



May 31, 2011

MEMORANDUM

TO: Chair Saris
Commissioners
Judith Sheon

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SUBJECT: Recidivism Among Offenders with Sentence Modifications Made Pursuant to
Retroactive Application of 2007 Crack Cocaine Amendment

In 2007, the United States Sentencing Commission amended the Drug Quantity Table in USSG §2D1.1 for offenses involving crack cocaine. The amendment, which became effective November 1, 2007, reduced by two levels the base offense levels assigned by the Drug Quantity Table for each quantity of crack cocaine (the “2007 Crack Cocaine Amendment”).¹

In 2007, the Commission voted to give retroactive effect to the 2007 Crack Cocaine Amendment. The retroactive application of the 2007 Crack Cocaine Amendment took effect on March 3, 2008.² It has been more than three years since the first crack cocaine offenders were

¹ See United States Sentencing Commission, *Guidelines Manual*, App. C, Amendments 706 and 711 (effective Nov. 1, 2007) [hereinafter USSG]. In addition, USSG §2D1.1 was amended to include a mechanism to determine a combined base offense level in a case involving crack cocaine and other substances. See USSG, App. C., Amendment 715 (effective May 1, 2008).

² The Commission is statutorily authorized to determine whether a guideline amendment that reduces the sentencing range applicable to a particular offense or category of offenses may be retroactively applied. See 28 U.S.C. § 994(u). Sentencing courts are statutorily precluded from applying a guideline amendment retroactively unless the Commission has designated such amendment for retroactive application, and any sentence reduction must be consistent with applicable policy statements issued by the Commission. See 18 U.S.C. § 3582(c)(2). See also USSG §1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range) (Policy Statement) (Nov. 2010).

released pursuant to retroactive application of the 2007 Crack Cocaine Amendment. This memorandum analyzes the impact on recidivism rates of sentence reductions under the retroactive application of the 2007 Crack Cocaine Amendment. In order to study the impact on recidivism rates, staff analyzed the recidivism rate for a group of crack cocaine offenders whose sentences were modified pursuant to retroactive application of the 2007 Crack Cocaine Amendment. Staff then compared that rate to the recidivism rate for a comparison group of offenders who would have been eligible to seek a reduced sentence under the 2007 Crack Cocaine Amendment but were released prior to the effective date of that amendment after serving their full prison terms less earned good time and other earned credits.³ The analysis showed no statistically significant difference in the recidivism rates between the two groups.

Section I of this memorandum provides information on 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. Section II explains the methodology and results of the recidivism study.

I. JUDICIAL CONSIDERATION OF MOTIONS TO REDUCE A SENTENCE UNDER 18 U.S.C. § 3582(c)(2)

Courts were authorized to modify the sentence of offenders incarcerated on March 3, 2008, upon the motion of the offender, the Director of the Bureau of Prisons, or the court itself.⁴ As of April 7, 2011, the Commission had received, coded, and edited court documentation indicating that the courts had decided 25,515 motions for retroactive application of the 2007 Crack Cocaine Amendment.⁵ Of those 25,515 motions for retroactive application, 16,433 (64.4%) were granted, and 9,082 (35.6%) were denied. Among the motions denied, 7,665 (77.1%)⁶ involved legally ineligible applicants. Only 1,484 motions were denied on the merits

³ Inmates serving sentences greater than one year, but less than life, may earn up to 54 days sentence credit per year served. See 18 U.S.C. § 3624(b). Another type of credit which may result in release up to one year early is available for non-violent offenders who successfully complete the Residential Drug Abuse Treatment Program. See 18 U.S.C. § 3621(e)(2).

⁴ 18 U.S.C. § 3582(c)(2). See also USSG §1B1.10, which specifies the guideline amendments that courts may retroactively apply, consistent with 28 U.S.C. § 994(u), and provides guidance to courts as to the amount by which a sentence may be reduced. That policy statement provides that courts have discretion in determining whether, and to what extent, to reduce the sentence for any offender legally eligible to be considered for retroactive application of the amended guideline. Among the factors courts must consider are those listed at 18 U.S.C. § 3553(a), which courts must apply at the time an offender is first sentenced, as well as the risk to public safety that might result from a reduction in the sentence of an offender. USSG §1B1.10, comment (n.1). Courts may also consider an offender's conduct while incarcerated. *Id.*

⁵ For more information on this topic see USSC, PRELIMINARY CRACK COCAINE RETROACTIVITY DATA REPORT (April 2011), available at <http://www.ussc.gov>.

⁶ Courts cited 9,946 reasons for the 9,082 motions denied.

as an exercise of the courts' discretion (15.0% of all denials).⁷ Of that number no more than 604 motions were denied for reasons related to public safety (representing 3.2% of all motions filed by or on behalf of offenders eligible to seek a reduced sentence).

The average decrease in sentences among those crack cocaine offenders receiving retroactive application of the 2007 Crack Cocaine Amendment was 26 months (17.0%),⁸ and the corresponding revised release dates span several years. Some offenders were released almost immediately or in the first few months after the effective date,⁹ a group which includes the study group discussed below. Many other offenders have remained in prison because, despite the sentence reduction, there still remains substantial time to serve on the reduced term.

II. STUDYING THE IMPACT OF THE 2007 CRACK COCAINE AMENDMENT

The purpose of this study was to determine whether the reduction in prison sentences for offenders made pursuant to the retroactive application of the 2007 Crack Cocaine Amendment had an impact on the recidivism rate for those offenders. Offenders released pursuant to the 2007 Crack Cocaine Amendment returned to the community in advance of their originally scheduled release date, thereby possibly increasing the risk to public safety. However, as discussed more fully below, there is no evidence that offenders whose sentence lengths were reduced pursuant to retroactive application of the 2007 Crack Cocaine Amendment had higher recidivism rates than a comparison group of crack cocaine offenders who were released prior to the effective date of the 2007 Crack Cocaine Amendment and who served their full prison terms less earned credits.

A. Study Design

1. Selection of the study groups

Two groups were identified for study: a group of offenders who received retroactive application of the 2007 Crack Cocaine Amendment (the "2007 Crack Cocaine Amendment Group") and a comparison group of offenders who were released prior to the effective date of the 2007 Crack Cocaine Amendment and who had therefore served their full sentence less

⁷ Of the remaining denied motions, 6,611 (66.4%) were denied because the court found the offender was not eligible to seek a reduced sentence (e.g., was a Career Offender, was sentenced at a mandatory minimum term of imprisonment), 1,054 (10.6%) were denied because the offense of conviction did not involve crack cocaine, and 797 (8.1%) were denied for another reason or no reason was provided. See generally USSC, Preliminary Crack Cocaine Retroactivity Data Report, *supra* note 5.

⁸ USSC, *supra* note 5, at 11.

⁹ These offenders were often within a year or two of release on the original sentence when they obtained resentencing under the retroactive application of the 2007 Crack Cocaine Amendment, resulting in little or no time left to serve under the reduced term of imprisonment.

reductions for earned credit resulting in early release¹⁰ (the "Comparison Group"). For the 2007 Crack Cocaine Amendment Group, Commission staff reviewed all available criminal records for all crack cocaine offenders released pursuant to retroactive application of the 2007 Crack Cocaine Amendment during the period July 1, 2008 through November 30, 2008. The Comparison Group was drawn from a sample of otherwise eligible¹¹ crack cocaine offenders who were released during the 12 months prior to the effective date of the 2007 Crack Cocaine Amendment (March 3, 2008). The Comparison Group's available criminal records were also reviewed. Commission staff then compared the recidivism rates of the 2007 Crack Cocaine Amendment Group (848 offenders) to the Comparison Group of a sample of otherwise eligible crack cocaine offenders (484 offenders).¹²

Staff selected July 1, 2008 as the earliest release date for inclusion for offenders in the 2007 Crack Cocaine Amendment Group, rather than the March 3, 2008 effective date of the retroactive application of the 2007 Crack Cocaine Amendment. Staff selected July 1, 2008 as the earliest release date to account for the disruptions to the programming and re-entry procedures ordinarily followed by the Bureau of Prisons caused by the large volume of crack cocaine offenders released in the first weeks following the effective date of retroactive application of the 2007 Crack Cocaine Amendment.¹³ November 30, 2008 was selected as the last release date for offenders included in the study because the study required a two year follow-up period, and lead time was needed to collect and analyze criminal records prior to the release of the results of this study.

2. Study procedures

To be included in the study, crack cocaine offenders were required to:

1. receive a modified sentence pursuant to the retroactive application of the 2007 Crack Cocaine Amendment – for offenders in the 2007 Crack Cocaine Amendment Group;
2. meet the eligibility requirements set forth in the 2007 Crack Cocaine Amendment – for offenders in the Comparison Group;¹⁴

¹⁰ See *supra* note 3.

¹¹ The eligibility criteria included: the drug involved was crack cocaine; the base offense level was between 14 and 42; the quantity of crack cocaine was less than 4,500 grams; the offender's final offense level was not derived from the Career Offender (USSG §4B1.1) or Armed Career Criminal (USSG §4B1.4) guideline; and the offender's original sentence was greater than any applicable statutory minimum punishment, unless relief from the mandatory minimum was provided through the statutory safety valve or the offender received a departure under USSG §5K1.1 for substantial assistance when originally sentenced.

¹² The sample size of each group, while different, is sufficient to perform the statistical analyses that follow.

¹³ For example, the retroactive application of the reduction in time served for crack offenders saw hundreds of inmates removed from waiting lists for those awaiting treatment in residential drug abuse programs. See FEDERAL BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, STATE OF THE BUREAU 2009, at 26.

¹⁴ See *supra* note 10.

3. be available to be tracked in their community for two years immediately after release following service of the prison sentence¹⁵ for the federal crack cocaine offense (not detained or deported or otherwise lost to the study) or until their first recidivism event, whichever came first – for both groups; and
4. be matched successfully to FBI criminal records using Commission sentencing records – for both groups.

The study methodology is consistent with previous Commission studies of offender recidivism and is similar to other protocols such as those previously followed by the Bureau of Justice Statistics.¹⁶ The data on the offender's criminal history was supplied by FBI criminal records under an agreement with the Commission. The recidivism literature recognizes that the FBI offender criminal records are sufficiently reliable and a readily available source from which to measure repeat criminal behavior on a national scale.¹⁷

For this study, recidivism is defined as any of the following criminal record events occurring within a two-year period following release from incarceration:¹⁸

- a re-conviction for a new offense;
- a re-arrest with no case disposition information available; or¹⁹
- a revocation of an offender's supervised release.²⁰

In summary, criminal records were collected on all crack cocaine offenders released pursuant to retroactive application of the 2007 Crack Cocaine Amendment between July 1, 2008 and November 30, 2008 and followed for two years using the chronology of criminal events. This resulted in a study group of 848 offenders for inclusion in the 2007 Crack Cocaine

¹⁵ Release following service of the prison sentence means release from BOP custody into the community for the first time following incarceration for the federal crack cocaine offense of interest.

¹⁶ For more information see USSC, RECIDIVISM AND THE "FIRST OFFENDER" (2004). *See also* BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, RECIDIVISM OF PRISONERS RELEASED IN 1994 (2002).

¹⁷ The Interstate Identification Index (or III) is the national index of criminal histories (or RAP sheets) in the United States, maintained by the FBI. All states contribute to the III. The RAP sheets provide a chronology of entire criminal record for individuals who have been arrested or indicted for serious crimes anywhere in the country. The USSC and FBI have a Memorandum of Understanding through which the FBI provided RAP sheets to the USSC for this study.

¹⁸ The arrest/revocation date, most serious crime, and disposition (if available) were coded from the first recidivism event following release for purposes of reporting time to recidivism and crime type. Some offenders had more than one event following release. However, only the first event was counted for this analysis.

¹⁹ Arrests with a disposition of not guilty or dismissed on all charges were treated as non-recidivism events. FBI criminal records did not always report the ultimate disposition of a case following an arrest. For this analysis, arrests without dispositions were included along with arrests with conviction dispositions.

²⁰ Revocations include violations of supervised release due to commission of a new crime and technical violations such as failed drug tests while under supervised release.

Amendment Group. The Comparison Group consisted of a sample of 484 crack cocaine offenders who met all requirements and were released between March 1, 2007 and February 29, 2008 – thereby having been released too early to benefit from retroactive application of the 2007 Crack Cocaine Amendment.²¹

3. Similarities between the study groups

The two crack cocaine offender groups are comparable across a range of characteristics. This fact provides greater assurance that the groups are similar in a variety of ways, except for the fact that one group received a sentence modification under the 2007 Crack Cocaine Amendment, and the other did not. For example, crack cocaine offenders in the 2007 Crack Cocaine Amendment and Comparison Groups are demographically similar. The 2007 Crack Cocaine Amendment Group is 91.5 percent male and 87.4 percent Black. The Comparison Group is 90.9 percent male and 85.7 percent Black. The average ages of the two groups upon prison release was also similar (36.3 years and 35.4 years, respectively).

The distribution of criminal history categories (CHCs)²² of the two groups also is similar. The most common CHC in both groups is CHC I (29.3% in the 2007 Crack Cocaine Amendment Group and 27.2% in the Comparison Group), while the next most common category in both groups is CHC III (25.6% and 25.8%, respectively). In each group, approximately 30 percent of the crack cocaine offenders are in CHCs IV through VI, which indicates that many crack cocaine offenders had substantial criminal records prior to their instant offense in each group. Over 28 percent (28.3%) of 2007 Crack Cocaine Amendment offenders received sentence increases for possession or use of a weapon as part of the instant offense, as compared to almost 22 percent (21.5%) of offenders in the Comparison Group.

Most offenders in both groups were originally sentenced within the applicable guideline range (63.8% in the 2007 Crack Cocaine Amendment Group and 61.5% in the Comparison Group). In the 2007 Crack Cocaine Amendment Group, 30.6 percent were sentenced below the range based upon a motion sponsored by the government, as compared to 32.5 percent of the Comparison Group. An additional 5.1 percent in the 2007 Crack Cocaine Amendment Group were sentenced below the range for a reason not sponsored by the government, as compared to 5.8 percent in the Comparison Group. The remainder in both groups received an above range sentence (0.5% and 0.2%, respectively). Most offenders in both groups were sentenced prior to the United States Supreme Court's *Booker* decision²³ which rendered the guidelines advisory in nature (72.5% and 77.9% respectively).

²¹ The Commission's recidivism project datafile combines (1) FBI criminal records information on subsequent re-offending with (2) the Commission's datafiles on the offenders' prior criminal history, characteristics of the instant offense, and demographic information and (3) Bureau of Prison Sentry computer records on release dates and offender program participation and re-entry into Residential Re-entry Centers prior to release.

²² See generally USSG, Chapter 4.

²³ *United States v. Booker*, 543 U.S. 220 (2005).

The average length of the original sentence imposed on crack cocaine offenders in the 2007 Crack Cocaine Amendment Group (*i.e.*, before the reduction pursuant to the 2007 Amendment) was 107.4 months, and comparable to the average length of the sentences imposed on the Comparison Group, 97.0 months.²⁴ However, the 2007 Crack Cocaine Amendment Group served less time in prison. After sentence modification, the 2007 Crack Cocaine Amendment Group served 80.0 percent of the original sentence less earned credits. The Comparison Group served 100.0 percent of the original sentence less earned credits. In summary, the 2007 Crack Cocaine Amendment and Comparison Groups are well matched on demographic, offense, criminal history, and original sentencing characteristics.²⁵

B. Study Results

1. Comparison of recidivism rates

As detailed below, the recidivism rate for the 2007 Crack Cocaine Amendment Group is similar to the recidivism rate for the Comparison Group. None of the differences between the 2007 Crack Cocaine Amendment Group and the Comparison Group are statistically significant.²⁶

The overall recidivism rates for the two groups are similar, as shown in Table 1. Of the 2007 Crack Cocaine Amendment Group, 30.4 percent of the crack cocaine offenders re-offended within two years. In the Comparison Group, 32.6 percent of the crack cocaine offenders re-offended within two years. This difference is not statistically significant. Turning to the type of recidivism in the first recidivism event, again the two groups are similar with new arrests being more common than those with revocations only. In the 2007 Crack Cocaine Amendment Group,

²⁴ The 10.4 month difference in original sentence length between the 2007 Crack Cocaine Amendment Group and the Comparison Group may appear larger than expected. However, under ordinary release procedures such as those followed for the Comparison Group, prisoners released at any given time “are more likely to be those with shorter sentences” and estimates tied to releases “understate actual time served” for all prisoners. See Alfred Blumstein & Allen J. Beck, *Population Growth in U.S. Prisons*, 26 *CRIME & JUST.* 17, 34 (1999). It follows that extraordinary release procedures such as those followed under the 2007 Crack Cocaine Amendment, which advanced the release dates of many prisoners including many with longer than average sentences, may lessen this tendency to understate sentence length and associated time served in prison, and may have contributed to the 10.4 month difference between the two groups.

²⁵ The only notable difference between the two groups is that the 2007 Crack Cocaine Amendment Group consists of only those offenders granted sentence reductions pursuant to retroactive application of the 2007 Crack Cocaine Amendment. Offenders who filed a motion for a sentence reduction based on retroactive application of the 2007 Crack Cocaine Amendment but whose motion was denied are not part of the study. In contrast, the Comparison Group consists of offenders who were released prior to the March 3, 2008 effective date for retroactive application of the 2007 Crack Cocaine Amendment. Therefore, the Comparison Group likely includes a small number of offenders who would not have been granted a reduced sentence if the courts had been able to decide whether to grant a motion for sentence reduction to members of that group.

²⁶ Statistical significance is a determination of the probability that the measured relationship between two variables is not the result of random chance (*i.e.*, that it does, in fact, reflect the true association). Results that do not meet the threshold for “statistically significant” are ones in which the researcher cannot dismiss the possibility that the relationship occurred due to chance alone.

new arrests occurred in 23.2 percent of the cases, and revocations only were recorded in 7.2 percent. Similarly, in the Comparison Group, new arrests occurred in 25.0 percent of cases, and revocations only were recorded in 7.6 percent. Again, these differences are not statistically significant.

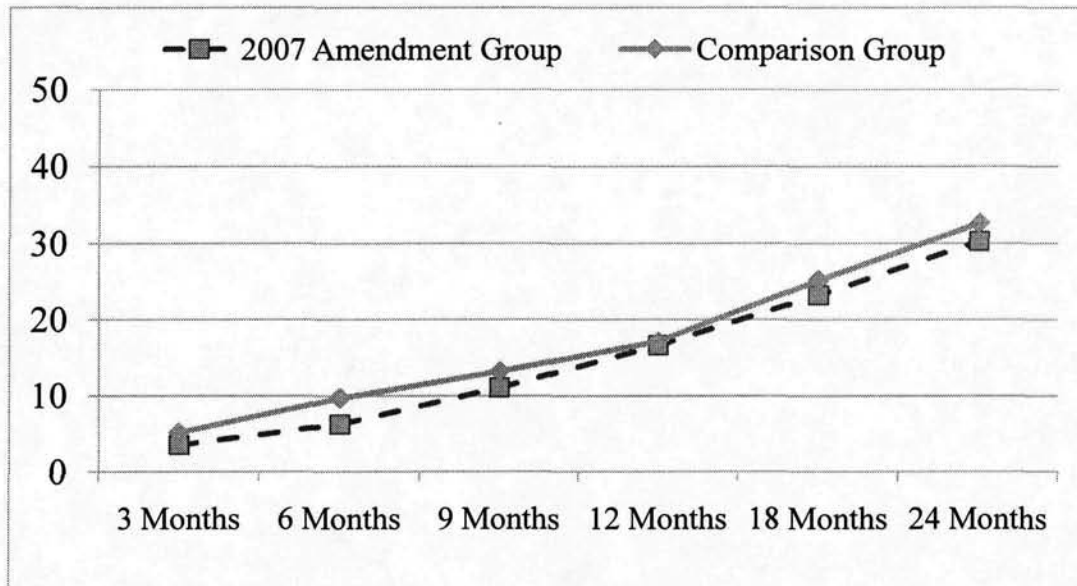
Table 1
Crack Cocaine Offender Recidivism Rates
by 2007 Crack Cocaine Amendment and Comparison Groups

	2007 Amendment Group	Comparison Group
Total	100.0%	100.0%
Recidivism	30.4%	32.6%
No Recidivism	69.6%	67.4%

When offenders were re-arrested for a new crime, the same four crime types were found to predominate among both groups. In the 2007 Crack Cocaine Amendment Group, 21.8 percent of re-arrests were for drug possession, 13.7 percent were for drug distribution, 13.7 percent were for assault and/or battery, and 9.6 percent were for driving under the influence. In the Comparison Group, 20.7 percent of re-arrests were for drug possession, 12.4 percent of re-arrests were for driving under the influence, 10.7 percent were for assault and/or battery, and 9.9 percent were for drug distribution.

The time period within which offenders in both groups re-offended was also similar. See Figure 1. Both groups displayed recidivism rates which climbed steadily throughout the two-year period. For example, at six months, over six percent of the 2007 Crack Cocaine Amendment Group had re-offended, as compared to almost ten percent of the Comparison Group. By twelve months, about 17 percent of both groups had re-offended (16.6% and 17.1%, respectively). At eighteen months, 23.2 percent of the 2007 Crack Cocaine Amendment Group and 25.2 percent of the Comparison Group had re-offended, and at twenty-four months both groups had recidivism rates in excess of 30 percent (30.4% and 32.6%, respectively).

Figure 1
Recidivism Rate over Time
by 2007 Crack Cocaine Amendment and Comparison Groups



2. Comparison of recidivism rates by various offense, offender, and original sentence characteristics

As discussed in Part II.A.3 above, the 2007 Crack Cocaine Amendment Group and the Comparison Group are demographically similar. The vast majority of offenders in both groups are male and Black, and the recidivism rates for these demographic groups are similar in both groups. Specifically, recidivism rates for males in the two groups are very similar (33.9% and 31.4%, respectively).²⁷ Recidivism rates for Blacks in the two groups are similar (33.0% and 30.3%, respectively).²⁸ The average age at release of recidivists is similar (33.3 years and 33.5 years, respectively), and recidivists in both groups are younger than the average of all released offenders (36.3 years and 35.4 years, respectively). None of these differences between the two groups is statistically significant.

Table 2 demonstrates similar recidivism rates between the two groups when broken out by criminal history category. As previously mentioned, higher CHCs (resulting from more prior crimes and/or more serious crimes) are common risk factors in recidivism. In this study,

²⁷ The recidivism rates of female offenders in the 2007 Crack Cocaine Amendment Group and the Comparison Group are based on small sample sizes, but also are similar (15.4% and 20.5%).

²⁸ The recidivism rates of White offenders in the 2007 Crack Cocaine Amendment Group and the Comparison Group were nearly identical (28.1% and 28.3%), as were the rates for Hispanic offenders (36.4% and 36.8%). These results are based on relatively small samples.

recidivism rates rose significantly with CHC in both groups. Although there are slight differences between the recidivism rates of the 2007 Crack Cocaine Amendment Group and the Comparison Group, these differences are not statistically significant. In the 2007 Crack Cocaine Amendment Group, recidivism rates ranged from 18.2 percent (CHC I) to 44.3 percent (CHC VI). In the Comparison Group, recidivism rates ranged from 20.6 percent (CHC I) to 50.0 percent (CHC VI).

Table 2
Recidivism Rate by Criminal History Category

	2007 Amendment Group	Comparison Group
Criminal History Category I	18.2%	20.6%
Criminal History Category II	27.5%	28.2%
Criminal History Category III	35.5%	33.1%
Criminal History Category IV	32.8%	45.8%
Criminal History Category V	43.1%	45.9%
Criminal History Category VI	44.3%	50.0%

Weapon possession or use as part of the instant offense did not distinguish the two groups of crack cocaine offenders. Recidivism rates for offenders with weapon involvement are similar, 32.1 percent in the 2007 Crack Cocaine Amendment Group and 29.8 percent in the Comparison Group, and this difference is not statistically significant.

The position of the sentence relative to the guideline range also was not associated with statistically significant differences in recidivism rates. Among those sentenced within the range, 28.8 percent of the 2007 Crack Cocaine Amendment Group re-offended as compared to 30.3 percent of the Comparison Group, which is similar to the overall recidivism rate and to each other. Among those sentenced below the range based upon a reason sponsored by the government, the recidivism rate for each group was 35.3 percent and 35.5 percent, respectively. The recidivism rates for offenders with non-government sponsored below range original sentences, 25.6 percent of the 2007 Crack Cocaine Amendment Group and 40.7 percent of the Comparison Group, are based on small samples and thus could have occurred by random chance.²⁹ Here again, the position of the sentence relative to the guideline range does not distinguish the 2007 Crack Cocaine Amendment Group and Comparison Group, and the recidivism differences are not statistically significant.

Regarding the date of the original sentence, the *Booker* decision made the sentencing guidelines advisory and is a useful point of comparison. There is no significant difference in group composition Pre- and Post-*Booker* or in recidivism rates. Among those sentenced Pre-*Booker*, 29.3 percent of the 2007 Crack Cocaine Amendment Group re-offended as compared to 32.6 percent of the Comparison Group. Post-*Booker* differences are similarly minor (33.5% and

²⁹ As discussed in Part II.A.3 above, less than 6 percent of offenders in each group received a non-government sponsored below range sentence. Because of this, any difference in the recidivism rates between the offenders in two groups who received a non-government sponsored below range sentence is not statistically significant.

32.7% respectively). As with the other offense and offender factors, the date of sentencing did not differentiate the 2007 Crack Cocaine Amendment Group and Comparison Group from each other, and the recidivism differences are not statistically significant.

III. CONCLUSION

The analysis compared the recidivism rates of two groups of crack cocaine offenders, one group that was released on average 20 percent earlier pursuant to retroactive application of the 2007 Crack Cocaine Amendment, and a Comparison Group that was released prior to the date of the 2007 Crack Cocaine Amendment and thus served their full prison terms, but that matched the 2007 Crack Cocaine Amendment Group on eligibility criteria. A close comparison of the two groups reveals substantial similarities in selected factors measuring offense conduct, offender demographic, and original sentence characteristics.

The offenders in the two groups re-offended at similar rates and in similar ways. Among those who re-offended, the ratio of new arrests to revocations, mix of new crimes, and timing of recidivism are all comparable. While two factors are related to greater recidivism – higher criminal history category and younger age – this relationship is found within each group in comparable numbers. In summary, the analysis shows no statistically significant difference in the recidivism rates of the two groups, despite the early release of one group pursuant to the retroactive application of the 2007 Crack Cocaine Amendment.