

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



**October 2020**

## 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 1995-2019 *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 June 30, 2020 and for which court documentation was received, coded, and edited at the Commission by October 15, 2020.

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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>3,363</b>	<b>100.0</b>			
Eastern North Carolina	234	7.0	Rhode Island	20	0.6
South Carolina	213	6.3	Northern West Virginia	20	0.6
Eastern Virginia	178	5.3	Northern Georgia	20	0.6
Middle Florida	178	5.3	Eastern Kentucky	18	0.5
Central Illinois	160	4.8	Eastern California	18	0.5
Western Virginia	133	4.0	Southern Alabama	18	0.5
Southern Florida	130	3.9	New Jersey	17	0.5
Middle North Carolina	102	3.0	Western Kentucky	17	0.5
Northern Illinois	101	3.0	Northern New York	16	0.5
Eastern Tennessee	92	2.7	Southern Texas	16	0.5
Northern Florida	77	2.3	Western New York	15	0.4
Eastern Louisiana	73	2.2	Nebraska	15	0.4
Western North Carolina	65	1.9	Middle Tennessee	14	0.4
Maryland	63	1.9	District of Columbia	13	0.4
Southern Iowa	61	1.8	Middle Louisiana	12	0.4
Western Louisiana	60	1.8	Western Oklahoma	12	0.4
Eastern Pennsylvania	57	1.7	Eastern New York	11	0.3
Northern Ohio	53	1.6	Western Arkansas	10	0.3
Eastern Missouri	50	1.5	Western Washington	10	0.3
Eastern Michigan	49	1.5	New Hampshire	7	0.2
Western Wisconsin	49	1.5	Southern Mississippi	7	0.2
Central California	45	1.3	Alaska	7	0.2
Western Texas	43	1.3	Eastern Washington	7	0.2
Connecticut	40	1.2	Northern California	6	0.2
Middle Pennsylvania	40	1.2	Colorado	6	0.2
Eastern Texas	39	1.2	South Dakota	5	0.1
Southern Indiana	39	1.2	Nevada	5	0.1
Western Michigan	37	1.1	New Mexico	5	0.1
Massachusetts	36	1.1	Puerto Rico	4	0.1
Southern New York	33	1.0	Northern Mississippi	4	0.1
Northern Indiana	33	1.0	Oregon	4	0.1
Western Missouri	32	1.0	Northern Oklahoma	4	0.1
Western Pennsylvania	30	0.9	North Dakota	3	0.1
Kansas	30	0.9	Southern California	3	0.1
Southern Illinois	29	0.9	Eastern Oklahoma	3	0.1
Northern Texas	28	0.8	Arizona	2	0.1
Northern Iowa	27	0.8	Middle Alabama	2	0.1
Northern Alabama	27	0.8	Vermont	1	0.0
Middle Georgia	27	0.8	Hawaii	1	0.0
Minnesota	26	0.8	Idaho	1	0.0
Southern West Virginia	25	0.7	Utah	1	0.0
Eastern Arkansas	25	0.7	Delaware	0	0.0
Western Tennessee	24	0.7	Virgin Islands	0	0.0
Southern Ohio	23	0.7	Guam	0	0.0
Eastern Wisconsin	23	0.7	Montana	0	0.0
Southern Georgia	23	0.7	Northern Mariana Islands	0	0.0
Maine	21	0.6	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>3,323</b>	<b>100.0</b>
2013	2	0.1
2012	27	0.8
2011	158	4.8
2010	457	13.8
2009	480	14.4
2008	433	13.0
2007	401	12.1
2006	252	7.6
2005	233	7.0
2004	168	5.1
2003	147	4.4
2002	107	3.2
2001	69	2.1
2000	63	1.9
1999	64	1.9
1998	52	1.6
1997	42	1.3
1996	42	1.3
1995	42	1.3
1994	37	1.1
1993	23	0.7
1992	13	0.4
1991	4	0.1
1990	7	0.2

<sup>1</sup> Of the 3,363 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 40 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<sup>2</sup></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>3,651</b>	<b>3,175</b>	<b>87.0</b>	<b>0</b>	<b>0.0</b>	<b>319</b>	<b>8.7</b>	<b>157</b>	<b>4.3</b>
D.C. CIRCUIT	12	12	100.0	0	0.0	0	0.0	0	0.0
FIRST CIRCUIT	106	87	82.1	0	0.0	18	17.0	1	0.9
SECOND CIRCUIT	121	113	93.4	0	0.0	5	4.1	3	2.5
THIRD CIRCUIT	162	141	87.0	0	0.0	21	13.0	0	0.0
FOURTH CIRCUIT	1,031	1,010	98.0	0	0.0	6	0.6	15	1.5
FIFTH CIRCUIT	312	250	80.1	0	0.0	39	12.5	23	7.4
SIXTH CIRCUIT	371	312	84.1	0	0.0	46	12.4	13	3.5
SEVENTH CIRCUIT	538	431	80.1	0	0.0	107	19.9	0	0.0
EIGHTH CIRCUIT	262	219	83.6	0	0.0	13	5.0	30	11.5
NINTH CIRCUIT	162	109	67.3	0	0.0	49	30.2	4	2.5
TENTH CIRCUIT	64	61	95.3	0	0.0	2	3.1	1	1.6
ELEVENTH CIRCUIT	510	430	84.3	0	0.0	13	2.5	67	13.1

<sup>1</sup> Of the 3,363 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 34 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, 3,651 origins were cited for the 3,329 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>
<b>Race/Ethnicity</b>		
White	109	3.3
Black	3,069	91.6
Hispanic	144	4.3
Other	29	0.9
<b>Total</b>	<b>3,351</b>	<b>100.0</b>
<b>Citizenship</b>		
U.S. Citizen	3,245	97.0
Non-Citizen	99	3.0
<b>Total</b>	<b>3,344</b>	<b>100.0</b>
<b>Gender</b>		
Male	3,307	98.4
Female	54	1.6
<b>Total</b>	<b>3,361</b>	<b>100.0</b>
<b>Average Age at Original Sentence</b>		<b>32</b>
<b>Average Age at Resentencing</b>		<b>46</b>

<sup>1</sup> Of the 3,363 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 (12), missing citizenship information (19), missing gender information (2), and missing age information (53).

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>	44.5
Weapon Specific Offense Characteristic	24.9
Firearms Mandatory Minimum Applied	21.2
<b>Safety Valve<sup>2</sup></b>	0.5
<b>Guideline Role Adjustments<sup>2</sup></b>	
Aggravating Role (USSG §3B1.1)	15.8
Mitigating Role (USSG §3B1.2)	0.5
Obstruction Adjustment (USSG §3C1.1)	8.8
<b>Sentence Relative to the Guideline Range</b>	
Within Range	70.3
Above Range	1.0
Below Range	28.7
<b>Criminal History Category</b>	
I	4.5
II	5.0
III	9.6
IV	8.5
V	6.7
VI	65.6
<b>Career Offender (§4B1.1)<sup>2</sup></b>	56.3

<sup>1</sup> Of the 3,363 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 40 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 3,173 cases with complete guideline application information.

<sup>3</sup> In 48 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>**

CIRCUIT District	N	Mean			
		Current Sentence In Months	New Sentence In Months	Decrease In Months From Current Sentence <sup>2</sup>	Percent Decrease From Current Sentence
<b>TOTAL</b>	<b>2,320</b>	<b>268</b>	<b>198</b>	<b>71</b>	<b>24.9</b>
<b>D.C. CIRCUIT</b>	<b>8</b>	<b>255</b>	<b>191</b>	<b>64</b>	<b>30.1</b>
District of Columbia	8	255	191	64	30.1
<b>FIRST CIRCUIT</b>	<b>46</b>	<b>274</b>	<b>200</b>	<b>74</b>	<b>23.9</b>
Maine	15	276	208	69	23.5
Massachusetts	21	279	197	83	25.3
New Hampshire	3	319	205	114	30.8
Puerto Rico	3	226	210	17	7.8
Rhode Island	4	238	175	63	24.8
<b>SECOND CIRCUIT</b>	<b>55</b>	<b>264</b>	<b>198</b>	<b>66</b>	<b>24.8</b>
Connecticut	9	289	223	66	21.1
New York					
Eastern	9	226	167	60	26.4
Northern	14	268	191	77	26.4
Southern	18	249	183	65	26.9
Western	5	332	279	53	16.6
Vermont	0	--	--	--	--
<b>THIRD CIRCUIT</b>	<b>93</b>	<b>246</b>	<b>184</b>	<b>62</b>	<b>23.7</b>
Delaware	0	--	--	--	--
New Jersey	11	233	166	67	25.2
Pennsylvania					
Eastern	28	272	203	69	24.4
Middle	27	248	178	70	26.6
Western	27	223	178	45	19.4
Virgin Islands	0	--	--	--	--
<b>FOURTH CIRCUIT</b>	<b>735</b>	<b>269</b>	<b>203</b>	<b>66</b>	<b>22.9</b>
Maryland	39	273	216	57	20.5
North Carolina					
Eastern	195	249	187	61	23.2
Middle	77	259	206	53	19.4
Western	17	269	188	81	27.7
South Carolina	173	269	203	67	22.8
Virginia					
Eastern	106	318	235	83	24.0
Western	93	249	182	67	24.6
West Virginia					
Northern	18	310	260	51	16.6
Southern	17	311	226	85	25.6

Table 6 (cont.)

CIRCUIT	District	N	Mean			
			Current Sentence In Months	New Sentence In Months	Decrease In Months From Current Sentence <sup>2</sup>	Percent Decrease From Current Sentence
<b>FIFTH CIRCUIT</b>		<b>218</b>	<b>265</b>	<b>187</b>	<b>79</b>	<b>29.3</b>
Louisiana						
Eastern		67	233	145	87	36.4
Middle		8	312	256	56	18.5
Western		31	286	205	80	26.7
Mississippi						
Northern		0	--	--	--	--
Southern		6	236	180	56	25.7
Texas						
Eastern		39	288	207	81	26.9
Northern		18	323	267	56	17.7
Southern		10	285	193	92	29.3
Western		39	246	170	77	29.7
<b>SIXTH CIRCUIT</b>		<b>233</b>	<b>262</b>	<b>194</b>	<b>67</b>	<b>24.9</b>
Kentucky						
Eastern		9	212	180	32	14.2
Western		17	275	196	79	26.9
Michigan						
Eastern		28	263	201	63	23.4
Western		29	265	201	64	23.7
Ohio						
Northern		45	269	190	79	28.7
Southern		8	231	167	64	29.8
Tennessee						
Eastern		68	267	197	70	25.0
Middle		11	263	190	73	28.2
Western		18	241	194	47	18.7
<b>SEVENTH CIRCUIT</b>		<b>252</b>	<b>265</b>	<b>194</b>	<b>71</b>	<b>24.2</b>
Illinois						
Central		79	269	205	64	21.3
Northern		53	280	207	73	21.9
Southern		22	260	188	71	27.6
Indiana						
Northern		26	250	196	53	19.3
Southern		39	254	159	95	34.6
Wisconsin						
Eastern		11	244	202	42	17.1
Western		22	271	190	81	27.8
<b>EIGHTH CIRCUIT</b>		<b>190</b>	<b>267</b>	<b>196</b>	<b>71</b>	<b>25.4</b>
Arkansas						
Eastern		14	302	229	73	25.8
Western		9	230	168	62	26.7
Iowa						
Northern		23	281	204	76	26.9
Southern		59	266	202	64	22.8
Minnesota		11	286	205	81	23.5
Missouri						
Eastern		28	217	175	42	20.3
Western		32	283	186	97	32.1
Nebraska		8	252	188	63	25.1
North Dakota		3	257	175	82	30.0
South Dakota		3	385	221	164	39.7

Table 6 (cont.)

CIRCUIT	District	N	Mean			
			Current Sentence In Months	New Sentence In Months	Decrease In Months From Current Sentence <sup>2</sup>	Percent Decrease From Current Sentence
<b>NINTH CIRCUIT</b>		<b>76</b>	<b>248</b>	<b>175</b>	<b>73</b>	<b>28.1</b>
	Alaska	5	192	148	44	22.5
	Arizona	1	--	--	--	--
	California					
	Central	37	247	175	72	29.7
	Eastern	18	247	173	74	28.4
	Northern	0	--	--	--	--
	Southern	3	336	202	133	31.3
	Guam	0	--	--	--	--
	Hawaii	1	--	--	--	--
	Idaho	1	--	--	--	--
	Montana	0	--	--	--	--
	Nevada	1	--	--	--	--
	Northern Mariana Islands	0	--	--	--	--
	Oregon	1	--	--	--	--
	Washington					
	Eastern	4	231	194	38	13.6
	Western	4	253	136	117	40.5
<b>TENTH CIRCUIT</b>		<b>46</b>	<b>262</b>	<b>194</b>	<b>68</b>	<b>26.8</b>
	Colorado	3	322	242	80	25.4
	Kansas	22	255	172	83	35.2
	New Mexico	5	254	191	63	23.2
	Oklahoma					
	Eastern	3	180	161	19	8.1
	Northern	4	354	293	60	16.2
	Western	8	253	204	49	19.4
	Utah	1	--	--	--	--
	Wyoming	0	--	--	--	--
<b>ELEVENTH CIRCUIT</b>		<b>368</b>	<b>286</b>	<b>206</b>	<b>80</b>	<b>26.2</b>
	Alabama					
	Middle	2	--	--	--	--
	Northern	11	317	200	117	30.3
	Southern	7	350	239	111	29.8
	Florida					
	Middle	146	272	195	77	26.5
	Northern	41	354	238	115	32.0
	Southern	116	280	206	74	24.6
	Georgia					
	Middle	25	257	192	65	25.7
	Northern	11	312	265	47	15.7
	Southern	9	275	207	67	25.4

<sup>1</sup> Of the 3,363 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 962 cases were excluded from this analysis because the resulting term of imprisonment could not be determined from the records received by the Commission. Another 81 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.