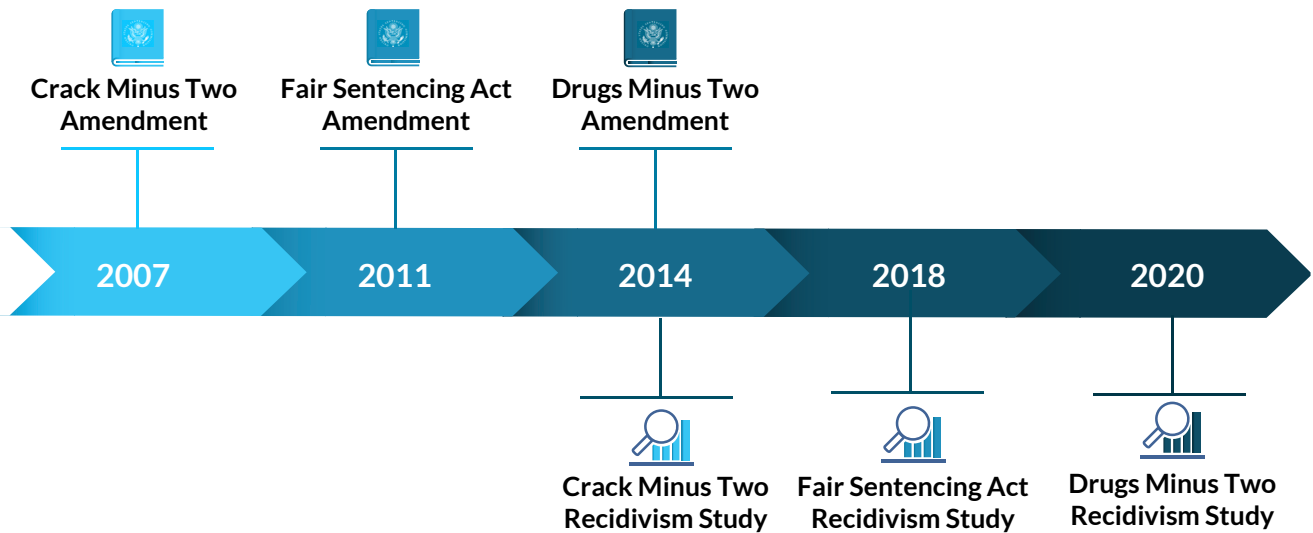


Retroactivity and Recidivism

The Drugs Minus Two Amendment

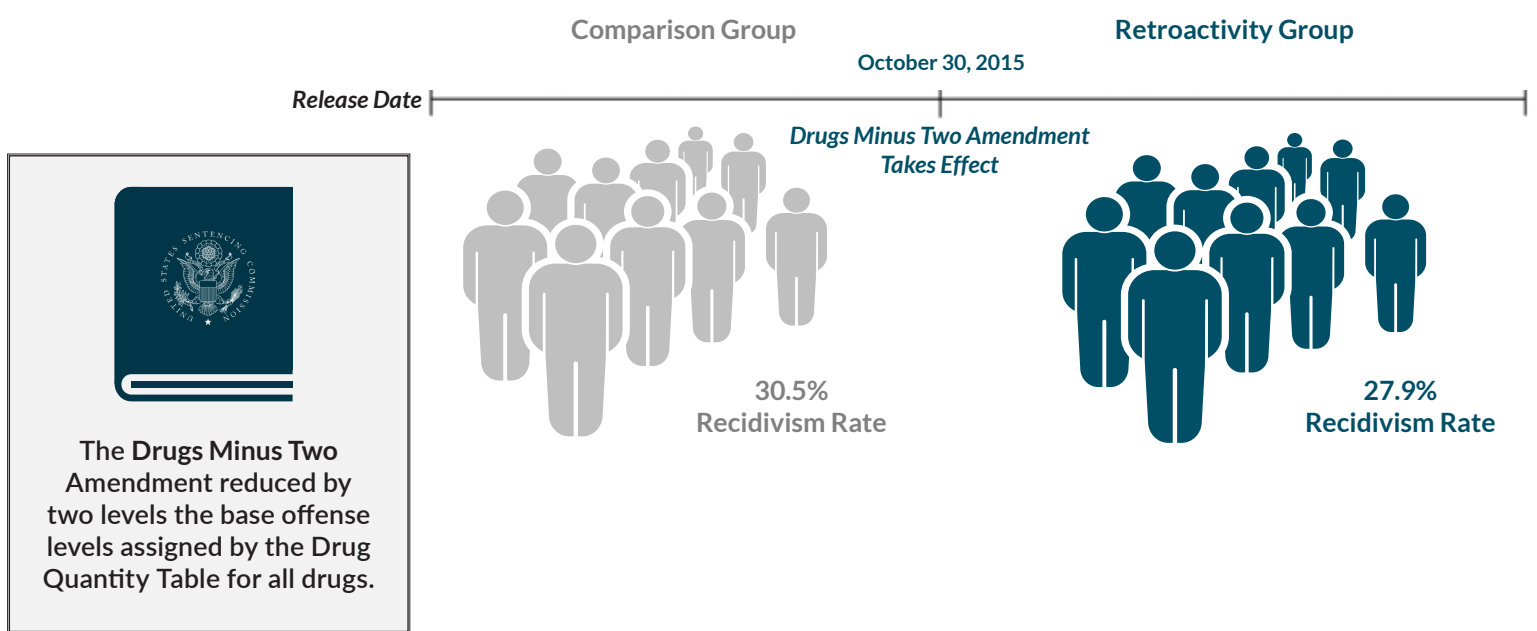
Introduction

The 2014 “Drugs Minus Two” Amendment¹ was the most recent of three significant reductions in drug penalties made by the United States Sentencing Commission over a seven-year period. The Commission voted to give retroactive effect to all three guideline amendments and identified key factors (in particular public safety)² judges are required to consider in each case before granting or denying a sentence reduction. The Commission then followed each amendment with a study on the effect of retroactivity on recidivism. The findings of the Commission’s studies are likely attributed, at least in part, to judges’ careful consideration of the Commission’s key eligibility factors.



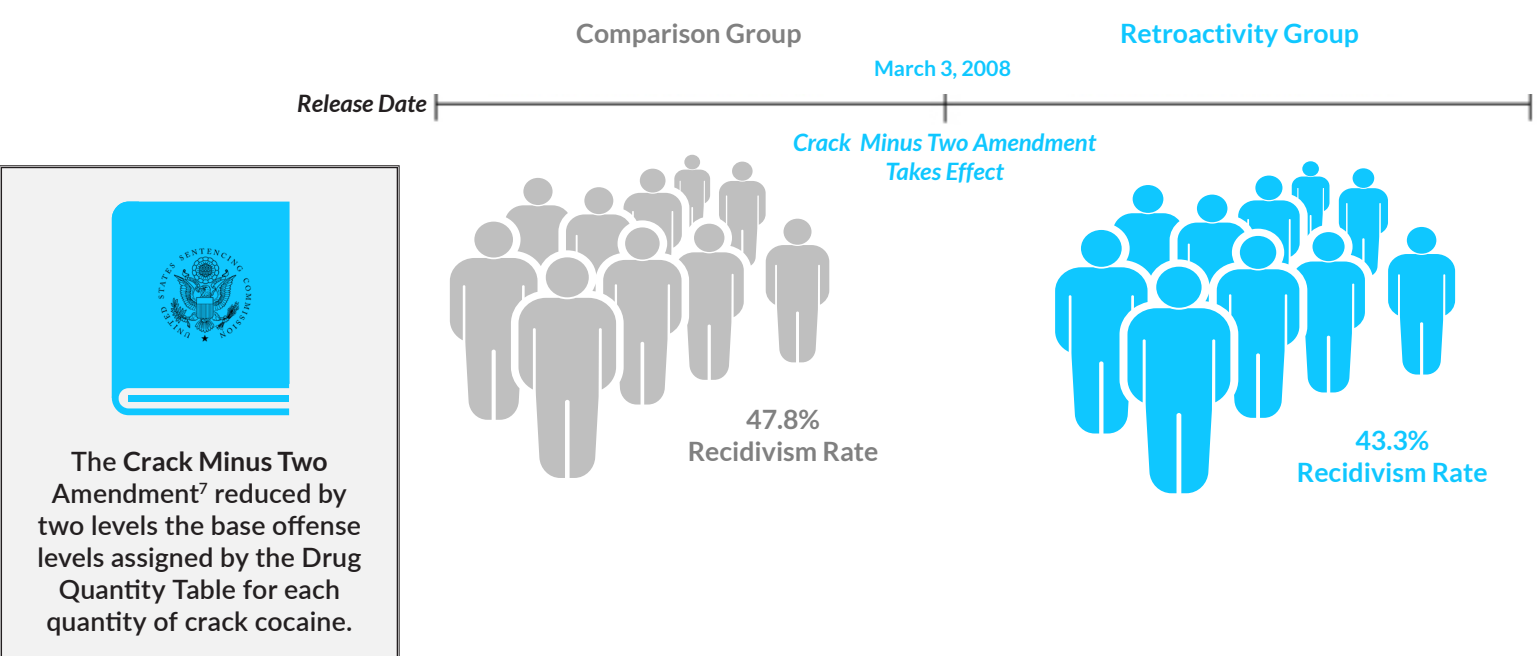
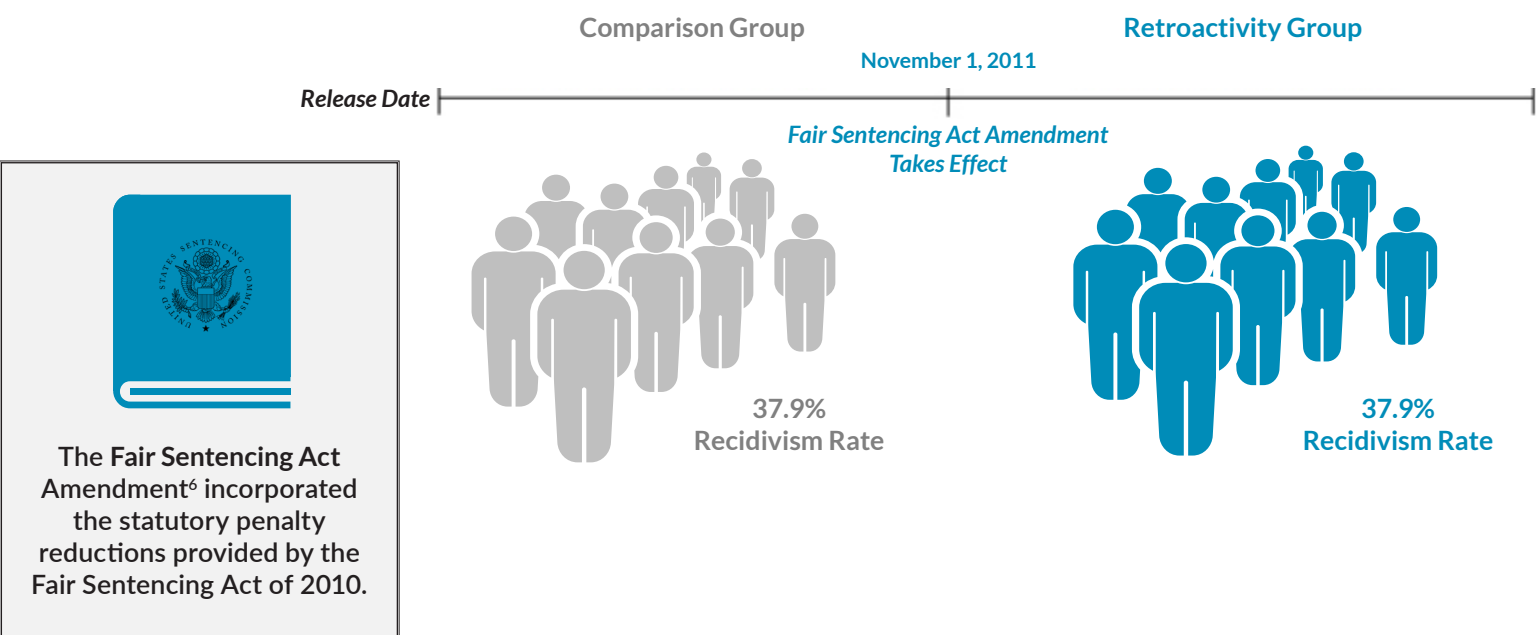
Key Findings

In the most recent study,³ the Commission found no statistically significant difference between the recidivism rates for drug trafficking offenders who received a sentence reduction under the Drugs Minus Two Amendment and drug trafficking offenders who had served their full sentences before the guideline reduction took effect.



Previous Findings

In the two previous studies,^{4,5} the Commission also found no statistically significant difference between the recidivism rates for crack cocaine trafficking offenders who received a sentence reduction and crack cocaine trafficking offenders who had served their full sentences before the guideline reduction took effect.



1. See U.S. SENTENCING COMM’N, *Guidelines Manual*, App. C, amend. 782 and 788.
 2. See U.S. SENTENCING COMM’N, *Guidelines Manual*, §1B1.10.
 3. See U.S. SENTENCING COMM’N, *Retroactivity and Recidivism: The Drugs Minus Two Amendment* (2020).
 4. See U.S. SENTENCING COMM’N, *Recidivism Among Offenders Receiving Retroactive Sentence Reductions: The 2011 Fair Sentencing Act Guideline Amendment* (2018).

5. See U.S. SENTENCING COMM’N, *Recidivism Among Offenders Receiving Retroactive Sentence Reductions: The 2007 Crack Cocaine Amendment* (2014).
 6. See U.S. SENTENCING COMM’N, *Guidelines Manual*, App. C, amend. 748, 750, and 759.
 7. See U.S. SENTENCING COMM’N, *Guidelines Manual*, App. C, amend. 706, 711, and 713.

