

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



December 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 based on court documentation received and coded at the U.S. Sentencing Commission by December 8, 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 many 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 all districts 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	%
TOTAL	17,168	12,119	70.6	5,049	29.4						
Eastern Virginia	1,113	679	61.0	434	39.0	Eastern Kentucky	128	69	53.9	59	46.1
Middle Florida	1,065	620	58.2	445	41.8	Massachusetts	125	97	77.6	28	22.4
Western Virginia	800	511	63.9	289	36.1	Eastern Wisconsin	122	90	73.8	32	26.2
South Carolina	741	601	81.1	140	18.9	Eastern New York	117	66	56.4	51	43.6
Western Texas	567	401	70.7	166	29.3	Western Wisconsin	113	89	78.8	24	21.2
Eastern Missouri	479	421	87.9	58	12.1	Colorado	110	59	53.6	51	46.4
Northern Florida	430	201	46.7	229	53.3	Western Michigan	106	46	43.4	60	56.6
Southern Florida	400	234	58.5	166	41.5	Northern Iowa	106	106	100.0	0	0.0
Eastern Louisiana	396	186	47.0	210	53.0	Northern Georgia	106	61	57.5	45	42.5
Northern Texas	396	231	58.3	165	41.7	Maine	104	60	57.7	44	42.3
Eastern Texas	395	335	84.8	60	15.2	Northern Mississippi	101	101	100.0	0	0.0
Middle Georgia	356	285	80.1	71	19.9	Western Kentucky	95	63	66.3	32	33.7
Southern Georgia	355	187	52.7	168	47.3	Middle North Carolina	93	79	84.9	14	15.1
Southern Alabama	342	234	68.4	108	31.6	Western Pennsylvania	89	81	91.0	8	9.0
Southern Texas	339	255	75.2	84	24.8	New Jersey	86	84	97.7	2	2.3
Central Illinois	307	139	45.3	168	54.7	Eastern California	86	85	98.8	1	1.2
Western North Carolina	280	188	67.1	92	32.9	New Hampshire	85	46	54.1	39	45.9
Middle Pennsylvania	276	180	65.2	96	34.8	Western Arkansas	78	51	65.4	27	34.6
Southern New York	275	118	42.9	157	57.1	Middle Alabama	77	71	92.2	6	7.8
Northern Indiana	254	205	80.7	49	19.3	Southern Indiana	71	39	54.9	32	45.1
Southern West Virginia	250	192	76.8	58	23.2	Western Oklahoma	62	62	100.0	0	0.0
Western Louisiana	250	154	61.6	96	38.4	Northern Oklahoma	56	28	50.0	28	50.0
Nebraska	247	207	83.8	40	16.2	Rhode Island	55	42	76.4	13	23.6
Northern Ohio	243	211	86.8	32	13.2	Alaska	49	29	59.2	20	40.8
Northern West Virginia	235	230	97.9	5	2.1	Central California	48	40	83.3	8	16.7
Western Missouri	227	137	60.4	90	39.6	Nevada	47	41	87.2	6	12.8
Southern Illinois	225	219	97.3	6	2.7	Western Washington	46	46	100.0	0	0.0
Eastern Pennsylvania	211	190	90.0	21	10.0	Middle Louisiana	38	32	84.2	6	15.8
Maryland	208	153	73.6	55	26.4	New Mexico	34	34	100.0	0	0.0
Connecticut	203	139	68.5	64	31.5	Northern California	30	30	100.0	0	0.0
Southern Mississippi	197	179	90.9	18	9.1	Hawaii	28	25	89.3	3	10.7
Southern Ohio	193	174	90.2	19	9.8	Middle Tennessee	25	25	100.0	0	0.0
Northern Illinois	189	176	93.1	13	6.9	Vermont	23	23	100.0	0	0.0
Kansas	186	184	98.9	2	1.1	Oregon	19	18	94.7	1	5.3
Northern Alabama	183	97	53.0	86	47.0	Utah	16	15	93.8	1	6.3
Eastern North Carolina	179	141	78.8	38	21.2	Eastern Oklahoma	15	12	80.0	3	20.0
District of Columbia	172	163	94.8	9	5.2	Delaware	13	13	100.0	0	0.0
Minnesota	172	147	85.5	25	14.5	Eastern Washington	12	5	41.7	7	58.3
Western New York	165	106	64.2	59	35.8	Southern California	10	10	100.0	0	0.0
Western Tennessee	165	121	73.3	44	26.7	Montana	8	4	50.0	4	50.0
Eastern Tennessee	156	122	78.2	34	21.8	Virgin Islands	4	4	100.0	0	0.0
Eastern Arkansas	149	102	68.5	47	31.5	Idaho	3	2	66.7	1	33.3
Puerto Rico	146	60	41.1	86	58.9	Arizona	2	2	100.0	0	0.0
Southern Iowa	144	80	55.6	64	44.4	South Dakota	1	1	100.0	0	0.0
Eastern Michigan	135	130	96.3	5	3.7	Wyoming	1	1	100.0	0	0.0
Northern New York	129	107	82.9	22	17.1						

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

Table 2

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

Circuit	N	Granted	Denied
TOTAL	17,168	12,119	5,049
FOURTH CIRCUIT	3,899	2,774	1,125
ELEVENTH CIRCUIT	3,314	1,990	1,324
FIFTH CIRCUIT	2,679	1,874	805
EIGHTH CIRCUIT	1,603	1,252	351
SEVENTH CIRCUIT	1,281	957	324
SIXTH CIRCUIT	1,246	961	285
SECOND CIRCUIT	912	559	353
THIRD CIRCUIT	679	552	127
FIRST CIRCUIT	515	305	210
TENTH CIRCUIT	480	395	85
NINTH CIRCUIT	388	337	51
D.C. CIRCUIT	172	163	9

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

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

Fiscal Year	Total	Granted		Denied	
	N	N	%	N	%
Total	16,789	11,875	70.7	4,914	29.3
2008	272	89	32.7	183	67.3
2007	2,267	1,640	72.3	627	27.7
2006	2,303	1,736	75.4	567	24.6
2005	2,048	1,465	71.5	583	28.5
2004	1,761	1,291	73.3	470	26.7
2003	1,628	1,165	71.6	463	28.4
2002	1,249	903	72.3	346	27.7
2001	1,023	732	71.6	291	28.4
2000	934	653	69.9	281	30.1
1999	730	525	71.9	205	28.1
1998	574	382	66.6	192	33.4
1997	445	297	66.7	148	33.3
1996	407	280	68.8	127	31.2
1995	294	192	65.3	102	34.7
1994	274	155	56.6	119	43.4
1993	215	133	61.9	82	38.1
1992	155	101	65.2	54	34.8
1991	85	54	63.5	31	36.5
1990	81	49	60.5	32	39.5
1989	44	33	75.0	11	25.0

¹Of the 17,168 cases, 379 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 2008-2009 Datafiles, USSCFY08-USSCFY09.

Table 4

**ORIGIN OF GRANTED MOTION FOR SENTENCE REDUCTION DUE TO
RETROACTIVE APPLICATION OF CRACK COCAINE AMENDMENT¹**

CIRCUIT	N	Defendant		Director BOP ²		Court	
		N	%	N	%	N	%
TOTAL	10,986	8,917	81.2	0	0.0	2,069	18.8
D.C. CIRCUIT	142	139	97.9	0	0.0	3	2.1
FIRST CIRCUIT	299	248	82.9	0	0.0	51	17.1
SECOND CIRCUIT	528	342	64.8	0	0.0	186	35.2
THIRD CIRCUIT	465	459	98.7	0	0.0	6	1.3
FOURTH CIRCUIT	2,533	2,025	79.9	0	0.0	508	20.1
FIFTH CIRCUIT	1,600	1,153	72.1	0	0.0	447	27.9
SIXTH CIRCUIT	874	754	86.3	0	0.0	120	13.7
SEVENTH CIRCUIT	932	904	97.0	0	0.0	28	3.0
EIGHTH CIRCUIT	1,200	1,112	92.7	0	0.0	88	7.3
NINTH CIRCUIT	266	240	90.2	0	0.0	26	9.8
TENTH CIRCUIT	387	371	95.9	0	0.0	16	4.1
ELEVENTH CIRCUIT	1,760	1,170	66.5	0	0.0	590	33.5

¹Of the 12,119 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 1,180 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, 10,986 origins were cited for the 10,939 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	748	690	5.8	58	4.8
Black	11,255	10,215	86.1	1,040	86.8
Hispanic	946	853	7.2	93	7.8
Other	112	105	0.9	7	0.6
Total	13,061	11,863		1,198	
Citizenship					
U.S. Citizen	12,228	11,091	94.6	1,137	94.9
Non-Citizen	689	628	5.4	61	5.1
Total	12,917	11,719		1,198	
Gender					
Male	12,307	11,178	93.6	1,129	94.0
Female	840	768	6.4	72	6.0
Total	13,147	11,946		1,201	
Average Age					
	30	30		30	

¹The 1,201 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 3,848 cases in which the court denied the request for a sentence reduction, 2,590 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 1,258 cases, 216 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, 334 were excluded from this analysis because the offender was not sentenced for a drug offense, 573 were excluded from this analysis because crack cocaine was not involved in the offense, and 135 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

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

	All Cases	Granted	Denied ¹
	%	%	%
Weapon			
Weapon Specific Offense Characteristic	23.4	23.1	26.9
Firearms Mandatory Minimum Applied	8.9	8.5	12.8
Safety Valve	10.5	11.0	5.9
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	9.0	8.1	17.5
Mitigating Role (USSG §3B1.2)	3.3	3.1	5.3
Obstruction Adjustment (USSG §3C1.1)	5.4	5.3	6.5
Sentence Relative to the Guideline Range			
Within Range	69.6	70.9	57.0
Above Range	0.4	0.3	1.2
Below Range	30.0	28.8	41.9
Criminal History Category			
I	23.8	24.4	17.4
II	13.4	13.4	13.5
III	23.1	23.3	21.4
IV	16.6	16.8	14.5
V	9.9	9.8	11.2
VI	13.2	12.3	21.9

¹The 1,201 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 3,848 cases in which the court denied the request for a sentence reduction, 2,590 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 1,258 cases, 216 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, 334 were excluded from this analysis because the offender was not sentenced for a drug offense, 573 were excluded from this analysis because crack cocaine was not involved in the offense, and 135 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

Table 7

**POSITION OF WITHIN RANGE SENTENCES FOR OFFENDERS GRANTED A
SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE
CRACK COCAINE AMENDMENT¹**

	<u>ORIGINAL SENTENCE</u>		<u>CURRENT SENTENCE</u>	
	N	%	N	%
TOTAL	4,947	100.0	4,947	100.0
Guideline Minimum	3,242	65.5	3,350	67.7
Lower Half of Range	830	16.8	625	12.6
Midpoint of Range	247	5.0	369	7.5
Upper Half of Range	309	6.2	289	5.8
Guideline Maximum	319	6.4	314	6.3

¹Of the 12,119 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 6,439 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,492 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 (1,145), the case is missing sentence length or guideline relevant statutory information from the original sentence (281), the new sentence had a guideline minimum and maximum that were identical (140) or the original sentence had a guideline minimum and maximum that were identical (22).

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

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	10,755	137	114	24	17.0
D.C. CIRCUIT	103	128	109	19	14.5
District of Columbia	103	128	109	19	14.5
FIRST CIRCUIT	257	108	89	19	17.4
Maine	60	126	104	22	16.8
Massachusetts	62	131	108	23	17.2
New Hampshire	44	89	72	17	19.5
Puerto Rico	56	79	65	13	17.3
Rhode Island	35	109	92	17	16.1
SECOND CIRCUIT	469	113	95	18	16.0
Connecticut	118	102	84	18	17.4
New York					
Eastern	57	107	89	18	17.1
Northern	76	134	113	21	15.5
Southern	106	130	110	20	15.0
Western	96	99	85	14	14.8
Vermont	16	97	78	18	18.6
THIRD CIRCUIT	458	123	102	21	16.5
Delaware	12	136	110	26	18.8
New Jersey	81	110	92	18	16.3
Pennsylvania					
Eastern	157	143	118	25	16.4
Middle	141	112	93	19	16.7
Western	67	113	95	18	16.5
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	2,497	142	118	25	17.0
Maryland	118	131	110	22	16.4
North Carolina					
Eastern	138	135	112	23	16.4
Middle	78	148	121	26	17.4
Western	118	147	124	23	15.1
South Carolina	586	144	118	26	17.6
Virginia					
Eastern	618	157	129	28	17.3
Western	486	153	129	24	15.5
West Virginia					
Northern	173	80	66	15	18.5
Southern	182	125	102	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	1,700	137	114	24	17.1
Louisiana					
Eastern	176	133	115	18	13.6
Middle	24	78	67	11	14.8
Western	136	145	120	25	17.1
Mississippi					
Northern	87	99	81	18	17.8
Southern	160	122	101	21	17.4
Texas					
Eastern	333	126	102	24	18.8
Northern	220	170	140	30	17.9
Southern	204	152	126	26	16.2
Western	360	138	115	23	17.3
SIXTH CIRCUIT	892	116	97	19	16.3
Kentucky					
Eastern	62	104	86	18	16.5
Western	62	118	100	18	15.0
Michigan					
Eastern	91	129	106	24	17.3
Western	45	86	76	10	13.2
Ohio					
Northern	208	101	84	17	17.7
Southern	170	124	104	20	16.0
Tennessee					
Eastern	119	119	102	17	14.4
Middle	22	128	110	18	14.6
Western	113	130	108	22	17.1
SEVENTH CIRCUIT	861	138	114	24	17.5
Illinois					
Central	124	160	132	28	17.1
Northern	150	125	105	20	16.3
Southern	215	150	123	27	17.7
Indiana					
Northern	197	128	106	22	17.1
Southern	27	176	146	30	16.1
Wisconsin					
Eastern	84	124	101	23	18.7
Western	64	122	96	25	20.7
EIGHTH CIRCUIT	1,106	127	105	22	16.7
Arkansas					
Eastern	80	141	116	25	17.9
Western	51	101	85	16	16.7
Iowa					
Northern	88	133	110	24	17.6
Southern	76	161	135	27	16.3
Minnesota	122	149	123	26	17.1
Missouri					
Eastern	392	113	94	18	16.2
Western	98	120	99	21	16.8
Nebraska	199	130	108	23	16.9
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	297	136	114	22	15.8
Alaska	26	144	126	18	13.8
Arizona	2	--	--	--	--
California					
Central	34	158	129	29	18.3
Eastern	74	132	111	22	16.2
Northern	27	101	87	14	13.4
Southern	8	150	131	19	13.8
Guam	0	--	--	--	--
Hawaii	18	125	104	21	16.3
Idaho	2	--	--	--	--
Montana	4	102	90	12	13.1
Nevada	39	148	124	24	15.5
Northern Mariana Islands	0	--	--	--	--
Oregon	13	110	93	17	16.9
Washington					
Eastern	5	117	107	10	9.2
Western	45	141	113	28	17.2
TENTH CIRCUIT	349	142	117	25	17.2
Colorado	55	151	123	28	17.6
Kansas	165	124	103	21	16.6
New Mexico	33	130	107	23	17.4
Oklahoma					
Eastern	12	145	117	27	19.4
Northern	25	194	162	32	16.3
Western	45	183	148	35	18.9
Utah	13	118	98	20	16.2
Wyoming	1	--	--	--	--
ELEVENTH CIRCUIT	1,766	162	132	30	17.7
Alabama					
Middle	71	166	137	30	17.4
Northern	70	135	115	20	14.1
Southern	229	188	153	35	18.1
Florida					
Middle	584	159	128	31	18.7
Northern	169	227	184	43	18.2
Southern	222	132	110	22	16.7
Georgia					
Middle	218	127	102	25	19.3
Northern	54	174	142	32	17.9
Southern	149	158	135	23	14.1

¹Of the 17,168 cases, 379 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 4,914 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 11,875 cases, 1,120 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 2008-2009 Datafiles, USSCFY08-USSCFY09.

Table 9**REASONS GIVEN BY SENTENCING COURTS FOR DENIAL OF MOTION¹**

REASONS	N	%
Offense does not involve crack cocaine	606	10.8
Case does not involve crack cocaine	509	9.1
Sentence is determined by a non-drug guideline	97	1.7
Offender not eligible under §1B1.10	3,620	65.0
Statutory mandatory minimum controls sentence	1,341	24.1
Career Offender or Armed Career Criminal provisions control sentence	1,244	22.3
Case involved more than 4.5 kg of crack cocaine	502	9.0
Base offense level does not change (due to multiple drugs)	177	3.2
Guideline range does not change	174	3.1
Original sentence has been served	121	2.2
Statutory maximum sentence is less than applicable guideline range	55	1.0
Base offense level is 12 or lower	6	0.1
Base offense level is 43	0	0.0
Denied on the merits	859	15.5
Offender has already benefitted from departure or variance	404	7.3
18 U.S.C § 3553(a) factors	150	2.7
Protection of the public	131	2.4
Post-sentencing or post-conviction conduct	106	1.9
Offender subject to guideline reduction at original sentencing	68	1.2
No reason provided/Other reason	484	8.6
Other	260	4.6
No reason provided	224	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, 5,569 reasons were cited for the 5,049 cases. Of the 224 cases in which the court did not give a reason for the denial, 134 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 134 cases, a statutory mandatory minimum controlled the sentence in 25 cases, in 17 cases the quantity of crack cocaine in the case exceeded 4.5 Kg, in 16 cases the sentence was determined by a non-drug guideline, in nine cases no change in the guideline range was found, in 27 cases crack cocaine was not involved, in 27 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in six 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 2008-2009 Datafiles, USSCFY08-USSCFY09.