

**U.S. Sentencing Commission  
Preliminary Crack Cocaine Retroactivity Data Report**



**August 2008 Data**

## 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 and analyzed from 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* or in the Commission's *Final Report on the Impact of the United States v. Booker on Federal Sentencing*.<sup>3</sup> 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).

This report is another in the Commission's efforts to provide analysis of federal sentencing practices. It provides data concerning recent court decisions considering motions to reduce the length of imprisonment for certain offenders convicted prior to November 1, 2007 of offenses involving crack cocaine.

On May 1, 2007, pursuant to 28 U.S.C. § 994(a) and (p), the Commission submitted to Congress amendments to the federal sentencing guidelines that became effective on November 1, 2007. One of those amendments, Amendment 706, modified the drug quantity thresholds in the Drug Quantity Table of §2D1.1 so as to assign, for crack cocaine offenses, base offense levels corresponding to guideline ranges that include the statutory mandatory minimum penalties. Crack cocaine offenses for quantities above and below the mandatory minimum threshold quantities similarly were adjusted downward by two levels. The amendment also included a mechanism to determine a combined base offense level in an offense involving crack cocaine and other controlled substances.

On December 11, 2007, the Commission voted to approve Amendment 713 which amended §1B1.10 of the guidelines to include Amendment 706, as amended by Amendment 711, in the list of amendments that apply retroactively. The Commission voted to make Amendment 713 effective on March 3, 2008. As a result, some incarcerated offenders are eligible to receive a reduction in their sentence under 18 U.S.C. § 3582(c)(2) pursuant to Amendment 706.

---

<sup>1</sup> In each felony or Class A misdemeanor case sentenced in federal court, 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> See the Commission's website, [www.ussc.gov](http://www.ussc.gov), for electronic copies of the 1995-2007 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

<sup>3</sup> See [www.ussc.gov/bf.htm](http://www.ussc.gov/bf.htm) for an electronic copy of the Commission's *Final Report on the Impact of United States v. Booker on Federal Sentencing*.

This report provides information on all cases reported to the Commission in which the court considered a motion to reduce a sentence under 18 U.S.C. § 3582(c)(2) for an offender convicted of an offense involving crack cocaine. The data in this report represents information concerning motions decided through July 15, 2008 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by July 22, 2008. Users of this information are cautioned that the data are preliminary only and subject to change as the Commission receives, analyzes, and reports on additional cases.

In particular, the reader is cautioned with respect to drawing conclusions based on data concerning the denial of motions for sentence reduction pursuant to the crack cocaine amendment, as the judicial districts are employing various methods to prioritize the review of these motions. For example, in some districts, contested motions have not been decided by the court. Consequently, the data the Commission has received to date concerning cases in which the motion for a sentence reduction was denied may not be representative of the decisions that ultimately may be made in any one district or the nation as a whole.

**Table 1**

**GEOGRAPHICAL DISTRIBUTION OF APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT BY DISTRICT**

District	n	Granted		Denied		District	n	Granted		Denied	
		n	%	n	%			n	%	n	%
<b>TOTAL</b>	<b>10,707</b>	<b>8,147</b>	<b>76.1</b>	<b>2,560</b>	<b>23.9</b>						
Western Virginia	636	431	67.8	205	32.2	Minnesota	85	74	87.1	11	12.9
Eastern Virginia	635	394	62.0	241	38.0	Eastern Michigan	83	82	98.8	1	1.2
South Carolina	530	456	86.0	74	14.0	Western Michigan	80	41	51.3	39	48.8
Middle Florida	416	349	83.9	67	16.1	Eastern New York	75	42	56.0	33	44.0
Western Texas	377	316	83.8	61	16.2	Eastern Kentucky	75	47	62.7	28	37.3
Eastern Missouri	331	302	91.2	29	8.8	Colorado	67	36	53.7	31	46.3
Middle Georgia	313	259	82.7	54	17.3	Western Tennessee	64	64	100.0	0	0.0
Northern Texas	310	187	60.3	123	39.7	Eastern Wisconsin	64	55	85.9	9	14.1
Northern Florida	305	174	57.0	131	43.0	Eastern California	62	62	100.0	0	0.0
Southern Alabama	249	175	70.3	74	29.7	New Hampshire	61	32	52.5	29	47.5
Eastern Louisiana	240	138	57.5	102	42.5	Northern Georgia	58	35	60.3	23	39.7
Southern Georgia	230	135	58.7	95	41.3	Western Pennsylvania	54	46	85.2	8	14.8
Southern Texas	228	174	76.3	54	23.7	Western Arkansas	53	37	69.8	16	30.2
Central Illinois	209	97	46.4	112	53.6	Northern Iowa	53	53	100.0	0	0.0
Southern Florida	203	109	53.7	94	46.3	Middle Alabama	52	46	88.5	6	11.5
Middle Pennsylvania	199	139	69.8	60	30.2	Western Oklahoma	45	45	100.0	0	0.0
Northern West Virginia	192	192	100.0	0	0.0	New Jersey	44	43	97.7	1	2.3
Southern Illinois	183	181	98.9	2	1.1	Puerto Rico	43	19	44.2	24	55.8
Southern West Virginia	179	146	81.6	33	18.4	Middle North Carolina	43	35	81.4	8	18.6
Nebraska	177	154	87.0	23	13.0	Western Washington	42	42	100.0	0	0.0
Kansas	164	162	98.8	2	1.2	Southern Indiana	41	30	73.2	11	26.8
Northern Indiana	159	145	91.2	14	8.8	Rhode Island	35	30	85.7	5	14.3
Northern Ohio	155	153	98.7	2	1.3	Western Kentucky	30	24	80.0	6	20.0
Connecticut	154	114	74.0	40	26.0	Northern Oklahoma	30	8	26.7	22	73.3
Eastern Pennsylvania	151	140	92.7	11	7.3	Middle Louisiana	27	23	85.2	4	14.8
Southern Ohio	146	132	90.4	14	9.6	Northern Mississippi	27	27	100.0	0	0.0
Western Louisiana	143	97	67.8	46	32.2	Central California	26	22	84.6	4	15.4
Eastern Texas	139	119	85.6	20	14.4	New Mexico	24	24	100.0	0	0.0
Maryland	133	107	80.5	26	19.5	Vermont	22	22	100.0	0	0.0
District of Columbia	128	120	93.8	8	6.3	Alaska	22	15	68.2	7	31.8
Northern New York	122	105	86.1	17	13.9	Hawaii	22	20	90.9	2	9.1
Northern Illinois	106	104	98.1	2	1.9	Northern California	17	17	100.0	0	0.0
Western New York	105	66	62.9	39	37.1	Nevada	16	15	93.8	1	6.3
Western North Carolina	105	73	69.5	32	30.5	Oregon	16	16	100.0	0	0.0
Southern Mississippi	104	94	90.4	10	9.6	Delaware	13	13	100.0	0	0.0
Southern New York	103	56	54.4	47	45.6	Eastern Washington	10	3	30.0	7	70.0
Eastern Arkansas	100	73	73.0	27	27.0	Middle Tennessee	9	9	100.0	0	0.0
Southern Iowa	99	53	53.5	46	46.5	Montana	8	4	50.0	4	50.0
Eastern North Carolina	95	78	82.1	17	17.9	Eastern Oklahoma	7	5	71.4	2	28.6
Western Wisconsin	92	75	81.5	17	18.5	Southern California	4	4	100.0	0	0.0
Northern Alabama	92	52	56.5	40	43.5	Utah	4	3	75.0	1	25.0
Massachusetts	91	71	78.0	20	22.0	Virgin Islands	2	2	100.0	0	0.0
Maine	87	45	51.7	42	48.3	Idaho	2	1	50.0	1	50.0
Eastern Tennessee	87	71	81.6	16	18.4	South Dakota	1	1	100.0	0	0.0
Western Missouri	86	59	68.6	27	31.4	Arizona	1	1	100.0	0	0.0

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

**Table 2****GEOGRAPHICAL DISTRIBUTION OF APPLICATION OF  
RETROACTIVE CRACK COCAINE AMENDMENT  
BY JUDICIAL CIRCUIT**

<b>Circuit</b>	<b>n</b>	<b>Granted</b>	<b>Denied</b>
<b>TOTAL</b>	<b>10,707</b>	<b>8,147</b>	<b>2,560</b>
FOURTH CIRCUIT	2,548	1,912	636
ELEVENTH CIRCUIT	1,918	1,334	584
FIFTH CIRCUIT	1,595	1,175	420
EIGHTH CIRCUIT	985	806	179
SEVENTH CIRCUIT	854	687	167
SIXTH CIRCUIT	729	623	106
SECOND CIRCUIT	581	405	176
THIRD CIRCUIT	463	383	80
TENTH CIRCUIT	341	283	58
FIRST CIRCUIT	317	197	120
NINTH CIRCUIT	248	222	26
D.C. CIRCUIT	128	120	8

---

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

**Table 3****APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT BY  
YEAR OF ORIGINAL SENTENCE<sup>1</sup>**

<b>Fiscal Year</b>	<b>Total</b>	<b>Granted</b>		<b>Denied</b>	
	<b>n</b>	<b>n</b>	<b>%</b>	<b>n</b>	<b>%</b>
<b>Total</b>	<b>10,600</b>	<b>8,069</b>	<b>76.1</b>	<b>2,531</b>	<b>23.9</b>
2008	122	56	45.9	66	54.1
2007	1,353	1,028	76.0	325	24.0
2006	1,404	1,117	79.6	287	20.4
2005	1,263	959	75.9	304	24.1
2004	1,092	866	79.3	226	20.7
2003	1,090	837	76.8	253	23.2
2002	818	623	76.2	195	23.8
2001	691	541	78.3	150	21.7
2000	599	446	74.5	153	25.5
1999	481	367	76.3	114	23.7
1998	374	288	77.0	86	23.0
1997	296	217	73.3	79	26.7
1996	286	209	73.1	77	26.9
1995	187	132	70.6	55	29.4
1994	177	114	64.4	63	35.6
1993	136	92	67.6	44	32.4
1992	106	83	78.3	23	21.7
1991	53	39	73.6	14	26.4
1990	46	32	69.6	14	30.4
1989	26	23	88.5	3	11.5

<sup>1</sup>Of the 10,707 cases, 107 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

**Table 4****ORIGIN OF GRANTED MOTION FOR SENTENCE REDUCTION DUE TO  
RETROACTIVE APPLICATION OF CRACK COCAINE AMENDMENT<sup>1</sup>**

<b>CIRCUIT</b>	<b>n</b>	<b>Defendant</b>		<b>Director BOP<sup>2</sup></b>		<b>Court</b>	
		<b>n</b>	<b>%</b>	<b>n</b>	<b>%</b>	<b>n</b>	<b>%</b>
<b>TOTAL</b>	<b>7,402</b>	<b>5,773</b>	<b>78.0</b>	<b>0</b>	<b>0.0</b>	<b>1,629</b>	<b>22.0</b>
D.C. CIRCUIT	104	102	98.1	0	0.0	2	1.9
FIRST CIRCUIT	195	161	82.6	0	0.0	34	17.4
SECOND CIRCUIT	386	230	59.6	0	0.0	156	40.4
THIRD CIRCUIT	319	316	99.1	0	0.0	3	0.9
FOURTH CIRCUIT	1,743	1,315	75.4	0	0.0	428	24.6
FIFTH CIRCUIT	972	606	62.3	0	0.0	366	37.7
SIXTH CIRCUIT	583	512	87.8	0	0.0	71	12.2
SEVENTH CIRCUIT	668	656	98.2	0	0.0	12	1.8
EIGHTH CIRCUIT	777	721	92.8	0	0.0	56	7.2
NINTH CIRCUIT	178	163	91.6	0	0.0	15	8.4
TENTH CIRCUIT	279	271	97.1	0	0.0	8	2.9
ELEVENTH CIRCUIT	1,198	720	60.1	0	0.0	478	39.9

<sup>1</sup>Of the 8,147 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 783 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, 7,402 origins were cited for the 7,364 cases.

<sup>2</sup>In six cases, documents provided to the Commission indicated that the Bureau of Prisons Director made a motion. Those cases appear to be clerical errors.

**Table 5**

**DEMOGRAPHIC CHARACTERISTICS OF OFFENDERS CONSIDERED  
FOR SENTENCE REDUCTION DUE TO APPLICATION OF  
RETROACTIVE CRACK COCAINE AMENDMENT**

<b>Race/Ethnicity</b>	<b>Total</b>	<b>Granted</b>		<b>Denied<sup>1</sup></b>	
		<b>n</b>	<b>%</b>	<b>n</b>	<b>%</b>
White	558	520	6.5	38	5.8
Black	7,452	6,882	85.6	570	86.9
Hispanic	605	562	7.0	43	6.6
Other	81	76	0.9	5	0.8
<b>Total</b>	<b>8,696</b>	<b>8,040</b>		<b>656</b>	
<b>Citizenship</b>					
U.S. Citizen	8,136	7,512	94.6	624	95.1
Non-Citizen	458	426	5.4	32	4.9
<b>Total</b>	<b>8,594</b>	<b>7,938</b>		<b>656</b>	
<b>Gender</b>					
Male	8,124	7,512	92.9	612	93.2
Female	620	575	7.1	45	6.8
<b>Total</b>	<b>8,744</b>	<b>8,087</b>		<b>657</b>	
<b>Average Age</b>					
	<b>30</b>	<b>30</b>		<b>30</b>	

<sup>1</sup>The 657 offenders represented in this column are those whom the Commission previously identified as eligible to seek a sentence reduction but whose petition for a reduction was denied by the court. Of the remaining 1,903 cases in which the court denied the request for a sentence reduction, 1,344 were excluded from this analysis because the offender was not previously identified as eligible to seek a sentence reduction for one or more reasons (*see* 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (October 3, 2007) *available at* [www.ussc.gov](http://www.ussc.gov)). Of the remaining 559 cases, 91 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2007 and so was excluded from the Commission's prior analysis of eligible offenders, 159 were excluded from this analysis because the offender was not sentenced for a drug offense, 280 were excluded from this analysis because crack cocaine was not involved in the offense, and 29 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

**Table 6****SELECTED SENTENCING FACTORS FOR OFFENDERS WHO WERE CONSIDERED FOR SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT**

	<b>Total</b>	<b>Granted</b>	<b>Denied<sup>1</sup></b>
<b>Weapon</b>			
Weapon Specific Offense Characteristic	23.2%	23.1%	25.1%
Firearms Mandatory Minimum Applied	7.6%	7.3%	11.4%
<b>Safety Valve</b>	11.6%	12.1%	6.1%
<b>Guideline Role Adjustments</b>			
Aggravating Role (USSG §3B1.1)	8.4%	7.7%	16.4%
Mitigating Role (USSG §3B1.2)	3.6%	3.3%	6.5%
Obstruction Adjustment (USSG §3C1.1)	5.1%	4.9%	6.8%
<b>Sentence Relative to the Guideline Range</b>			
Within Range	69.1%	70.0%	57.5%
Above Range	0.4%	0.3%	1.2%
Below Range	30.5%	29.6%	41.3%
<b>Criminal History Category</b>			
I	25.3%	25.9%	17.8%
II	13.9%	13.8%	14.6%
III	23.1%	23.1%	22.1%
IV	16.3%	16.6%	13.4%
V	9.5%	9.3%	11.3%
VI	12.0%	11.3%	20.7%

<sup>1</sup>The 657 offenders represented in this column are those whom the Commission previously identified as eligible to seek a sentence reduction but whose petition for a reduction was denied by the court. Of the remaining 1,903 cases in which the court denied the request for a sentence reduction, 1,344 were excluded from this analysis because the offender was not previously identified as eligible to seek a sentence reduction for one or more reasons (*see* 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (October 3, 2007) *available at* [www.ussc.gov](http://www.ussc.gov)). Of the remaining 559 cases, 91 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2007 and so was excluded from the Commission's prior analysis of eligible offenders, 159 were excluded from this analysis because the offender was not sentenced for a drug offense, 280 were excluded from this analysis because crack cocaine was not involved in the offense, and 29 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

**Table 7**

**POSITION OF WITHIN RANGE SENTENCES FOR OFFENDERS GRANTED A  
SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE  
CRACK COCAINE AMENDMENT<sup>1</sup>**

	<b>ORIGINAL SENTENCE</b>		<b>CURRENT SENTENCE</b>	
	n	%	n	%
<b>TOTAL</b>	<b>3,392</b>	<b>100.0</b>	<b>3,392</b>	<b>100.0</b>
<b>Guideline Minimum</b>	2,216	65.3	2,288	67.5
<b>Lower Half of Range</b>	568	16.7	436	12.9
<b>Midpoint of Range</b>	174	5.1	248	7.3
<b>Upper Half of Range</b>	218	6.4	200	5.9
<b>Guideline Maximum</b>	216	6.4	220	6.5

<sup>1</sup>Of the 8,147 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 4,422 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,030 cases were excluded from this analysis due to one or more of the following reasons: the case is missing sentence length or guideline relevant statutory information from the new sentence (842), the case is missing sentence length or guideline relevant statutory information from the original sentence (163), the new sentence had a guideline minimum and maximum that were identical (78) or the original sentence had a guideline minimum and maximum that were identical (15).

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

**Table 8**

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF  
CRACK COCAINE AMENDMENT<sup>1</sup>**

<b>CIRCUIT</b>		<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
District	<b>n</b>				
<b>TOTAL</b>	<b>7,090</b>	<b>133</b>	<b>110</b>	<b>23</b>	<b>17.3</b>
<b>D.C. CIRCUIT</b>	<b>70</b>	<b>123</b>	<b>106</b>	<b>17</b>	<b>13.6</b>
District of Columbia	70	123	106	17	13.6
<b>FIRST CIRCUIT</b>	<b>158</b>	<b>103</b>	<b>85</b>	<b>18</b>	<b>17.6</b>
Maine	45	120	99	21	16.8
Massachusetts	42	122	102	20	16.2
New Hampshire	30	70	56	14	20.0
Puerto Rico	18	72	58	14	19.5
Rhode Island	23	102	85	17	16.9
<b>SECOND CIRCUIT</b>	<b>333</b>	<b>108</b>	<b>91</b>	<b>17</b>	<b>16.1</b>
Connecticut	96	89	74	15	17.2
New York					
Eastern	37	97	83	14	16.2
Northern	75	135	114	21	15.4
Southern	50	132	111	22	15.7
Western	59	92	79	13	14.9
Vermont	16	97	78	18	18.6
<b>THIRD CIRCUIT</b>	<b>302</b>	<b>118</b>	<b>98</b>	<b>20</b>	<b>16.4</b>
Delaware	12	136	110	26	18.8
New Jersey	42	105	89	16	15.8
Pennsylvania					
Eastern	111	138	114	24	15.9
Middle	104	100	83	17	17.0
Western	33	115	98	17	16.1
Virgin Islands	0	--	--	--	--
<b>FOURTH CIRCUIT</b>	<b>1,721</b>	<b>137</b>	<b>113</b>	<b>24</b>	<b>17.3</b>
Maryland	73	130	109	21	16.1
North Carolina					
Eastern	76	141	116	25	17.3
Middle	35	169	138	31	17.9
Western	32	133	113	20	14.1
South Carolina	448	133	108	24	17.9
Virginia					
Eastern	363	159	130	29	18.0
Western	419	148	124	23	15.7
West Virginia					
Northern	138	75	61	14	18.5
Southern	137	121	98	22	18.7

**Table 8 (continued)**

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF  
CRACK COCAINE AMENDMENT**

<b>CIRCUIT</b>		<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
District	<b>n</b>				
<b>FIFTH CIRCUIT</b>	<b>1035</b>	<b>137</b>	<b>113</b>	<b>23</b>	<b>17.1</b>
Louisiana					
Eastern	132	115	100	15	13.5
Middle	16	75	65	10	13.9
Western	79	118	97	21	17.5
Mississippi					
Northern	13	100	79	21	21.6
Southern	86	121	100	21	17.7
Texas					
Eastern	117	118	96	22	18.9
Northern	178	175	144	31	18.0
Southern	128	154	128	26	16.3
Western	286	138	114	24	17.5
<b>SIXTH CIRCUIT</b>	<b>577</b>	<b>108</b>	<b>89</b>	<b>18</b>	<b>17.0</b>
Kentucky					
Eastern	41	100	84	17	15.9
Western	24	108	89	19	17.1
Michigan					
Eastern	54	133	108	26	17.8
Western	40	85	75	10	13.1
Ohio					
Northern	152	99	81	18	18.3
Southern	130	114	95	19	16.6
Tennessee					
Eastern	70	107	91	16	14.8
Middle	7	107	91	16	17.0
Western	59	112	90	22	19.5
<b>SEVENTH CIRCUIT</b>	<b>618</b>	<b>133</b>	<b>108</b>	<b>25</b>	<b>18.4</b>
Illinois					
Central	87	145	119	26	17.3
Northern	86	118	97	22	17.8
Southern	180	149	121	28	18.7
Indiana					
Northern	140	118	97	21	17.8
Southern	18	180	147	33	16.9
Wisconsin					
Eastern	53	119	96	23	19.4
Western	54	121	95	26	21.2
<b>EIGHTH CIRCUIT</b>	<b>687</b>	<b>117</b>	<b>97</b>	<b>20</b>	<b>16.6</b>
Arkansas					
Eastern	55	122	101	20	16.7
Western	37	102	86	16	16.5
Iowa					
Northern	36	99	85	15	15.8
Southern	52	156	129	26	16.6
Minnesota	58	143	116	27	18.1
Missouri					
Eastern	275	105	88	17	16.2
Western	25	111	91	20	16.4
Nebraska	149	121	100	22	17.2
North Dakota	0	--	--	--	--
South Dakota	0	--	--	--	--

**Table 8 (continued)**

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF  
CRACK COCAINE AMENDMENT**

<b>CIRCUIT</b>		<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
District	<b>n</b>				
<b>NINTH CIRCUIT</b>	<b>190</b>	<b>126</b>	<b>105</b>	<b>21</b>	<b>16.5</b>
Alaska	12	159	140	20	15.0
Arizona	1	--	--	--	--
California					
Central	20	139	115	24	17.4
Eastern	51	124	103	21	16.6
Northern	15	101	85	15	14.8
Southern	3	173	143	30	17.4
Guam	0	--	--	--	--
Hawaii	13	129	106	23	17.7
Idaho	1	--	--	--	--
Montana	4	102	90	12	13.1
Nevada	15	136	114	23	16.5
Northern Mariana Islands	0	--	--	--	--
Oregon	11	97	80	18	18.7
Washington					
Eastern	3	91	78	13	13.7
Western	41	125	104	21	16.4
<b>TENTH CIRCUIT</b>	<b>252</b>	<b>137</b>	<b>113</b>	<b>24</b>	<b>17.3</b>
Colorado	33	143	118	25	17.0
Kansas	146	122	101	21	16.8
New Mexico	24	128	104	24	18.5
Oklahoma					
Eastern	5	163	137	27	16.3
Northern	5	251	205	46	18.7
Western	37	180	147	33	19.0
Utah	2	--	--	--	--
Wyoming	0	--	--	--	--
<b>ELEVENTH CIRCUIT</b>	<b>1147</b>	<b>162</b>	<b>131</b>	<b>30</b>	<b>18.1</b>
Alabama					
Middle	46	160	130	30	17.8
Northern	27	127	109	18	13.9
Southern	171	188	153	35	18.2
Florida					
Middle	326	158	126	32	19.2
Northern	144	226	183	43	18.3
Southern	103	133	111	23	17.0
Georgia					
Middle	199	123	99	24	19.4
Northern	30	163	133	30	18.5
Southern	101	151	128	22	14.2

<sup>1</sup>Of the 10,707 cases, 107 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 2,531 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 8,069 cases, 979 were excluded from this analysis because the offender was sentenced to time served and the resulting term of imprisonment could not be determined from the records received by the Commission.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.

**Table 9**

**REASONS GIVEN BY SENTENCING COURTS FOR DENIAL OF MOTION<sup>1</sup>**

<b>REASONS</b>	<b>Number</b>	<b>Percent</b>
<b>Offense does not involve crack cocaine</b>	<b>294</b>	<b>10.5</b>
Case does not involve crack cocaine	250	8.9
Sentence is determined by a non-drug guideline	44	1.6
<b>Offender not eligible under §1B1.10</b>	<b>1,830</b>	<b>65.2</b>
Statutory mandatory minimum controls sentence	717	25.6
Career Offender or Armed Career Criminal provisions control sentence	567	20.2
Case involved more than 4.5 kg of crack cocaine	274	9.8
Guideline range does not change	90	3.2
Base offense level does not change (due to multiple drugs)	87	3.1
Original sentence has been served	63	2.2
Statutory maximum sentence is less than applicable guideline range	28	1.0
Base offense level is 12 or lower	4	0.1
Base offense level is 43	0	0.0
<b>Denied on the merits</b>	<b>425</b>	<b>15.1</b>
Offender has already benefitted from departure or variance	209	7.4
18 U.S.C § 3553(a) factors	80	2.9
Protection of the public	72	2.6
Post-sentencing or post-conviction conduct	64	2.3
<b>No reason provided/Other reason</b>	<b>257</b>	<b>9.2</b>
Other	145	5.2
No reason provided	112	4.0

<sup>1</sup>Courts may cite multiple reasons for denying a motion; consequently, the total number of reasons cited generally exceeds the total number of cases. In this table, 2,806 reasons were cited for the 2,560 cases. Of the 113 cases in which the court did not give a reason for the denial, 72 were previously identified as ineligible by the Commission for sentence reduction (*see* 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (October 3, 2007) *available at* [www.ussc.gov](http://www.ussc.gov)). Of those 72 cases, a statutory mandatory minimum controlled the sentence in 19 cases, in nine cases the quantity of crack cocaine in the case exceeded 4.5 Kg, in eight cases the sentence was determined by a non-drug guideline, in five cases no change in the guideline range was found, in 13 cases crack cocaine was not involved, in nine cases Career Offender or Armed Career Criminal provisions controlled the sentence, in three cases the offender was predicted to have been released, and in two case the Bureau of Prisons informed the Commission that the offender was no longer serving time for the instant offense.

SOURCE: U.S. Sentencing Commission, Preliminary 2008 Datafile, USSCFY08.