34	20.4
Alabama					
Middle	65	152	124	27	19.1
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 12,363 cases, 61 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 4,921 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 7,381 cases, 817 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	281	5.0
Case does not involve crack cocaine	214	3.8
Sentence is determined by a non-drug guideline	67	1.2
Offender not eligible under §1B1.10	3,671	66.1
Statutory mandatory minimum controls sentence	1,439	25.9
Career Offender or Armed Career Criminal provisions control sentence	1,022	18.4
Guideline range does not change	730	13.1
Base offense level does not change (due to multiple drugs)	156	2.8
Case involved more than 8.4 kg of crack cocaine	110	2.0
Case involved more than 4.5 kg of crack cocaine	106	1.9
Original sentence has been served	89	1.6
Statutory maximum sentence is less than applicable guideline range	16	0.3
Base offense level is 43	3	0.1
Denied on the merits	792	14.3
Offender has already benefitted from departure or variance	221	4.0
18 U.S.C. § 3553(a) factors	161	2.9
Offender subject to guideline reduction at original sentencing	122	2.2
Protection of the public	104	1.9
Post-sentencing or post-conviction conduct	71	1.3
Already received crack reduction	66	1.2
Denial because of binding plea	34	0.6
Previous variance or departure for crack/powder disparity	13	0.2
No reason provided/Other reason	822	14.7
No reason provided	615	11.0
Other	207	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, 5,566 reasons were cited for the 4,947 cases. Of the 615 cases in which the court did not give a reason for the denial, 503 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 503 cases, a statutory mandatory minimum controlled the sentence in 32 cases, in 13 cases the quantity of crack cocaine in the case exceeded 8.4 Kg, in 32 cases the sentence was determined by a non-drug guideline, in 23 cases no change in the guideline range was found, in 70 cases crack cocaine was not involved, in 64 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 257 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 five cases there was no record on file with the Bureau of Prisons.

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