

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



October 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.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* or in the Commission's *Final Report on the Impact of the United States v. Booker on Federal Sentencing*.³ 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.

¹ 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).

² See the Commission's website, www.ussc.gov, for electronic copies of the 1995-2007 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

³ See 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 September 30, 2008 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by October 16, 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	Granted			Denied		District	Granted			Denied	
	n	n	%	n	%		n	n	%	n	%
TOTAL	15,126	10,815	71.5	4,311	28.5						
Eastern Virginia	997	614	61.6	383	38.4	Western Tennessee	124	107	86.3	17	13.7
Middle Florida	895	528	59.0	367	41.0	Eastern Kentucky	119	66	55.5	53	44.5
Western Virginia	772	494	64.0	278	36.0	Massachusetts	117	89	76.1	28	23.9
South Carolina	684	564	82.5	120	17.5	Western Wisconsin	112	88	78.6	24	21.4
Western Texas	515	381	74.0	134	26.0	Eastern New York	106	60	56.6	46	43.4
Eastern Missouri	451	404	89.6	47	10.4	Eastern Wisconsin	105	79	75.2	26	24.8
Northern Florida	408	195	47.8	213	52.2	Maine	102	59	57.8	43	42.2
Northern Texas	368	214	58.2	154	41.8	Western Michigan	101	46	45.5	55	54.5
Middle Georgia	342	280	81.9	62	18.1	Colorado	91	48	52.7	43	47.3
Southern Alabama	330	226	68.5	104	31.5	New Hampshire	82	46	56.1	36	43.9
Eastern Louisiana	329	166	50.5	163	49.5	Northern Iowa	82	82	100.0	0	0.0
Southern Georgia	325	173	53.2	152	46.8	Western Pennsylvania	80	72	90.0	8	10.0
Southern Texas	324	245	75.6	79	24.4	Northern Georgia	80	51	63.8	29	36.3
Southern Florida	304	163	53.6	141	46.4	Eastern California	79	78	98.7	1	1.3
Central Illinois	268	118	44.0	150	56.0	Western Kentucky	78	52	66.7	26	33.3
Middle Pennsylvania	261	171	65.5	90	34.5	New Jersey	74	72	97.3	2	2.7
Northern Indiana	245	202	82.4	43	17.6	Western Arkansas	74	48	64.9	26	35.1
Nebraska	238	199	83.6	39	16.4	Middle Alabama	74	68	91.9	6	8.1
Southern New York	231	106	45.9	125	54.1	Middle North Carolina	70	58	82.9	12	17.1
Southern West Virginia	225	174	77.3	51	22.7	Northern Mississippi	61	61	100.0	0	0.0
Northern West Virginia	224	223	99.6	1	0.4	Southern Indiana	57	34	59.6	23	40.4
Western North Carolina	212	140	66.0	72	34.0	Western Oklahoma	54	54	100.0	0	0.0
Southern Illinois	207	204	98.6	3	1.4	Northern Oklahoma	52	25	48.1	27	51.9
Eastern Pennsylvania	193	172	89.1	21	10.9	Rhode Island	46	38	82.6	8	17.4
Eastern Texas	193	160	82.9	33	17.1	Western Washington	46	46	100.0	0	0.0
Northern Ohio	190	186	97.9	4	2.1	Central California	44	36	81.8	8	18.2
Connecticut	188	134	71.3	54	28.7	Alaska	43	26	60.5	17	39.5
Kansas	183	181	98.9	2	1.1	Nevada	42	36	85.7	6	14.3
Western Louisiana	181	110	60.8	71	39.2	Middle Louisiana	31	26	83.9	5	16.1
Maryland	179	134	74.9	45	25.1	New Mexico	31	31	100.0	0	0.0
Eastern North Carolina	178	140	78.7	38	21.3	Hawaii	26	24	92.3	2	7.7
Western Missouri	178	112	62.9	66	37.1	Northern California	25	25	100.0	0	0.0
Southern Ohio	165	151	91.5	14	8.5	Vermont	23	23	100.0	0	0.0
Northern Illinois	160	151	94.4	9	5.6	Middle Tennessee	23	23	100.0	0	0.0
District of Columbia	156	148	94.9	8	5.1	Oregon	19	18	94.7	1	5.3
Minnesota	150	130	86.7	20	13.3	Utah	15	14	93.3	1	6.7
Southern Mississippi	145	134	92.4	11	7.6	Delaware	13	13	100.0	0	0.0
Northern Alabama	145	84	57.9	61	42.1	Eastern Oklahoma	13	11	84.6	2	15.4
Western New York	141	91	64.5	50	35.5	Eastern Washington	11	4	36.4	7	63.6
Eastern Arkansas	140	96	68.6	44	31.4	Montana	8	4	50.0	4	50.0
Eastern Tennessee	137	108	78.8	29	21.2	Southern California	7	7	100.0	0	0.0
Puerto Rico	134	56	41.8	78	58.2	Virgin Islands	4	4	100.0	0	0.0
Southern Iowa	134	71	53.0	63	47.0	Idaho	3	2	66.7	1	33.3
Northern New York	126	104	82.5	22	17.5	Arizona	2	2	100.0	0	0.0
Eastern Michigan	125	121	96.8	4	3.2	South Dakota	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**

Circuit	n	Granted	Denied
TOTAL	15,126	10,815	4,311
FOURTH CIRCUIT	3,541	2,541	1,000
ELEVENTH CIRCUIT	2,903	1,768	1,135
FIFTH CIRCUIT	2,147	1,497	650
EIGHTH CIRCUIT	1,448	1,143	305
SEVENTH CIRCUIT	1,154	876	278
SIXTH CIRCUIT	1,062	860	202
SECOND CIRCUIT	815	518	297
THIRD CIRCUIT	625	504	121
FIRST CIRCUIT	481	288	193
TENTH CIRCUIT	439	364	75
NINTH CIRCUIT	355	308	47
D.C. CIRCUIT	156	148	8

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

Table 3**APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT BY
YEAR OF ORIGINAL SENTENCE¹**

Fiscal Year	Total	Granted		Denied	
	n	n	%	n	%
Total	14,806	10,604	71.6	4,202	28.4
2008	215	77	35.8	138	64.2
2007	1,921	1,400	72.9	521	27.1
2006	2,019	1,543	76.4	476	23.6
2005	1,806	1,304	72.2	502	27.8
2004	1,559	1,158	74.3	401	25.7
2003	1,463	1,058	72.3	405	27.7
2002	1,094	797	72.9	297	27.1
2001	931	675	72.5	256	27.5
2000	830	586	70.6	244	29.4
1999	655	473	72.2	182	27.8
1998	512	353	68.9	159	31.1
1997	402	271	67.4	131	32.6
1996	362	252	69.6	110	30.4
1995	259	171	66.0	88	34.0
1994	257	145	56.4	112	43.6
1993	194	121	62.4	73	37.6
1992	139	95	68.3	44	31.7
1991	75	50	66.7	25	33.3
1990	73	44	60.3	29	39.7
1989	40	31	77.5	9	22.5

¹Of the 15,126 cases, 320 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 AMENDMENT¹**

CIRCUIT	n	Defendant		Director BOP²		Court	
		n	%	n	%	n	%
TOTAL	9,795	7,851	80.2	0	0.0	1,944	19.8
D.C. CIRCUIT	128	126	98.4	0	0.0	2	1.6
FIRST CIRCUIT	283	232	82.0	0	0.0	51	18.0
SECOND CIRCUIT	490	315	64.3	0	0.0	175	35.7
THIRD CIRCUIT	423	417	98.6	0	0.0	6	1.4
FOURTH CIRCUIT	2,322	1,833	78.9	0	0.0	489	21.1
FIFTH CIRCUIT	1,259	839	66.6	0	0.0	420	33.4
SIXTH CIRCUIT	781	673	86.2	0	0.0	108	13.8
SEVENTH CIRCUIT	852	828	97.2	0	0.0	24	2.8
EIGHTH CIRCUIT	1,095	1,015	92.7	0	0.0	80	7.3
NINTH CIRCUIT	244	223	91.4	0	0.0	21	8.6
TENTH CIRCUIT	357	340	95.2	0	0.0	17	4.8
ELEVENTH CIRCUIT	1,561	1,010	64.7	0	0.0	551	35.3

¹Of the 10,815 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 1,065 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, 9,795 origins were cited for the 9,750 cases.

²In 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**

Race/Ethnicity	Total	Granted		Denied¹	
		n	%	n	%
White	695	640	6.0	55	5.3
Black	9,970	9,085	85.8	885	85.8
Hispanic	853	769	7.3	84	8.1
Other	105	98	0.9	7	0.7
Total	11,623	10,592		1,031	
Citizenship					
U.S. Citizen	10,858	9,883	94.5	975	94.6
Non-Citizen	632	576	5.5	56	5.4
Total	11,490	10,459		1,031	
Gender					
Male	10,934	9,963	93.4	971	93.9
Female	765	702	6.6	63	6.1
Total	11,699	10,665		1,034	
Average Age					
	30	30		30	

¹The 1,034 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 3,277 cases in which the court denied the request for a sentence reduction, 2,222 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). Of the remaining 1,055 cases, 170 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, 293 were excluded from this analysis because the offender was not sentenced for a drug offense, 483 were excluded from this analysis because crack cocaine was not involved in the offense, and 109 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**

	Total	Granted	Denied¹
Weapon			
Weapon Specific Offense Characteristic	23.6%	23.2%	27.4%
Firearms Mandatory Minimum Applied	8.5%	8.2%	11.8%
Safety Valve	10.8%	11.2%	6.4%
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	8.9%	8.0%	17.4%
Mitigating Role (USSG §3B1.2)	3.3%	3.1%	5.7%
Obstruction Adjustment (USSG §3C1.1)	5.3%	5.2%	6.8%
Sentence Relative to the Guideline Range			
Within Range	69.1%	70.3%	56.8%
Above Range	0.4%	0.3%	1.2%
Below Range	30.6%	29.4%	42.0%
Criminal History Category			
I	24.4%	24.9%	18.3%
II	13.5%	13.4%	13.8%
III	23.1%	23.2%	21.6%
IV	16.5%	16.8%	13.9%
V	9.8%	9.6%	11.2%
VI	12.8%	12.0%	21.2%

¹The 1,034 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 3,277 cases in which the court denied the request for a sentence reduction, 2,222 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). Of the remaining 1,055 cases, 170 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, 293 were excluded from this analysis because the offender was not sentenced for a drug offense, 483 were excluded from this analysis because crack cocaine was not involved in the offense, and 109 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 AMENDMENT¹**

	ORIGINAL SENTENCE		CURRENT SENTENCE	
	n	%	n	%
TOTAL	4,369	100.0	4,369	100.0
Guideline Minimum	2,865	65.6	2,939	67.3
Lower Half of Range	742	17.0	561	12.8
Midpoint of Range	222	5.1	338	7.7
Upper Half of Range	260	6.0	242	5.5
Guideline Maximum	280	6.4	289	6.6

¹Of the 10,815 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 5,711 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,342 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 (1,051), the case is missing sentence length or guideline relevant statutory information from the original sentence (242), the new sentence had a guideline minimum and maximum that were identical (115) or the original sentence had a guideline minimum and maximum that were identical (20).

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

Table 8

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF
CRACK COCAINE AMENDMENT¹**

CIRCUIT		Average Current Sentence in Months	Average New Sentence in Months	Average Decrease in Months From Current Sentence	Average Percent Decrease From Current Sentence
District	n				
TOTAL	9,514	136	113	24	17.0
D.C. CIRCUIT	92	127	108	18	14.6
District of Columbia	92	127	108	18	14.6
FIRST CIRCUIT	242	106	88	18	17.4
Maine	59	125	103	22	16.7
Massachusetts	55	128	106	22	17.0
New Hampshire	44	89	72	17	19.5
Puerto Rico	53	77	64	13	17.4
Rhode Island	31	105	89	16	16.1
SECOND CIRCUIT	434	111	94	18	16.0
Connecticut	115	99	82	17	17.4
New York					
Eastern	51	105	88	17	16.6
Northern	75	135	114	21	15.4
Southern	95	128	108	20	14.9
Western	82	95	81	13	14.9
Vermont	16	97	78	18	18.6
THIRD CIRCUIT	407	121	101	20	16.4
Delaware	12	136	110	26	18.8
New Jersey	69	105	88	17	16.2
Pennsylvania					
Eastern	136	142	118	25	16.0
Middle	133	111	92	18	16.8
Western	57	112	94	18	16.4
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	2,279	141	117	24	17.1
Maryland	99	129	108	21	16.3
North Carolina					
Eastern	137	135	112	23	16.4
Middle	58	148	121	27	17.4
Western	78	141	121	21	14.7
South Carolina	550	143	116	26	17.8
Virginia					
Eastern	556	158	130	28	17.3
Western	471	150	127	24	15.6
West Virginia					
Northern	166	80	65	15	18.4
Southern	164	122	100	23	18.7

Table 8 (continued)

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

CIRCUIT District	n	Average Current Sentence in Months	Average New Sentence in Months	Average Decrease in Months From Current Sentence	Average Percent Decrease From Current Sentence
FIFTH CIRCUIT	1334	138	114	24	16.9
Louisiana					
Eastern	157	126	109	17	13.6
Middle	18	77	67	10	13.7
Western	92	134	110	24	17.4
Mississippi					
Northern	47	89	73	16	18.2
Southern	124	119	98	21	17.8
Texas					
Eastern	158	123	100	23	18.5
Northern	203	174	143	31	17.9
Southern	195	152	126	26	16.2
Western	340	138	115	24	17.2
SIXTH CIRCUIT	793	114	95	19	16.5
Kentucky					
Eastern	60	104	86	18	16.4
Western	51	115	96	19	16.0
Michigan					
Eastern	82	128	104	23	17.4
Western	45	86	76	10	13.2
Ohio					
Northern	183	102	84	18	18.1
Southern	147	118	99	19	16.3
Tennessee					
Eastern	105	116	100	17	14.3
Middle	20	124	106	18	15.0
Western	100	131	108	23	17.6
SEVENTH CIRCUIT	788	135	111	24	17.6
Illinois					
Central	105	154	127	27	17.1
Northern	127	119	100	19	16.2
Southern	201	149	122	27	17.8
Indiana					
Northern	196	127	106	22	17.1
Southern	22	177	145	32	17.2
Wisconsin					
Eastern	74	121	99	22	18.6
Western	63	121	96	25	20.6
EIGHTH CIRCUIT	998	125	104	21	16.8
Arkansas					
Eastern	74	141	115	25	18.0
Western	48	101	84	17	17.0
Iowa					
Northern	65	119	98	21	17.5
Southern	67	159	132	26	16.4
Minnesota	105	148	121	27	17.7
Missouri					
Eastern	375	113	95	19	16.2
Western	73	118	98	20	16.5
Nebraska	191	129	106	22	17.0
North Dakota	0	--	--	--	--
South Dakota	0	--	--	--	--

Table 8 (continued)

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

CIRCUIT		Average Current Sentence in Months	Average New Sentence in Months	Average Decrease in Months From Current Sentence	Average Percent Decrease From Current Sentence
District	n				
NINTH CIRCUIT	272	136	113	23	16.1
Alaska	23	155	136	19	13.8
Arizona	2	--	--	--	--
California					
Central	32	156	129	28	17.8
Eastern	67	130	108	22	16.6
Northern	23	101	86	15	14.1
Southern	5	167	145	22	15.3
Guam	0	--	--	--	--
Hawaii	17	124	103	21	16.7
Idaho	2	--	--	--	--
Montana	4	102	90	12	13.1
Nevada	35	147	123	24	15.8
Northern Mariana Islands	0	--	--	--	--
Oregon	13	110	93	17	16.9
Washington					
Eastern	4	99	89	10	10.5
Western	45	141	113	28	17.2
TENTH CIRCUIT	319	139	115	24	17.2
Colorado	44	143	116	26	17.3
Kansas	162	123	103	21	16.6
New Mexico	31	132	108	24	17.7
Oklahoma					
Eastern	11	142	114	28	19.9
Northern	22	201	166	35	17.2
Western	37	180	147	33	19.0
Utah	12	121	101	20	16.1
Wyoming	0	--	--	--	--
ELEVENTH CIRCUIT	1556	162	132	30	17.8
Alabama					
Middle	68	168	138	30	17.3
Northern	57	131	112	19	14.1
Southern	221	186	151	35	18.1
Florida					
Middle	497	158	127	31	18.8
Northern	163	226	183	43	18.3
Southern	155	133	111	22	16.5
Georgia					
Middle	214	127	102	25	19.4
Northern	45	175	141	34	19.0
Southern	136	157	134	23	14.2

¹Of the 15,126 cases, 320 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 4,202 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 10,604 cases, 1,090 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 MOTION¹**

REASONS	Number	Percent
Offense does not involve crack cocaine	519	10.9
Case does not involve crack cocaine	434	9.1
Sentence is determined by a non-drug guideline	85	1.8
Offender not eligible under §1B1.10	3,102	65.1
Statutory mandatory minimum controls sentence	1,157	24.3
Career Offender or Armed Career Criminal provisions control sentence	1,035	21.7
Case involved more than 4.5 kg of crack cocaine	440	9.2
Base offense level does not change (due to multiple drugs)	156	3.3
Guideline range does not change	155	3.3
Original sentence has been served	108	2.3
Statutory maximum sentence is less than applicable guideline range	46	1.0
Base offense level is 12 or lower	5	0.1
Base offense level is 43	0	0.0
Denied on the merits	689	14.5
Offender has already benefitted from departure or variance	345	7.2
18 U.S.C § 3553(a) factors	134	2.8
Protection of the public	113	2.4
Post-sentencing or post-conviction conduct	97	2.0
No reason provided/Other reason	454	9.5
Other	263	5.5
No reason provided	191	4.0

¹Courts 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, 4,764 reasons were cited for the 4,311 cases. Of the 191 cases in which the court did not give a reason for the denial, 118 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.uscc.gov). Of those 118 cases, a statutory mandatory minimum controlled the sentence in 26 cases, in 17 cases the quantity of crack cocaine in the case exceeded 4.5 Kg, in 13 cases the sentence was determined by a non-drug guideline, in six cases no change in the guideline range was found, in 23 cases crack cocaine was not involved, in 21 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in five cases the offender was predicted to have been released, in three cases the Bureau of Prisons informed the Commission that the offender was no longer serving time for the instant offense, in one case the base offense level was 12 or lower, in two cases the base offense level was 43 and in one case there was no record on file with the Bureau of Prisons.

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