

**U.S. Sentencing Commission  
First Step Act of 2018 Resentencing Provisions  
Retroactivity Data Report**



**August 2019**

## 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.<sup>1</sup> Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.<sup>2</sup>

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*. 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).

On three separate occasions in recent years the Commission has amended the federal sentencing guidelines to lower the punishment for certain drug trafficking crimes, and also voted to apply those reductions retroactively.<sup>3</sup> Under section 3582(c)(2) of title 18, courts were authorized to reduce the sentences of incarcerated offenders pursuant to those retroactive guideline amendments. The Commission has periodically reported on the number of offenders who received a sentence reduction under those retroactive amendments and presented other data regarding those cases.<sup>4</sup>

One of those guideline amendments incorporated into the sentencing guidelines the statutory changes Congress made in the penalty provision for crack cocaine offenders through the Fair Sentencing Act of 2010.<sup>5</sup> On December 21, 2018, the President signed into law the First Step Act of 2018.<sup>6</sup> Section 404 of that act provides that any defendant sentenced before the effective date of the Fair Sentencing Act of 2010 (August 3, 2010) who did not receive the

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<sup>1</sup> In each federal felony or Class A misdemeanor case, 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).

<sup>2</sup> Electronic copies of the 1995-2018 *Annual Report* and *Sourcebook of Federal Sentencing Statistics* are available at the Commission's website at [www.ussc.gov](http://www.ussc.gov).

<sup>3</sup> *See* Amendment 706, as amended by Amendment 711, and made retroactive by Amendment 713 (the 2007 Crack Cocaine Amendment); Amendment 750, made retroactive by Amendment 759 (the 2010 Fair Sentencing Act Amendment); and Amendment 782 (the 2014 Drug Guidelines Amendment, often referred to as "Drugs Minus Two").

<sup>4</sup> These retroactivity analyses and data reports are available at <https://www.ussc.gov/research/data-reports/retroactivity-analyses-and-data-reports>.

<sup>5</sup> Pub L. No. 111-220 (2010). Section 2 of the Fair Sentencing Act increased the quantity of crack cocaine that triggered mandatory minimum penalties. Section 3 of the Fair Sentencing Act eliminated the statutory mandatory minimum sentence for simple possession of crack cocaine.

<sup>6</sup> Pub. L. No. 115-391 (2018).

benefit of the statutory penalty changes made by that Act is eligible for a sentence reduction as if Sections 2 and 3 of the Fair Sentencing Act of 2010 were in effect at the time the offender was sentenced. The First Step Act authorizes the defendant, the Director of the Bureau of Prisons, the attorney for the Government, or the court to make a motion to reduce an offender's sentence.

The data in this report represents information concerning motions for a reduced sentence pursuant to Section 404 of the First Step Act which the courts have granted.<sup>7</sup> The data in this report reflects all motions granted through July 31, 2019 and for which court documentation was received, coded, and edited at the Commission by August 14, 2019.

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<sup>7</sup> The Commission does not collect information on denials of motions under the First Step Act.

**Table 1**

**GEOGRAPHICAL DISTRIBUTION OF GRANTED MOTIONS FOR SENTENCE  
REDUCTIONS DUE TO RESENTENCING PROVISIONS OF FIRST STEP ACT**

<b>District</b>	<b>N</b>	<b>%</b>	<b>District</b>	<b>N</b>	<b>%</b>
<b>TOTAL</b>	<b>1,674</b>	<b>100.0</b>			
South Carolina	112	6.7	Northern New York	11	0.7
Middle Florida	110	6.6	Southern New York	11	0.7
Western Virginia	89	5.3	New Jersey	10	0.6
Southern Florida	86	5.1	Western Kentucky	10	0.6
Eastern Virginia	80	4.8	Nebraska	10	0.6
Eastern North Carolina	70	4.2	Western New York	9	0.5
Central Illinois	66	3.9	Southern Texas	8	0.5
Eastern Louisiana	50	3.0	Southern Alabama	8	0.5
Northern Illinois	47	2.8	Minnesota	7	0.4
Eastern Tennessee	44	2.6	Northern Texas	6	0.4
Northern Florida	40	2.4	Northern West Virginia	5	0.3
Western North Carolina	36	2.2	Middle Louisiana	5	0.3
Northern Ohio	32	1.9	Eastern New York	4	0.2
Middle Pennsylvania	31	1.9	Southern West Virginia	4	0.2
Southern Iowa	31	1.9	Western Washington	4	0.2
Eastern Texas	26	1.6	Western Oklahoma	4	0.2
Southern Illinois	26	1.6	Northern Georgia	4	0.2
Eastern Missouri	26	1.6	New Hampshire	3	0.2
Northern Indiana	25	1.5	Southern Mississippi	3	0.2
Western Wisconsin	25	1.5	Middle Tennessee	3	0.2
Eastern Michigan	24	1.4	North Dakota	3	0.2
Western Michigan	24	1.4	Alaska	3	0.2
Western Missouri	24	1.4	Oregon	3	0.2
Eastern Pennsylvania	23	1.4	Colorado	3	0.2
Southern Georgia	23	1.4	Northern Oklahoma	3	0.2
Kansas	22	1.3	Northern Mississippi	2	0.1
Maryland	21	1.3	Vermont	1	0.1
Southern Indiana	21	1.3	Western Arkansas	1	0.1
Eastern Arkansas	20	1.2	South Dakota	1	0.1
Rhode Island	19	1.1	Northern California	1	0.1
Middle Georgia	19	1.1	Nevada	1	0.1
Western Pennsylvania	17	1.0	New Mexico	1	0.1
Central California	17	1.0	Eastern Oklahoma	1	0.1
Maine	16	1.0	Middle Alabama	1	0.1
Massachusetts	16	1.0	Puerto Rico	0	0.0
Middle North Carolina	16	1.0	Delaware	0	0.0
Southern Ohio	16	1.0	Virgin Islands	0	0.0
Eastern Kentucky	15	0.9	Arizona	0	0.0
Northern Iowa	15	0.9	Southern California	0	0.0
Western Texas	14	0.8	Guam	0	0.0
Northern Alabama	14	0.8	Hawaii	0	0.0
Western Louisiana	13	0.8	Idaho	0	0.0
Eastern California	13	0.8	Montana	0	0.0
Western Tennessee	12	0.7	Northern Mariana Islands	0	0.0
Eastern Wisconsin	12	0.7	Eastern Washington	0	0.0
District of Columbia	11	0.7	Utah	0	0.0
Connecticut	11	0.7	Wyoming	0	0.0

SOURCE: U.S. Sentencing Commission, First Step Act Datafile.

**Table 2**

**YEAR OF ORIGINAL SENTENCE OF OFFENDERS  
RECEIVING SENTENCE REDUCTIONS DUE TO  
RESENTENCING PROVISIONS OF FIRST STEP ACT<sup>1</sup>**

<b>Fiscal Year</b>	<b>N</b>	<b>%</b>
<b>Total</b>	<b>1,666</b>	<b>100.0</b>
2013	2	0.1
2012	5	0.3
2011	60	3.6
2010	218	13.1
2009	251	15.1
2008	229	13.7
2007	243	14.6
2006	148	8.9
2005	117	7.0
2004	89	5.3
2003	81	4.9
2002	56	3.4
2001	32	1.9
2000	26	1.6
1999	22	1.3
1998	23	1.4
1997	10	0.6
1996	16	1.0
1995	15	0.9
1994	9	0.5
1993	5	0.3
1992	3	0.2
1991	1	0.1
1990	5	0.3

<sup>1</sup> Of the 1,674 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, eight were excluded from this analysis because the cases cannot be matched with an original case in the Commission's records.

SOURCE: U.S. Sentencing Commission, First Step Act Datafile.

**Table 3**

**ORIGIN OF GRANTED MOTIONS FOR SENTENCE REDUCTIONS  
DUE TO RESENTENCING PROVISIONS OF FIRST STEP ACT<sup>1</sup>**

<b>CIRCUIT</b>	<b>N</b>	<b>Defendant</b>		<b>Director BOP</b>		<b>Attorney for the Government</b>		<b>Court</b>	
		<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>TOTAL</b>	<b>1,836</b>	<b>1,517</b>	<b>82.6</b>	<b>0</b>	<b>0.0</b>	<b>182</b>	<b>9.9</b>	<b>137</b>	<b>7.5</b>
D.C. CIRCUIT	10	10	100.0	0	0.0	0	0.0	0	0.0
FIRST CIRCUIT	68	53	77.9	0	0.0	14	20.6	1	1.5
SECOND CIRCUIT	52	45	86.5	0	0.0	5	9.6	2	3.8
THIRD CIRCUIT	92	80	87.0	0	0.0	12	13.0	0	0.0
FOURTH CIRCUIT	429	413	96.3	0	0.0	2	0.5	14	3.3
FIFTH CIRCUIT	144	102	70.8	0	0.0	19	13.2	23	16.0
SIXTH CIRCUIT	206	166	80.6	0	0.0	28	13.6	12	5.8
SEVENTH CIRCUIT	288	219	76.0	0	0.0	69	24.0	0	0.0
EIGHTH CIRCUIT	142	108	76.1	0	0.0	7	4.9	27	19.0
NINTH CIRCUIT	62	41	66.1	0	0.0	19	30.6	2	3.2
TENTH CIRCUIT	34	34	100.0	0	0.0	0	0.0	0	0.0
ELEVENTH CIRCUIT	309	246	79.6	0	0.0	7	2.3	56	18.1

<sup>1</sup> Of the 1,674 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 22 cases 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, 1,836 origins were cited for the 1,652 cases.

SOURCE: U.S. Sentencing Commission, First Step Act Datafile.

**Table 4**

**DEMOGRAPHIC CHARACTERISTICS OF OFFENDERS  
RECEIVING SENTENCE REDUCTIONS DUE TO  
RESENTENCING PROVISIONS OF FIRST STEP ACT**

<b>Demographics</b>	<b>N</b>	<b>%</b>
<hr/>		
<b><u>Race/Ethnicity</u></b>		
White	68	4.1
Black	1,513	90.9
Hispanic	72	4.3
Other	12	0.7
<b>Total</b>	<b>1,665</b>	<b>100.0</b>
<hr/>		
<b><u>Citizenship</u></b>		
U.S. Citizen	1,622	97.7
Non-Citizen	39	2.3
<b>Total</b>	<b>1,661</b>	<b>100.0</b>
<hr/>		
<b><u>Gender</u></b>		
Male	1,640	98.1
Female	32	1.9
<b>Total</b>	<b>1,672</b>	<b>100.0</b>
<hr/>		
<b><u>Average Age at Original Sentence</u></b>		<b>32</b>
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<b><u>Average Age at Resentencing</u></b>		<b>45</b>
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<sup>1</sup> Of the 1,674 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, cases were excluded from each section of this table due to the following reasons: missing race information (9), missing citizenship information (13), missing gender information (2), and missing age information (16).

SOURCE: U.S. Sentencing Commission, First Step Act Datafile.

**Table 5**

**SELECTED SENTENCING FACTORS FOR OFFENDERS  
RECEIVING SENTENCE REDUCTIONS DUE TO RESENTENCING  
PROVISIONS OF FIRST STEP ACT<sup>1</sup>**

<b>Sentencing Factors</b>	<b>%</b>
<b>Weapon<sup>2,3</sup></b>	42.1
Weapon Specific Offense Characteristic	22.0
Firearms Mandatory Minimum Applied	20.9
<b>Safety Valve<sup>2</sup></b>	0.4
<b>Guideline Role Adjustments<sup>2</sup></b>	
Aggravating Role (USSG §3B1.1)	9.4
Mitigating Role (USSG §3B1.2)	0.7
Obstruction Adjustment (USSG §3C1.1)	7.0
<b>Sentence Relative to the Guideline Range</b>	
Within Range	71.5
Above Range	1.0
Below Range	27.5
<b>Criminal History Category</b>	
I	4.2
II	5.3
III	9.9
IV	9.3
V	6.4
VI	64.9
<b>Career Offender (§4B1.1)<sup>2</sup></b>	57.0

<sup>1</sup> Of the 1,674 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, eight were excluded from this analysis because the cases cannot be matched with an original case in the Commission's records.

<sup>2</sup> This section was limited to the 1,592 cases with complete guideline application information.

<sup>3</sup> In 12 cases the court applied the weapon specific offense characteristic and the offender was also convicted of a firearms offense carrying a mandatory minimum penalty.

SOURCE: U.S. Sentencing Commission, First Step Act Datafile.



Table 6

**EXTENT OF SENTENCE REDUCTIONS  
DUE TO RESENTENCING PROVISIONS OF FIRST STEP ACT<sup>1</sup>**

		Mean			
CIRCUIT		Current Sentence In Months	New Sentence In Months	Decrease In Months From Current Sentence <sup>2</sup>	Percent Decrease From Current Sentence
District	N				
TOTAL	1,142	247	178	69	26.8
D.C. CIRCUIT	6	238	165	73	31.8
District of Columbia	6	238	165	73	31.8
FIRST CIRCUIT	26	256	190	66	23.3
Maine	11	258	191	67	24.7
Massachusetts	10	267	199	69	22.0
New Hampshire	1	--	--	--	--
Puerto Rico	0	--	--	--	--
Rhode Island	4	238	175	63	24.8
SECOND CIRCUIT	21	241	166	75	29.8
Connecticut	0	--	--	--	--
New York					
Eastern	4	210	142	68	31.8
Northern	10	244	170	73	26.4
Southern	6	248	157	91	37.9
Western	2	--	--	--	--
Vermont	0	--	--	--	--
THIRD CIRCUIT	56	230	173	57	23.3
Delaware	0	--	--	--	--
New Jersey	8	213	152	62	28.1
Pennsylvania					
Eastern	10	266	195	71	23.6
Middle	21	232	170	62	25.7
Western	17	214	174	40	18.1
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	295	238	175	63	24.4
Maryland	10	226	163	62	26.9
North Carolina					
Eastern	64	207	160	47	21.1
Middle	12	246	181	65	21.7
Western	6	262	196	66	21.1
South Carolina	96	245	178	67	25.7
Virginia					
Eastern	36	271	197	74	26.0
Western	65	236	169	67	25.3
West Virginia					
Northern	5	240	189	51	20.9
Southern	1	--	--	--	--

Table 6 (cont.)

		Mean			
CIRCUIT		Current Sentence In Months	New Sentence In Months	Decrease In Months From Current Sentence <sup>2</sup>	Percent Decrease From Current Sentence
District	N				
FIFTH CIRCUIT	105	243	162	81	32.6
Louisiana					
Eastern	48	223	141	83	36.2
Middle	2	--	--	--	--
Western	5	252	162	90	34.1
Mississippi					
Northern	0	--	--	--	--
Southern	3	303	236	67	21.6
Texas					
Eastern	26	280	194	86	29.2
Northern	2	--	--	--	--
Southern	5	218	154	63	27.3
Western	14	220	147	73	32.1
SIXTH CIRCUIT	114	246	179	67	26.9
Kentucky					
Eastern	6	171	150	21	11.9
Western	10	244	183	61	26.1
Michigan					
Eastern	11	243	175	68	28.9
Western	17	286	211	75	26.1
Ohio					
Northern	29	252	168	84	32.3
Southern	5	225	169	57	29.7
Tennessee					
Eastern	26	245	177	68	27.2
Middle	2	--	--	--	--
Western	9	246	200	46	17.0
SEVENTH CIRCUIT	126	255	182	73	27.1
Illinois					
Central	32	263	187	76	26.6
Northern	21	265	204	61	22.4
Southern	20	263	190	73	27.8
Indiana					
Northern	18	253	195	58	19.8
Southern	20	229	128	101	40.0
Wisconsin					
Eastern	5	218	169	49	21.9
Western	11	255	189	66	26.1
EIGHTH CIRCUIT	98	247	180	67	26.4
Arkansas					
Eastern	9	291	222	70	27.9
Western	1	--	--	--	--
Iowa					
Northern	12	274	190	84	30.6
Southern	28	238	177	61	25.3
Minnesota	0	--	--	--	--
Missouri					
Eastern	17	202	170	32	15.8
Western	24	264	173	92	32.7
Nebraska	4	191	152	39	22.7
North Dakota	3	257	175	82	30.0
South Dakota	0	--	--	--	--

**Table 6 (cont.)**

		Mean			
CIRCUIT		Current Sentence In Months	New Sentence In Months	Decrease In Months From Current Sentence <sup>2</sup>	Percent Decrease From Current Sentence
District	N				
NINTH CIRCUIT	35	228	158	70	29.7
Alaska	3	200	140	60	29.2
Arizona	0	--	--	--	--
California					
Central	17	258	172	86	33.2
Eastern	13	222	164	58	25.6
Northern	0	--	--	--	--
Southern	0	--	--	--	--
Guam	0	--	--	--	--
Hawaii	0	--	--	--	--
Idaho	0	--	--	--	--
Montana	0	--	--	--	--
Nevada	1	--	--	--	--
Northern Mariana Islands	0	--	--	--	--
Oregon	1	--	--	--	--
Washington					
Eastern	0	--	--	--	--
Western	1	--	--	--	--
TENTH CIRCUIT	25	264	185	79	30.3
Colorado	0	--	--	--	--
Kansas	16	253	164	89	35.4
New Mexico	1	--	--	--	--
Oklahoma					
Eastern	1	--	--	--	--
Northern	3	379	303	76	19.9
Western	4	231	168	63	25.0
Utah	0	--	--	--	--
Wyoming	0	--	--	--	--
ELEVENTH CIRCUIT	231	261	187	75	27.2
Alabama					
Middle	1	--	--	--	--
Northern	2	--	--	--	--
Southern	0	--	--	--	--
Florida					
Middle	98	255	181	74	28.0
Northern	23	322	203	119	36.3
Southern	79	254	191	63	23.3
Georgia					
Middle	17	235	171	64	27.5
Northern	2	--	--	--	--
Southern	9	275	207	67	25.4

<sup>1</sup> Of the 1,674 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, in 561 cases the court sentenced the offender to the length of time he or she had served to that date; however, 520 of these cases were excluded from this analysis because the resulting term of imprisonment could not be determined from the records received by the Commission. Another 12 cases were excluded because the court documentation provided did not specify the length of a new sentence of imprisonment but only a modification to the length of supervised release.

<sup>2</sup> The average sentence lengths and the average decrease in months from the current sentence are rounded to the nearest whole number. Consequently, the average decrease in months from the current sentence may not equal the difference between the rounded average current sentence and the rounded average new sentence.

SOURCE: U.S. Sentencing Commission, First Step Act Datafile.