

**U.S. Sentencing Commission
Preliminary Crack Retroactivity Data Report
Fair Sentencing Act**



December 2012 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 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* 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 provides data concerning the retroactive application of the guideline amendment implementation of the Fair Sentencing Act (FSA), Pub. L. No. 111–220, signed into law on August 3, 2010. The FSA increased the quantities of crack cocaine that trigger the five and ten-year statutory mandatory minimum penalties — from five grams to 28 grams for five-year mandatory minimums and from 50 to 280 grams for ten-year mandatory minimums — and eliminated the five-year mandatory minimum for simple possession of crack cocaine. Significantly, the FSA gave the Commission emergency amendment authority to temporarily change the guidelines to implement the statutory changes and to add certain enhancements and reductions to the guidelines.

On October 15, 2010 the Commission voted to promulgate Amendment 748, the emergency amendment which took effect on November 1, 2010. Among other changes, Amendment 748 made conforming changes to the guidelines to adjust the crack cocaine quantity levels in the Drug Quantity Table in §2D1.1 to the new statutory minimums, added new aggravating and mitigating factors in drug trafficking cases, and reflected the elimination of the statutory five-year mandatory minimum penalty for simple possession of crack cocaine.

On April 28, 2011, the Commission submitted to Congress, Amendment 750, the permanent guideline amendment implementing the FSA. The three-part amendment (A, B & C)

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.uscc.gov, for electronic copies of the 1995-2011 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

³ See www.uscc.gov/bf.htm for an electronic copy of the Commission's *Final Report on the Impact of United States v. Booker on Federal Sentencing*.

re-promulgated as permanent the temporary emergency amendment and took effect on November 1, 2011.

On June 30, 2011, the Commission voted to promulgate Amendment 759 which added Parts A and C of Amendment 750 as amendments listed in §1B1.10 (*Reduction in Term of Imprisonment as a Result of an Amended Guideline Range*)(*Policy Statement*) that apply retroactively. Part A contained the changes to the crack cocaine quantity levels in the Drug Quantity Table in §2D1.1. Part C deleted the cross reference in §2D2.1 to reflect the elimination of the statutory minimum for simple possession of crack cocaine. The Commission voted to make Amendment 759 effective November 1, 2011, the same date that Amendment 750 took effect.

The data in this report represents information concerning motions decided through November 27, 2012 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by December 5, 2012. 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	10,605	6,626	62.5	3,979	37.5						
Eastern Virginia	751	502	66.8	249	33.2	Western Missouri	85	84	98.8	1	1.2
Western North Carolina	619	197	31.8	422	68.2	Western Wisconsin	84	84	100.0	0	0.0
Western Virginia	454	249	54.8	205	45.2	Western Oklahoma	83	38	45.8	45	54.2
South Carolina	394	249	63.2	145	36.8	New Jersey	82	51	62.2	31	37.8
Western Texas	376	261	69.4	115	30.6	Western Pennsylvania	77	48	62.3	29	37.7
Southern Georgia	371	127	34.2	244	65.8	Northern New York	77	76	98.7	1	1.3
Southern Alabama	311	152	48.9	159	51.1	Eastern New York	74	23	31.1	51	68.9
Northern Iowa	287	80	27.9	207	72.1	Eastern Pennsylvania	72	70	97.2	2	2.8
Northern Florida	284	98	34.5	186	65.5	Massachusetts	70	41	58.6	29	41.4
Eastern Missouri	246	142	57.7	104	42.3	Western Tennessee	69	67	97.1	2	2.9
Northern West Virginia	238	238	100.0	0	0.0	District of Columbia	59	52	88.1	7	11.9
Western Louisiana	235	95	40.4	140	59.6	Northern Mississippi	58	52	89.7	6	10.3
Puerto Rico	230	125	54.3	105	45.7	Western Michigan	58	56	96.6	2	3.4
Middle Florida	229	224	97.8	5	2.2	Maine	53	19	35.8	34	64.2
Eastern Texas	225	188	83.6	37	16.4	Eastern Wisconsin	49	49	100.0	0	0.0
Southern Iowa	204	56	27.5	148	72.5	Colorado	47	39	83.0	8	17.0
Northern Texas	182	102	56.0	80	44.0	Middle Alabama	43	43	100.0	0	0.0
Middle North Carolina	178	85	47.8	93	52.2	Southern New York	42	24	57.1	18	42.9
Middle Pennsylvania	173	131	75.7	42	24.3	Eastern Kentucky	42	9	21.4	33	78.6
Central Illinois	172	83	48.3	89	51.7	New Hampshire	42	15	35.7	27	64.3
Nebraska	163	112	68.7	51	31.3	Connecticut	41	41	100.0	0	0.0
Eastern North Carolina	157	89	56.7	68	43.3	Western Arkansas	35	16	45.7	19	54.3
Minnesota	136	70	51.5	66	48.5	Central California	34	24	70.6	10	29.4
Western Kentucky	136	56	41.2	80	58.8	Northern California	32	31	96.9	1	3.1
Southern Texas	134	75	56.0	59	44.0	Northern Oklahoma	31	21	67.7	10	32.3
Southern Ohio	131	105	80.2	26	19.8	Northern Georgia	30	29	96.7	1	3.3
Eastern Tennessee	126	84	66.7	42	33.3	Alaska	28	28	100.0	0	0.0
Southern West Virginia	124	100	80.6	24	19.4	Eastern California	26	26	100.0	0	0.0
Southern Illinois	124	92	74.2	32	25.8	Middle Tennessee	25	25	100.0	0	0.0
Northern Illinois	120	118	98.3	2	1.7	Western Washington	21	21	100.0	0	0.0
Maryland	116	110	94.8	6	5.2	Rhode Island	20	20	100.0	0	0.0
Northern Ohio	115	78	67.8	37	32.2	Eastern Oklahoma	12	12	100.0	0	0.0
Southern Florida	113	68	60.2	45	39.8	Delaware	9	9	100.0	0	0.0
Northern Alabama	111	15	13.5	96	86.5	New Mexico	9	7	77.8	2	22.2
Southern Indiana	110	39	35.5	71	64.5	Nevada	8	8	100.0	0	0.0
Middle Louisiana	109	39	35.8	70	64.2	South Dakota	7	7	100.0	0	0.0
Middle Georgia	106	106	100.0	0	0.0	Oregon	6	6	100.0	0	0.0
Kansas	104	104	100.0	0	0.0	Vermont	5	5	100.0	0	0.0
Eastern Arkansas	95	60	63.2	35	36.8	Wyoming	5	5	100.0	0	0.0
Western New York	95	84	88.4	11	11.6	Utah	5	5	100.0	0	0.0
Southern Mississippi	90	90	100.0	0	0.0	Eastern Washington	5	3	60.0	2	40.0
Northern Indiana	89	88	98.9	1	1.1	Southern California	4	4	100.0	0	0.0
Eastern Michigan	89	80	89.9	9	10.1	Hawaii	2	0	0.0	2	100.0
Eastern Louisiana	87	87	100.0	0	0.0						

Note: Some districts may not have reported all denials of motions seeking application of the retroactive crack cocaine amendment.

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

Table 2

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

Circuit	N	Granted	Denied
TOTAL	10,605	6,626	3,979
FOURTH CIRCUIT	3,031	1,819	1,212
ELEVENTH CIRCUIT	1,598	862	736
FIFTH CIRCUIT	1,496	989	507
EIGHTH CIRCUIT	1,258	627	631
SIXTH CIRCUIT	791	560	231
SEVENTH CIRCUIT	748	553	195
FIRST CIRCUIT	415	220	195
THIRD CIRCUIT	413	309	104
SECOND CIRCUIT	334	253	81
TENTH CIRCUIT	296	231	65
NINTH CIRCUIT	166	151	15
D.C. CIRCUIT	59	52	7

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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

Fiscal Year	Total	Granted		Denied	
	N	N	%	N	%
Total	10,554	6,594	62.5	3,960	37.5
2012	17	5	29.4	12	70.6
2011	327	98	30.0	229	70.0
2010	1,122	733	65.3	389	34.7
2009	1,579	1,040	65.9	539	34.1
2008	1,517	1,054	69.5	463	30.5
2007	1,182	778	65.8	404	34.2
2006	969	610	63.0	359	37.0
2005	745	475	63.8	270	36.2
2004	563	331	58.8	232	41.2
2003	506	304	60.1	202	39.9
2002	345	178	51.6	167	48.4
2001	281	177	63.0	104	37.0
2000	234	129	55.1	105	44.9
1999	215	130	60.5	85	39.5
1998	185	114	61.6	71	38.4
1997	171	96	56.1	75	43.9
1996	147	87	59.2	60	40.8
1995	132	76	57.6	56	42.4
1994	130	70	53.8	60	46.2
1993	84	48	57.1	36	42.9
1992	59	33	55.9	26	44.1
1991	27	15	55.6	12	44.4
1990	14	10	71.4	4	28.6
1989	3	3	100.0	0	0.0

¹ Of the 10,605 cases, 51 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, 2008-2013 Datafiles, USSCFY08-USSCFY13.

Table 4**ORIGIN OF GRANTED MOTION FOR SENTENCE REDUCTION DUE TO
RETROACTIVE APPLICATION OF CRACK COCAINE AMENDMENT¹**

CIRCUIT	Defendant			Director BOP²		Court	
	N	N	%	N	%	N	%
TOTAL	6,082	4,929	81.0	0	0.0	1,153	19.0
D.C. CIRCUIT	51	51	100.0	0	0.0	0	0.0
FIRST CIRCUIT	218	197	90.4	0	0.0	21	9.6
SECOND CIRCUIT	239	207	86.6	0	0.0	32	13.4
THIRD CIRCUIT	237	231	97.5	0	0.0	6	2.5
FOURTH CIRCUIT	1,712	1,244	72.7	0	0.0	468	27.3
FIFTH CIRCUIT	892	662	74.2	0	0.0	230	25.8
SIXTH CIRCUIT	519	436	84.0	0	0.0	83	16.0
SEVENTH CIRCUIT	536	528	98.5	0	0.0	8	1.5
EIGHTH CIRCUIT	600	534	89.0	0	0.0	66	11.0
NINTH CIRCUIT	120	92	76.7	0	0.0	28	23.3
TENTH CIRCUIT	223	210	94.2	0	0.0	13	5.8
ELEVENTH CIRCUIT	735	537	73.1	0	0.0	198	26.9

¹ Of the 6,626 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 549 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, 6,082 origins were cited for the 6,077 cases.

² In two 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	401	373	5.7	28	3.2
Black	6,491	5,690	86.2	801	90.3
Hispanic	529	484	7.3	45	5.1
Other	64	51	0.8	13	1.5
Total	7,485	6,598		887	
Citizenship					
U.S. Citizen	7,192	6,340	96.5	852	96.2
Non-Citizen	266	232	3.5	34	3.8
Total	7,458	6,572		886	
Gender					
Male	7,141	6,292	95.1	849	95.6
Female	363	324	4.9	39	4.4
Total	7,504	6,616		888	
Average Age					
	30	30		31	

¹ The 888 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 3,091 cases in which the court denied the request for a sentence reduction, 1,119 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 Guideline Implementation of the Fair Sentencing Act If Made Retroactive' (May 20, 2011) available at www.usc.gov). Of the remaining 1,972 cases, 1,478 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2011 and so was excluded from the Commission's prior analysis of eligible offenders, 174 were excluded from this analysis because the offender was not sentenced for a drug offense, 301 were excluded from this analysis because crack cocaine was not involved in the offense, and 19 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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	28.8	28.3	32.2
Firearms Mandatory Minimum Applied	13.3	12.8	16.9
Safety Valve	5.5	6.0	1.5
Guideline Role Adjustments			
Aggravating Role (USSG §3B1.1)	12.6	11.6	20.0
Mitigating Role (USSG §3B1.2)	1.6	1.6	1.0
Obstruction Adjustment (USSG §3C1.1)	7.6	7.2	10.7
Sentence Relative to the Guideline Range			
Within Range	72.3	72.7	69.1
Above Range	1.0	0.9	1.5
Below Range	26.7	26.4	29.4
Criminal History Category			
I	16.8	17.2	13.5
II	11.5	11.3	13.0
III	20.7	20.6	21.4
IV	17.5	17.9	14.1
V	13.2	13.5	11.5
VI	20.3	19.4	26.6

¹ The 888 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 3,091 cases in which the court denied the request for a sentence reduction, 1,119 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 Guideline Implementation of the Fair Sentencing Act If Made Retroactive' (May 20, 2011) *available at* www.ussc.gov). Of the remaining 1,972 cases, 1,478 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2011 and so was excluded from the Commission's prior analysis of eligible offenders, 174 were excluded from this analysis because the offender was not sentenced for a drug offense, 301 were excluded from this analysis because crack cocaine was not involved in the offense, and 19 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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	2,166	100.0	2,166	100.0
Guideline Minimum	1,384	63.9	1,301	60.1
Lower Half of Range	373	17.2	325	15.0
Midpoint of Range	118	5.4	150	6.9
Upper Half of Range	158	7.3	203	9.4
Guideline Maximum	133	6.1	187	8.6

¹ Of the 6,626 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 3,597 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,431 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 (868), the case is missing sentence length or guideline relevant statutory information from the original sentence (502), the new sentence had a guideline minimum and maximum that were identical (359) or the original sentence had a guideline minimum and maximum that were identical (38).

SOURCE: U.S. Sentencing Commission, 2008-2013 Datafiles, USSCFY08-USSCFY13.

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	5,807	148	119	29	19.9
D.C. CIRCUIT	34	113	90	23	20.8
District of Columbia	34	113	90	23	20.8
FIRST CIRCUIT	191	113	94	18	16.1
Maine	19	119	99	20	15.6
Massachusetts	28	146	115	30	19.3
New Hampshire	13	107	91	17	19.2
Puerto Rico	121	105	89	16	15.2
Rhode Island	10	117	99	19	15.3
SECOND CIRCUIT	179	130	105	25	19.5
Connecticut	24	144	123	21	13.3
New York					
Eastern	22	143	108	34	21.1
Northern	50	143	114	29	21.0
Southern	23	97	78	19	21.7
Western	56	123	100	23	19.5
Vermont	4	118	99	19	16.5
THIRD CIRCUIT	258	138	112	26	18.9
Delaware	9	169	144	25	13.4
New Jersey	47	116	91	25	22.0
Pennsylvania					
Eastern	58	177	144	33	18.6
Middle	106	130	104	26	20.3
Western	38	124	107	17	13.3
Virgin Islands	0	--	--	--	--
FOURTH CIRCUIT	1,568	154	124	30	20.1
Maryland	39	141	112	29	20.7
North Carolina					
Eastern	87	142	113	29	20.2
Middle	83	177	141	36	19.4
Western	139	178	148	31	16.7
South Carolina	240	160	129	31	20.0
Virginia					
Eastern	409	161	131	30	18.3
Western	236	158	130	28	18.2
West Virginia					
Northern	236	120	92	28	25.5
Southern	99	142	109	34	23.8

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	897	144	115	29	20.9
Louisiana					
Eastern	82	129	104	25	20.0
Middle	25	168	139	29	17.0
Western	88	184	151	33	18.4
Mississippi					
Northern	33	155	126	30	19.4
Southern	66	142	113	29	21.9
Texas					
Eastern	187	131	103	28	21.5
Northern	101	180	147	33	19.2
Southern	56	175	139	35	19.7
Western	259	122	96	26	22.7
SIXTH CIRCUIT	531	128	103	25	20.2
Kentucky					
Eastern	4	113	98	15	21.8
Western	56	100	80	20	20.7
Michigan					
Eastern	68	140	111	29	21.0
Western	56	143	120	23	15.9
Ohio					
Northern	75	121	95	26	21.5
Southern	105	133	110	24	18.9
Tennessee					
Eastern	84	121	97	24	22.3
Middle	24	156	121	35	20.8
Western	59	122	98	24	20.7
SEVENTH CIRCUIT	509	163	133	31	19.0
Illinois					
Central	74	158	131	28	18.4
Northern	115	163	135	28	16.8
Southern	90	180	144	36	20.7
Indiana					
Northern	88	143	115	28	20.5
Southern	28	245	197	47	20.2
Wisconsin					
Eastern	49	130	108	22	17.3
Western	65	164	130	34	20.2
EIGHTH CIRCUIT	550	142	114	27	19.4
Arkansas					
Eastern	58	115	90	25	23.9
Western	15	111	91	21	20.4
Iowa					
Northern	72	190	151	39	19.6
Southern	56	186	153	33	16.6
Minnesota	52	142	120	22	15.3
Missouri					
Eastern	127	116	93	23	20.1
Western	53	152	121	31	19.2
Nebraska	111	134	108	26	19.6
North Dakota	0	--	--	--	--
South Dakota	6	77	65	12	14.1

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
NINTH CIRCUIT	148	114	90	23	21.1
Alaska	28	131	104	27	20.9
Arizona	0	--	--	--	--
California					
Central	24	113	89	23	22.3
Eastern	26	116	93	24	21.7
Northern	29	88	71	17	20.1
Southern	4	135	97	38	25.7
Guam	0	--	--	--	--
Hawaii	0	--	--	--	--
Idaho	0	--	--	--	--
Montana	0	--	--	--	--
Nevada	7	171	131	40	21.8
Northern Mariana Islands	0	--	--	--	--
Oregon	6	122	86	36	30.2
Washington					
Eastern	3	67	50	17	27.0
Western	21	103	88	16	15.7
TENTH CIRCUIT	184	157	128	30	18.6
Colorado	34	164	133	31	17.6
Kansas	80	131	109	23	17.0
New Mexico	6	163	136	26	19.0
Oklahoma					
Eastern	12	122	95	27	22.9
Northern	15	180	157	24	13.4
Western	28	244	192	52	21.5
Utah	4	113	80	33	30.6
Wyoming	5	89	61	27	30.0
ELEVENTH CIRCUIT	758	172	138	34	20.6
Alabama					
Middle	42	130	106	24	19.8
Northern	13	222	167	55	24.0
Southern	129	220	175	46	20.0
Florida					
Middle	221	157	127	29	20.6
Northern	84	250	200	50	19.8
Southern	58	147	120	28	18.1
Georgia					
Middle	106	118	91	27	23.9
Northern	27	197	162	35	17.9
Southern	78	147	119	28	20.5

¹ Of the 10,605 cases, 51 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 3,960 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 6,594 cases, 787 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.

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

REASONS	N	%
Offense does not involve crack cocaine	221	4.9
Case does not involve crack cocaine	163	3.6
Sentence is determined by a non-drug guideline	58	1.3
Offender not eligible under §1B1.10	2,989	66.3
Statutory mandatory minimum controls sentence	1,206	26.7
Career Offender or Armed Career Criminal provisions control sentence	777	17.2
Guideline range does not change	617	13.7
Base offense level does not change (due to multiple drugs)	129	2.9
Case involved more than 4.5 kg of crack cocaine	106	2.3
Case involved more than 8.4 kg of crack cocaine	72	1.6
Original sentence has been served	67	1.5
Statutory maximum sentence is less than applicable guideline range	12	0.3
Base offense level is 43	3	0.1
Denied on the merits	642	14.4
Offender has already benefitted from departure or variance	210	4.7
18 U.S.C. § 3553(a) factors	143	3.2
Protection of the public	76	1.7
Offender subject to guideline reduction at original sentencing	72	1.6
Post-sentencing or post-conviction conduct	55	1.2
Already received crack reduction	44	1.0
Denial because of binding plea	30	0.7
Previous variance or departure for crack/powder disparity	12	0.3
No reason provided/Other reason	660	14.7
No reason provided	477	10.6
Other	183	4.1

¹ 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, 4,512 reasons were cited for the 3,979 cases. Of the 477 cases in which the court did not give a reason for the denial, 387 were previously identified as ineligible by the Commission for sentence reduction (*see* 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (May 20, 2011) *available at* www.ussc.gov). Of those 387 cases, a statutory mandatory minimum controlled the sentence in 24 cases, in nine cases the quantity of crack cocaine in the case exceeded 8.4 Kg, in 24 cases the sentence was determined by a non-drug guideline, in 20 cases no change in the guideline range was found, in 45 cases crack cocaine was not involved, in 52 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 200 cases the offender was predicted to have been released, in six 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, and in six cases there was no record on file with the Bureau of Prisons.