

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



May 2021

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*. 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.³ 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.⁴

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 2010.⁵ On December 21, 2018, the President signed into law the First Step Act of 2018.⁶ 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

¹ 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).

² Electronic copies of the 1995-2020 *Annual Report* and *Sourcebook of Federal Sentencing Statistics* are available at the Commission's website at www.ussc.gov.

³ *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").

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

⁵ 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.

⁶ 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.⁷ The data in this report reflects all motions granted through September 30, 2020 and for which court documentation was received, coded, and edited at the Commission by May 3, 2021.

⁷ 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

District	N	%	District	N	%
TOTAL	3,705	100.0			
Eastern North Carolina	266	7.2	Eastern Wisconsin	23	0.6
South Carolina	242	6.5	Northern Georgia	22	0.6
Middle Florida	194	5.2	Maine	21	0.6
Eastern Virginia	187	5.0	Eastern California	21	0.6
Central Illinois	177	4.8	Southern Alabama	21	0.6
Western Virginia	138	3.7	Rhode Island	20	0.5
Southern Florida	135	3.6	Eastern New York	17	0.5
Middle North Carolina	123	3.3	New Jersey	17	0.5
Northern Illinois	117	3.2	Western Kentucky	17	0.5
Eastern Tennessee	97	2.6	Nebraska	17	0.5
Northern Florida	95	2.6	Northern New York	16	0.4
Western North Carolina	88	2.4	Western New York	16	0.4
Eastern Louisiana	83	2.2	Southern Texas	16	0.4
Maryland	66	1.8	Western Oklahoma	16	0.4
Western Louisiana	64	1.7	District of Columbia	15	0.4
Southern Iowa	64	1.7	Middle Tennessee	15	0.4
Eastern Pennsylvania	62	1.7	Middle Louisiana	12	0.3
Eastern Michigan	57	1.5	Western Arkansas	10	0.3
Northern Ohio	53	1.4	Western Washington	10	0.3
Eastern Missouri	50	1.3	New Hampshire	7	0.2
Western Missouri	50	1.3	Southern Mississippi	7	0.2
Western Wisconsin	49	1.3	Alaska	7	0.2
Western Texas	47	1.3	Nevada	7	0.2
Central California	46	1.2	Eastern Washington	7	0.2
Southern Indiana	43	1.2	Northern Mississippi	6	0.2
Northern Indiana	42	1.1	Northern California	6	0.2
Connecticut	41	1.1	Colorado	6	0.2
Middle Pennsylvania	41	1.1	South Dakota	5	0.1
Western Michigan	40	1.1	New Mexico	5	0.1
Eastern Texas	39	1.1	Puerto Rico	4	0.1
Southern Illinois	38	1.0	Oregon	4	0.1
Massachusetts	37	1.0	Northern Oklahoma	4	0.1
Southern New York	36	1.0	Middle Alabama	4	0.1
Northern Texas	34	0.9	North Dakota	3	0.1
Western Pennsylvania	30	0.8	Southern California	3	0.1
Northern Iowa	30	0.8	Eastern Oklahoma	3	0.1
Kansas	30	0.8	Vermont	2	0.1
Southern West Virginia	27	0.7	Arizona	2	0.1
Minnesota	27	0.7	Hawaii	1	0.0
Northern Alabama	27	0.7	Idaho	1	0.0
Middle Georgia	27	0.7	Utah	1	0.0
Southern Georgia	27	0.7	Delaware	0	0.0
Northern West Virginia	25	0.7	Virgin Islands	0	0.0
Southern Ohio	25	0.7	Guam	0	0.0
Eastern Arkansas	25	0.7	Montana	0	0.0
Western Tennessee	24	0.6	Northern Mariana Islands	0	0.0
Eastern Kentucky	23	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 ACT¹**

Fiscal Year	N	%
Total	3,659	100.0
2016	1	0.0
2015	0	0.0
2014	0	0.0
2013	1	0.0
2012	34	0.9
2011	182	5.0
2010	495	13.5
2009	514	14.0
2008	475	13.0
2007	429	11.7
2006	276	7.5
2005	256	7.0
2004	188	5.1
2003	168	4.6
2002	123	3.4
2001	83	2.3
2000	72	2.0
1999	74	2.0
1998	57	1.6
1997	46	1.3
1996	45	1.2
1995	48	1.3
1994	42	1.1
1993	24	0.7
1992	14	0.4
1991	5	0.1
1990	7	0.2

¹ Of the 3,705 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 46 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 ACT¹**

CIRCUIT	N	Defendant		Director BOP		Attorney for the Government		Court	
		N	%	N	%	N	%	N	%
TOTAL	4,014	3,506	87.3	0	0.0	341	8.5	167	4.2
D.C. CIRCUIT	14	14	100.0	0	0.0	0	0.0	0	0.0
FIRST CIRCUIT	109	88	80.7	0	0.0	20	18.3	1	0.9
SECOND CIRCUIT	132	124	93.9	0	0.0	5	3.8	3	2.3
THIRD CIRCUIT	168	147	87.5	0	0.0	21	12.5	0	0.0
FOURTH CIRCUIT	1,160	1,139	98.2	0	0.0	6	0.5	15	1.3
FIFTH CIRCUIT	340	268	78.8	0	0.0	41	12.1	31	9.1
SIXTH CIRCUIT	398	336	84.4	0	0.0	49	12.3	13	3.3
SEVENTH CIRCUIT	601	486	80.9	0	0.0	115	19.1	0	0.0
EIGHTH CIRCUIT	296	246	83.1	0	0.0	20	6.8	30	10.1
NINTH CIRCUIT	168	115	68.5	0	0.0	49	29.2	4	2.4
TENTH CIRCUIT	68	65	95.6	0	0.0	2	2.9	1	1.5
ELEVENTH CIRCUIT	560	478	85.4	0	0.0	13	2.3	69	12.3

¹ Of the 3,705 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 35 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, 4,014 origins were cited for the 3,670 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**

Demographics	N	%
Race/Ethnicity		
White	117	3.2
Black	3,390	91.8
Hispanic	155	4.2
Other	29	0.8
Total	3,691	100.0
Citizenship		
U.S. Citizen	3,579	97.1
Non-Citizen	105	2.9
Total	3,684	100.0
Gender		
Male	3,644	98.4
Female	58	1.6
Total	3,702	100.0
Average Age at Original Sentence		32
Average Age at Resentencing		46

¹ Of the 3,705 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 (14), missing citizenship information (21), missing gender information (3), and missing age information (60).

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 ACT¹**

Sentencing Factors	%
Weapon^{2,3}	45.4
Weapon Specific Offense Characteristic	25.6
Firearms Mandatory Minimum Applied	21.4
Safety Valve²	0.6
Guideline Role Adjustments²	
Aggravating Role (USSG §3B1.1)	16.6
Mitigating Role (USSG §3B1.2)	0.6
Obstruction Adjustment (USSG §3C1.1)	9.2
Sentence Relative to the Guideline Range	
Within Range	70.7
Above Range	1.0
Below Range	28.3
Criminal History Category	
I	4.5
II	5.0
III	9.9
IV	8.8
V	6.9
VI	65.0
Career Offender (§4B1.1)²	55.9

¹ Of the 3,705 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 46 were excluded from this analysis because the cases cannot be matched with an original case in the Commission's records.

² This section was limited to the 3,493 cases with complete guideline application information.

³ In 53 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 ACT¹**

CIRCUIT	N	Mean			
		Current Sentence In Months	New Sentence In Months	Decrease In Months From Current Sentence ²	Percent Decrease From Current Sentence
TOTAL	2,523	274	202	72	24.8
D.C. CIRCUIT	9	254	197	58	27.2
District of Columbia	9	254	197	58	27.2
FIRST CIRCUIT	47	271	198	73	23.6
Maine	15	276	208	69	23.5
Massachusetts	22	273	193	79	24.5
New Hampshire	3	319	205	114	30.8
Puerto Rico	3	226	210	17	7.8
Rhode Island	4	238	175	63	24.8
SECOND CIRCUIT	58	270	202	67	24.7
Connecticut	9	289	223	66	21.1
New York					
Eastern	11	260	188	72	27.6
Northern	14	268	191	77	26.4
Southern	18	249	183	65	26.9
Western	6	326	282	45	14.1
Vermont	0	--	--	--	--
THIRD CIRCUIT	96	248	184	64	24.3
Delaware	0	--	--	--	--
New Jersey	11	233	166	67	25.2
Pennsylvania					
Eastern	31	276	201	75	26.1
Middle	27	248	178	70	26.6
Western	27	223	178	45	19.4
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	789	274	207	67	22.9
Maryland	42	277	217	60	21.3
North Carolina					
Eastern	210	251	191	61	22.7
Middle	84	264	209	55	19.7
Western	22	285	201	84	26.8
South Carolina	188	277	207	69	23.2
Virginia					
Eastern	110	323	241	83	23.8
Western	97	255	185	69	24.8
West Virginia					
Northern	19	313	254	59	18.7
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 ²	Percent Decrease From Current Sentence
FIFTH CIRCUIT		231	269	190	80	29.0
Louisiana						
Eastern		69	236	148	89	36.4
Middle		8	312	256	56	18.5
Western		32	285	205	80	26.7
Mississippi						
Northern		2	--	--	--	--
Southern		6	236	180	56	25.7
Texas						
Eastern		39	288	207	81	26.9
Northern		24	335	267	68	19.8
Southern		10	285	193	92	29.3
Western		41	246	171	75	29.2
SIXTH CIRCUIT		249	262	194	68	25.1
Kentucky						
Eastern		13	236	197	39	14.9
Western		17	275	196	79	26.9
Michigan						
Eastern		33	273	206	66	23.7
Western		30	265	202	63	23.5
Ohio						
Northern		45	269	186	83	29.5
Southern		8	231	167	64	29.8
Tennessee						
Eastern		73	264	193	70	25.6
Middle		12	261	188	73	28.3
Western		18	241	194	47	18.7
SEVENTH CIRCUIT		293	277	204	73	24.1
Illinois						
Central		92	278	210	68	21.7
Northern		63	302	217	86	24.3
Southern		27	269	202	67	25.3
Indiana						
Northern		35	274	228	47	16.9
Southern		43	257	164	93	33.7
Wisconsin						
Eastern		11	244	202	42	17.1
Western		22	271	190	81	27.8
EIGHTH CIRCUIT		214	272	199	73	25.5
Arkansas						
Eastern		14	302	229	73	25.8
Western		9	230	168	62	26.7
Iowa						
Northern		23	281	204	76	26.9
Southern		62	272	207	65	22.7
Minnesota		12	293	208	85	24.3
Missouri						
Eastern		28	217	175	42	20.3
Western		50	280	190	90	29.8
Nebraska		10	295	217	79	26.0
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 ²	Percent Decrease From Current Sentence
NINTH CIRCUIT		80	256	181	74	28.0
	Alaska	5	192	148	44	22.5
	Arizona	1	--	--	--	--
	California					
	Central	37	247	175	72	29.7
	Eastern	20	255	179	77	28.4
	Northern	0	--	--	--	--
	Southern	3	336	202	133	31.3
	Guam	0	--	--	--	--
	Hawaii	1	--	--	--	--
	Idaho	1	--	--	--	--
	Montana	0	--	--	--	--
	Nevada	3	373	289	84	21.7
	Northern Mariana Islands	0	--	--	--	--
	Oregon	1	--	--	--	--
	Washington					
	Eastern	4	231	194	38	13.6
	Western	4	253	136	117	40.5
TENTH CIRCUIT		49	273	203	70	26.5
	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	11	302	239	63	20.3
	Utah	1	--	--	--	--
	Wyoming	0	--	--	--	--
ELEVENTH CIRCUIT		408	293	214	78	25.5
	Alabama					
	Middle	3	153	130	23	17.2
	Northern	11	317	200	117	30.3
	Southern	10	329	244	85	23.1
	Florida					
	Middle	161	284	207	77	26.1
	Northern	52	350	243	108	29.5
	Southern	121	281	208	73	24.4
	Georgia					
	Middle	25	257	192	65	25.7
	Northern	13	320	272	48	15.8
	Southern	12	306	245	62	21.7

¹ Of the 3,705 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 1,070 cases were excluded from this analysis because the resulting term of imprisonment could not be determined from the records received by the Commission. Another 112 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.

² 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.