

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



July 2014 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 1995-2013 *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 30, 2014 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by July 18, 2014. 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	12,951	7,706	59.5	5,245	40.5						
Eastern Virginia	893	602	67.4	291	32.6	Northern Indiana	102	100	98.0	2	2.0
Western North Carolina	683	224	32.8	459	67.2	New Jersey	100	58	58.0	42	42.0
Eastern North Carolina	517	234	45.3	283	54.7	Eastern Arkansas	100	61	61.0	39	39.0
Western Virginia	487	252	51.7	235	48.3	Western Pennsylvania	99	54	54.5	45	45.5
South Carolina	424	272	64.2	152	35.8	Eastern Louisiana	96	96	100.0	0	0.0
Southern Georgia	417	130	31.2	287	68.8	Western Missouri	93	91	97.8	2	2.2
Western Texas	407	275	67.6	132	32.4	Northern Mississippi	91	67	73.6	24	26.4
Middle North Carolina	366	132	36.1	234	63.9	Eastern Pennsylvania	86	84	97.7	2	2.3
Puerto Rico	359	193	53.8	166	46.2	Western Wisconsin	85	85	100.0	0	0.0
Northern Florida	330	104	31.5	226	68.5	Western Tennessee	83	80	96.4	3	3.6
Southern Alabama	318	157	49.4	161	50.6	Northern New York	83	81	97.6	2	2.4
Northern Iowa	288	81	28.1	207	71.9	Massachusetts	81	45	55.6	36	44.4
Eastern Missouri	272	153	56.3	119	43.8	District of Columbia	79	72	91.1	7	8.9
Western Louisiana	271	105	38.7	166	61.3	Eastern Kentucky	68	29	42.6	39	57.4
Eastern Texas	248	197	79.4	51	20.6	Middle Alabama	66	66	100.0	0	0.0
Northern West Virginia	242	241	99.6	1	0.4	Eastern Wisconsin	58	58	100.0	0	0.0
Middle Florida	237	231	97.5	6	2.5	Maine	54	19	35.2	35	64.8
Western Kentucky	232	62	26.7	170	73.3	Southern New York	53	33	62.3	20	37.7
Maryland	227	193	85.0	34	15.0	Colorado	48	40	83.3	8	16.7
Western Michigan	215	79	36.7	136	63.3	Connecticut	47	47	100.0	0	0.0
Southern Iowa	208	60	28.8	148	71.2	Central California	45	34	75.6	11	24.4
Central Illinois	206	85	41.3	121	58.7	Western Arkansas	45	18	40.0	27	60.0
Northern Texas	198	118	59.6	80	40.4	New Hampshire	45	15	33.3	30	66.7
Middle Pennsylvania	194	146	75.3	48	24.7	Northern Oklahoma	43	28	65.1	15	34.9
Southern Illinois	178	112	62.9	66	37.1	Northern California	39	37	94.9	2	5.1
Nebraska	170	118	69.4	52	30.6	Northern Georgia	34	33	97.1	1	2.9
Southern Ohio	157	114	72.6	43	27.4	Alaska	32	32	100.0	0	0.0
Minnesota	156	73	46.8	83	53.2	Eastern California	27	27	100.0	0	0.0
Eastern Tennessee	154	111	72.1	43	27.9	Middle Tennessee	27	27	100.0	0	0.0
Southern Texas	146	85	58.2	61	41.8	Western Washington	26	26	100.0	0	0.0
Northern Ohio	143	94	65.7	49	34.3	Rhode Island	25	25	100.0	0	0.0
Northern Alabama	143	22	15.4	121	84.6	New Mexico	14	12	85.7	2	14.3
Northern Illinois	141	139	98.6	2	1.4	Eastern Oklahoma	13	13	100.0	0	0.0
Southern Florida	133	75	56.4	58	43.6	Delaware	9	9	100.0	0	0.0
Southern West Virginia	130	105	80.8	25	19.2	South Dakota	8	8	100.0	0	0.0
Southern Indiana	130	47	36.2	83	63.8	Nevada	8	8	100.0	0	0.0
Western Oklahoma	122	48	39.3	74	60.7	Utah	7	7	100.0	0	0.0
Middle Louisiana	121	41	33.9	80	66.1	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	108	108	100.0	0	0.0	Vermont	5	5	100.0	0	0.0
Eastern Michigan	108	99	91.7	9	8.3	Eastern Washington	5	3	60.0	2	40.0
Eastern New York	107	34	31.8	73	68.2	Southern California	4	4	100.0	0	0.0
Southern Mississippi	104	104	100.0	0	0.0	Hawaii	2	0	0.0	2	100.0
Western New York	103	91	88.3	12	11.7						

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

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

Table 2

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

Circuit	N	Granted	Denied
TOTAL	12,951	7,706	5,245
FOURTH CIRCUIT	3,969	2,255	1,714
ELEVENTH CIRCUIT	1,789	929	860
FIFTH CIRCUIT	1,682	1,088	594
EIGHTH CIRCUIT	1,340	663	677
SIXTH CIRCUIT	1,187	695	492
SEVENTH CIRCUIT	900	626	274
FIRST CIRCUIT	564	297	267
THIRD CIRCUIT	488	351	137
SECOND CIRCUIT	398	291	107
TENTH CIRCUIT	361	262	99
NINTH CIRCUIT	194	177	17
D.C. CIRCUIT	79	72	7

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

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

Fiscal Year	Total	Granted		Denied	
	N	N	%	N	%
Total	12,887	7,668	59.5	5,219	40.5
2013	11	0	0.0	11	100.0
2012	56	9	16.1	47	83.9
2011	588	211	35.9	377	64.1
2010	1,467	910	62.0	557	38.0
2009	1,862	1,187	63.7	675	36.3
2008	1,762	1,191	67.6	571	32.4
2007	1,405	877	62.4	528	37.6
2006	1,126	691	61.4	435	38.6
2005	892	534	59.9	358	40.1
2004	652	371	56.9	281	43.1
2003	600	331	55.2	269	44.8
2002	403	205	50.9	198	49.1
2001	343	207	60.3	136	39.7
2000	289	141	48.8	148	51.2
1999	273	162	59.3	111	40.7
1998	225	132	58.7	93	41.3
1997	215	115	53.5	100	46.5
1996	184	100	54.3	84	45.7
1995	164	86	52.4	78	47.6
1994	145	78	53.8	67	46.2
1993	106	62	58.5	44	41.5
1992	70	38	54.3	32	45.7
1991	28	16	57.1	12	42.9
1990	17	11	64.7	6	35.3
1989	4	3	75.0	1	25.0

¹ Of the 12,951 cases, 64 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, 2008-2014 Datafiles, USSCFY08-USSCFY14.

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	7,047	5,830	82.7	0	0.0	1,217	17.3
D.C. CIRCUIT	68	68	100.0	0	0.0	0	0.0
FIRST CIRCUIT	291	270	92.8	0	0.0	21	7.2
SECOND CIRCUIT	273	239	87.5	0	0.0	34	12.5
THIRD CIRCUIT	266	260	97.7	0	0.0	6	2.3
FOURTH CIRCUIT	2,117	1,639	77.4	0	0.0	478	22.6
FIFTH CIRCUIT	980	734	74.9	0	0.0	246	25.1
SIXTH CIRCUIT	634	541	85.3	0	0.0	93	14.7
SEVENTH CIRCUIT	603	594	98.5	0	0.0	9	1.5
EIGHTH CIRCUIT	629	560	89.0	0	0.0	69	11.0
NINTH CIRCUIT	136	105	77.2	0	0.0	31	22.8
TENTH CIRCUIT	253	238	94.1	0	0.0	15	5.9
ELEVENTH CIRCUIT	797	582	73.0	0	0.0	215	27.0

¹ Of the 7,706 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 665 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, 7,047 origins were cited for the 7,041 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	471	433	5.6	38	3.4
Black	7,568	6,573	85.7	995	90.0
Hispanic	666	606	7.9	60	5.4
Other	71	58	0.8	13	1.2
Total	8,776	7,670		1,106	
Citizenship					
U.S. Citizen	8,435	7,379	96.5	1,056	95.6
Non-Citizen	315	266	3.5	49	4.4
Total	8,750	7,645		1,105	
Gender					
Male	8,409	7,343	95.4	1,066	96.2
Female	394	352	4.6	42	3.8
Total	8,803	7,695		1,108	
Average Age					
	30	30		31	

¹ The 1,108 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 4,137 cases in which the court denied the request for a sentence reduction, 1,458 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 2,679 cases, 2,003 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, 239 were excluded from this analysis because the offender was not sentenced for a drug offense, 411 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, 2008-2014 Datafiles, USSCFY08-USSCFY14.

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	28.9	28.4	32.7
Firearms Mandatory Minimum Applied	14.4	13.8	18.1
Safety Valve	4.9	5.4	1.4
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	13.4	12.3	20.8
Mitigating Role (USSG §3B1.2)	1.5	1.6	1.0
Obstruction Adjustment (USSG §3C1.1)	7.7	7.2	11.1
Sentence Relative to the Guideline Range			
Within Range	71.8	72.0	69.8
Above Range	1.0	0.9	1.4
Below Range	27.2	27.0	28.8
Criminal History Category			
I	16.3	16.8	13.0
II	11.4	11.3	12.4
III	20.7	20.5	22.1
IV	17.4	17.9	14.2
V	13.2	13.6	10.5
VI	20.9	19.9	27.9

¹ The 1,108 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 4,137 cases in which the court denied the request for a sentence reduction, 1,458 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 2,679 cases, 2,003 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, 239 were excluded from this analysis because the offender was not sentenced for a drug offense, 411 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, 2008-2014 Datafiles, USSCFY08-USSCFY14.

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	2,409	100.0	2,409	100.0
Guideline Minimum	1,525	63.3	1,433	59.5
Lower Half of Range	419	17.4	363	15.1
Midpoint of Range	132	5.5	166	6.9
Upper Half of Range	180	7.5	236	9.8
Guideline Maximum	153	6.4	211	8.8

¹ Of the 7,706 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 4,013 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,604 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 (962), the case is missing sentence length or guideline relevant statutory information from the original sentence (562), the new sentence had a guideline minimum and maximum that were identical (394) or the original sentence had a guideline minimum and maximum that were identical (62).

SOURCE: U.S. Sentencing Commission, 2008-2014 Datafiles, USSCFY08-USSCFY14.

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	6,840	153	123	30	19.9
D.C. CIRCUIT	53	129	103	26	20.0
District of Columbia	53	129	103	26	20.0
FIRST CIRCUIT	265	117	98	19	16.0
Maine	19	119	99	20	15.6
Massachusetts	31	147	118	29	18.8
New Hampshire	13	107	91	17	19.2
Puerto Rico	187	111	94	17	15.5
Rhode Island	15	131	112	19	13.9
SECOND CIRCUIT	211	140	112	28	19.9
Connecticut	29	151	129	22	13.7
New York					
Eastern	31	141	103	38	24.6
Northern	55	149	120	30	21.0
Southern	32	148	118	31	20.9
Western	60	122	99	23	19.4
Vermont	4	118	99	19	16.5
THIRD CIRCUIT	296	141	115	26	18.4
Delaware	9	169	144	25	13.4
New Jersey	54	114	90	23	20.7
Pennsylvania					
Eastern	69	176	145	31	17.7
Middle	120	136	109	26	20.1
Western	44	127	109	18	13.1
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	1,994	163	131	32	19.9
Maryland	120	177	138	40	21.7
North Carolina					
Eastern	230	177	142	34	19.4
Middle	131	194	157	37	18.6
Western	164	184	151	32	16.7
South Carolina	260	165	132	33	20.3
Virginia					
Eastern	507	164	134	31	18.3
Western	239	157	130	28	18.2
West Virginia					
Northern	240	121	92	29	25.5
Southern	103	147	111	36	24.1

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	993	147	117	30	21.2
Louisiana					
Eastern	91	130	104	26	20.9
Middle	27	165	136	28	16.8
Western	98	189	156	33	18.6
Mississippi					
Northern	48	145	111	34	24.7
Southern	79	148	117	31	21.8
Texas					
Eastern	196	132	103	28	21.8
Northern	117	183	149	34	19.3
Southern	65	177	142	36	19.4
Western	272	123	96	27	22.8
SIXTH CIRCUIT	658	134	108	26	20.2
Kentucky					
Eastern	19	128	101	27	24.0
Western	62	103	82	20	20.3
Michigan					
Eastern	86	147	116	32	21.7
Western	79	152	126	26	17.0
Ohio					
Northern	91	122	97	26	21.0
Southern	114	140	115	25	18.9
Tennessee					
Eastern	111	133	107	26	21.0
Middle	26	161	126	35	20.3
Western	70	119	96	23	20.5
SEVENTH CIRCUIT	576	167	135	32	19.4
Illinois					
Central	76	160	132	28	18.5
Northern	135	170	139	31	17.3
Southern	109	185	147	38	21.4
Indiana					
Northern	98	146	115	30	21.3
Southern	36	235	190	45	19.5
Wisconsin					
Eastern	56	128	106	22	17.4
Western	66	165	130	35	20.6
EIGHTH CIRCUIT	583	143	115	28	19.6
Arkansas					
Eastern	59	116	91	25	23.9
Western	17	111	90	21	20.3
Iowa					
Northern	73	190	151	39	19.7
Southern	60	184	151	33	17.4
Minnesota	54	147	124	23	15.3
Missouri					
Eastern	137	118	95	23	20.4
Western	59	155	121	33	19.0
Nebraska	117	136	110	26	19.5
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	173	115	92	23	20.7
Alaska	32	129	102	27	21.0
Arizona	0	--	--	--	--
California					
Central	33	116	93	23	22.0
Eastern	27	120	96	24	21.2
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	214	164	133	31	18.7
Colorado	35	167	134	33	18.1
Kansas	84	138	113	25	17.6
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	824	174	139	34	20.4
Alabama					
Middle	65	152	124	27	19.1
Northern	19	194	150	44	21.3
Southern	134	219	174	45	19.9
Florida					
Middle	228	159	130	30	20.5
Northern	90	249	200	49	19.5
Southern	65	143	116	27	18.1
Georgia					
Middle	111	123	95	29	24.0
Northern	31	197	162	35	17.9
Southern	81	152	122	30	20.6

¹ Of the 12,951 cases, 64 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 5,219 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 7,668 cases, 828 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, 2008-2014 Datafiles, USSCFY08-USSCFY14.

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

REASONS	N	%
Offense does not involve crack cocaine	303	5.1
Case does not involve crack cocaine	232	3.9
Sentence is determined by a non-drug guideline	71	1.2
Offender not eligible under §1B1.10	3,870	65.7
Statutory mandatory minimum controls sentence	1,493	25.3
Career Offender or Armed Career Criminal provisions control sentence	1,085	18.4
Guideline range does not change	768	13.0
Base offense level does not change (due to multiple drugs)	168	2.9
Case involved more than 8.4 kg of crack cocaine	136	2.3
Case involved more than 4.5 kg of crack cocaine	106	1.8
Original sentence has been served	93	1.6
Statutory maximum sentence is less than applicable guideline range	18	0.3
Base offense level is 43	3	0.1
Denied on the merits	844	14.4
Offender has already benefitted from departure or variance	227	3.9
18 U.S.C. § 3553(a) factors	163	2.8
Offender subject to guideline reduction at original sentencing	145	2.5
Protection of the public	109	1.8
Already received crack reduction	79	1.3
Post-sentencing or post-conviction conduct	74	1.3
Denial because of binding plea	34	0.6
Previous variance or departure for crack/powder disparity	13	0.2
No reason provided/Other reason	876	14.8
No reason provided	657	11.1
Other	219	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, 5,893 reasons were cited for the 5,245 cases. Of the 657 cases in which the court did not give a reason for the denial, 540 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 540 cases, a statutory mandatory minimum controlled the sentence in 34 cases, in 13 cases the quantity of crack cocaine in the case exceeded 8.4 Kg, in 34 cases the sentence was determined by a non-drug guideline, in 24 cases no change in the guideline range was found, in 78 cases crack cocaine was not involved, in 67 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 278 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, 2008-2014 Datafiles, USSCFY08-USSCFY14.