

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



August 2022

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 1995-2021 *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, 2021 and for which court documentation was received, coded, and edited at the Commission by August 8, 2022.

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	4,226	100.0			
Eastern North Carolina	298	7.1	Eastern Kentucky	24	0.6
South Carolina	267	6.3	Southern Alabama	24	0.6
Middle Florida	221	5.2	Northern Georgia	24	0.6
Eastern Virginia	209	4.9	Eastern Wisconsin	23	0.5
Central Illinois	204	4.8	Maine	21	0.5
Western Virginia	147	3.5	Eastern California	21	0.5
Southern Florida	146	3.5	Rhode Island	20	0.5
Middle North Carolina	138	3.3	Nebraska	20	0.5
Northern Illinois	134	3.2	Northern New York	19	0.4
Western North Carolina	133	3.1	New Jersey	19	0.4
Northern Florida	131	3.1	Southern Texas	18	0.4
Eastern Tennessee	110	2.6	Western Oklahoma	18	0.4
Eastern Louisiana	92	2.2	District of Columbia	17	0.4
Maryland	80	1.9	Western New York	17	0.4
Eastern Pennsylvania	79	1.9	Western Kentucky	17	0.4
Southern Iowa	75	1.8	Middle Tennessee	15	0.4
Western Louisiana	72	1.7	Middle Louisiana	12	0.3
Eastern Michigan	64	1.5	Western Arkansas	10	0.2
Western Wisconsin	64	1.5	Western Washington	10	0.2
Northern Ohio	59	1.4	Southern Mississippi	9	0.2
Western Missouri	59	1.4	Nevada	9	0.2
Western Texas	54	1.3	Middle Alabama	9	0.2
Northern Indiana	53	1.3	New Hampshire	7	0.2
Eastern Missouri	52	1.2	Northern Mississippi	7	0.2
Central California	50	1.2	Alaska	7	0.2
Western Michigan	49	1.2	Northern California	7	0.2
Southern Illinois	48	1.1	Eastern Washington	7	0.2
Middle Pennsylvania	46	1.1	Colorado	7	0.2
Southern Indiana	46	1.1	New Mexico	6	0.1
Connecticut	42	1.0	Northern Oklahoma	6	0.1
Northern Texas	40	0.9	Puerto Rico	5	0.1
Northern Iowa	40	0.9	South Dakota	5	0.1
Eastern Texas	39	0.9	Oregon	4	0.1
Southern New York	38	0.9	Eastern Oklahoma	4	0.1
Massachusetts	37	0.9	Vermont	3	0.1
Middle Georgia	36	0.9	North Dakota	3	0.1
Western Pennsylvania	32	0.8	Southern California	3	0.1
Kansas	32	0.8	Delaware	2	0.0
Southern West Virginia	31	0.7	Arizona	2	0.0
Northern Alabama	30	0.7	Hawaii	1	0.0
Minnesota	29	0.7	Idaho	1	0.0
Southern Georgia	29	0.7	Utah	1	0.0
Northern West Virginia	26	0.6	Virgin Islands	0	0.0
Southern Ohio	26	0.6	Guam	0	0.0
Western Tennessee	26	0.6	Montana	0	0.0
Eastern Arkansas	25	0.6	Northern Mariana Islands	0	0.0
Eastern New York	24	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	4,176	100.0
2016	1	0.0
2015	0	0.0
2014	0	0.0
2013	3	0.1
2012	50	1.2
2011	222	5.3
2010	545	13.1
2009	572	13.7
2008	528	12.6
2007	488	11.7
2006	313	7.5
2005	290	6.9
2004	217	5.2
2003	188	4.5
2002	138	3.3
2001	94	2.3
2000	82	2.0
1999	94	2.3
1998	67	1.6
1997	65	1.6
1996	54	1.3
1995	53	1.3
1994	54	1.3
1993	28	0.7
1992	15	0.4
1991	6	0.1
1990	8	0.2
1989	1	0.0

¹ Of the 4,226 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 50 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 BOP²		Attorney for the Government		Court	
		N	%	N	%	N	%	N	%
TOTAL	4,546	4,015	88.3	0	0.0	357	7.9	174	3.8
D.C. CIRCUIT	16	16	100.0	0	0.0	0	0.0	0	0.0
FIRST CIRCUIT	110	89	80.9	0	0.0	20	18.2	1	0.9
SECOND CIRCUIT	145	137	94.5	0	0.0	5	3.4	3	2.1
THIRD CIRCUIT	197	175	88.8	0	0.0	22	11.2	0	0.0
FOURTH CIRCUIT	1,328	1,304	98.2	0	0.0	9	0.7	15	1.1
FIFTH CIRCUIT	376	303	80.6	0	0.0	42	11.2	31	8.2
SIXTH CIRCUIT	439	375	85.4	0	0.0	51	11.6	13	3.0
SEVENTH CIRCUIT	686	568	82.8	0	0.0	118	17.2	0	0.0
EIGHTH CIRCUIT	333	283	85.0	0	0.0	20	6.0	30	9.0
NINTH CIRCUIT	181	122	67.4	0	0.0	55	30.4	4	2.2
TENTH CIRCUIT	77	74	96.1	0	0.0	2	2.6	1	1.3
ELEVENTH CIRCUIT	658	569	86.5	0	0.0	13	2.0	76	11.6

¹ Of the 4,226 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 39 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, 4,546 origins were cited for the 4,187 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	131	3.1
Black	3,877	92.0
Hispanic	170	4.0
Other	34	0.8
Total	4,212	100.0
Citizenship		
U.S. Citizen	4,086	97.2
Non-Citizen	116	2.8
Total	4,202	100.0
Gender		
Male	4,157	98.4
Female	66	1.6
Total	4,223	100.0
Average Age at Original Sentence		32
Average Age at Resentencing		46

¹ Of the 4,226 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 (24), missing gender information (3), and missing age information (67).

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}	46.4
Weapon Specific Offense Characteristic	26.0
Firearms Mandatory Minimum Applied	22.1
Safety Valve²	0.5
Guideline Role Adjustments²	
Aggravating Role (USSG §3B1.1)	17.5
Mitigating Role (USSG §3B1.2)	0.6
Obstruction Adjustment (USSG §3C1.1)	9.8
Sentence Relative to the Guideline Range	
Within Range	71.2
Above Range	1.0
Below Range	27.8
Criminal History Category	
I	4.7
II	5.0
III	10.2
IV	8.8
V	6.9
VI	64.4
Career Offender (§4B1.1)²	55.4

¹ Of the 4,226 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 50 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 3,991 cases with complete guideline application information.

³ In 62 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 District	N	Mean			
		Current Sentence In Months	New Sentence In Months	Decrease In Months From Current Sentence ²	Percent Decrease From Current Sentence
TOTAL	2,858	282	209	72	24.4
D.C. CIRCUIT	10	259	201	58	26.5
District of Columbia	10	259	201	58	26.5
FIRST CIRCUIT	48	278	206	72	23.2
Maine	15	276	208	69	23.5
Massachusetts	22	273	193	79	24.5
New Hampshire	3	319	205	114	30.8
Puerto Rico	4	325	306	19	7.0
Rhode Island	4	238	175	63	24.8
SECOND CIRCUIT	69	284	217	67	24.0
Connecticut	10	292	227	65	20.8
New York					
Eastern	17	314	240	74	25.5
Northern	16	267	197	70	24.1
Southern	19	245	180	65	27.2
Western	7	347	293	54	15.5
Vermont	0	--	--	--	--
THIRD CIRCUIT	103	262	193	69	24.8
Delaware	0	--	--	--	--
New Jersey	13	261	184	77	26.2
Pennsylvania					
Eastern	34	286	205	81	26.9
Middle	28	267	197	69	25.9
Western	28	228	178	50	20.5
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	896	283	215	67	22.5
Maryland	54	296	228	68	22.1
North Carolina					
Eastern	234	259	200	60	21.9
Middle	92	265	208	57	20.3
Western	50	321	254	68	20.5
South Carolina	200	286	215	71	23.2
Virginia					
Eastern	126	325	243	82	24.0
Western	101	258	190	68	24.2
West Virginia					
Northern	19	313	254	59	18.7
Southern	20	311	226	85	25.9

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		260	282	198	84	28.8
Louisiana						
Eastern		77	258	161	97	36.2
Middle		8	312	256	56	18.5
Western		38	317	210	107	29.1
Mississippi						
Northern		3	327	264	63	19.0
Southern		8	227	172	55	25.3
Texas						
Eastern		39	288	207	81	26.9
Northern		29	334	275	59	17.4
Southern		12	292	202	91	28.5
Western		46	256	182	74	28.2
SIXTH CIRCUIT		282	267	199	68	24.6
Kentucky						
Eastern		14	238	197	42	15.9
Western		17	275	196	79	26.9
Michigan						
Eastern		38	279	215	63	22.7
Western		38	272	204	68	24.9
Ohio						
Northern		51	270	189	81	28.7
Southern		8	231	167	64	29.8
Tennessee						
Eastern		84	271	203	68	24.1
Middle		12	261	188	73	28.3
Western		20	245	194	51	19.6
SEVENTH CIRCUIT		342	286	213	73	23.5
Illinois						
Central		109	277	211	65	20.7
Northern		73	317	227	90	24.7
Southern		36	294	221	73	24.8
Indiana						
Northern		44	294	250	44	15.5
Southern		45	262	168	94	33.7
Wisconsin						
Eastern		11	244	202	42	17.1
Western		24	272	190	82	28.2
EIGHTH CIRCUIT		242	274	202	72	24.9
Arkansas						
Eastern		14	302	229	73	25.8
Western		9	230	168	62	26.7
Iowa						
Northern		32	286	216	70	24.3
Southern		71	275	208	67	22.5
Minnesota		13	289	206	83	24.4
Missouri						
Eastern		29	217	174	43	20.6
Western		58	283	195	88	28.8
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		86	258	181	77	28.4
	Alaska	5	192	148	44	22.5
	Arizona	1	--	--	--	--
	California					
	Central	41	248	177	72	29.3
	Eastern	20	255	179	77	28.4
	Northern	1	--	--	--	--
	Southern	3	336	202	133	31.3
	Guam	0	--	--	--	--
	Hawaii	1	--	--	--	--
	Idaho	1	--	--	--	--
	Montana	0	--	--	--	--
	Nevada	4	398	262	136	31.7
	Northern Mariana Islands	0	--	--	--	--
	Oregon	1	--	--	--	--
	Washington					
	Eastern	4	231	194	38	13.6
	Western	4	253	136	117	40.5
TENTH CIRCUIT		56	278	203	75	26.8
	Colorado	4	302	223	78	26.6
	Kansas	23	252	173	80	33.7
	New Mexico	6	271	212	60	21.3
	Oklahoma					
	Eastern	4	188	168	20	8.7
	Northern	6	368	262	106	26.1
	Western	12	312	234	78	23.3
	Utah	1	--	--	--	--
	Wyoming	0	--	--	--	--
ELEVENTH CIRCUIT		464	299	220	79	25.1
	Alabama					
	Middle	4	220	152	68	25.0
	Northern	14	317	200	117	31.5
	Southern	12	329	258	71	19.4
	Florida					
	Middle	179	289	214	75	25.1
	Northern	69	353	243	110	29.7
	Southern	130	287	213	74	24.2
	Georgia					
	Middle	31	263	203	60	23.6
	Northern	13	325	278	47	15.2
	Southern	12	306	245	62	21.7

¹ Of the 4,226 cases in which the court granted a motion for a sentence reduction due to Section 404 of the First Step Act of 2018, 1,211 cases were excluded from this analysis because the resulting term of imprisonment could not be determined from the records received by the Commission. Another 157 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.