

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



**April 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.<sup>1</sup> Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.<sup>2</sup>

The Commission also reports preliminary data for an on-going fiscal year in order to provide real-time analysis of sentencing practices in the federal courts. Since 2005, the Commission has published a series of quarterly reports that are similar in format and methodology to tables and figures produced in the *Sourcebook of Federal Sentencing Statistics* or in the Commission's *Final Report on the Impact of the United States v. Booker on Federal Sentencing*.<sup>3</sup> The quarterly reports contain cumulative data for the on-going fiscal year (i.e., data from the start of the fiscal year through the most current quarter).

This report 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)

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<sup>1</sup> In each felony or Class A misdemeanor case sentenced in federal court, sentencing courts are required to submit the following documents to the Commission: the judgment and commitment order, the statement of reasons, the plea agreement (if applicable), the indictment or other charging document, and the presentence report. See 28 U.S.C. § 994(w).

<sup>2</sup> See the Commission's website, [www.ussc.gov](http://www.ussc.gov), for electronic copies of the 1995-2011 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

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

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 March 28, 2012 and for which court documentation was received, coded, and edited at the U.S. Sentencing Commission by April 2, 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	%
<b>TOTAL</b>	<b>6,505</b>	<b>4,456</b>	<b>68.5</b>	<b>2,049</b>	<b>31.5</b>						
Western Virginia	387	234	60.5	153	39.5	Maryland	49	49	100.0	0	0.0
Eastern Virginia	353	211	59.8	142	40.2	Western Tennessee	48	48	100.0	0	0.0
Western Texas	325	236	72.6	89	27.4	Northern Illinois	48	46	95.8	2	4.2
Southern Georgia	293	107	36.5	186	63.5	Western New York	44	35	79.5	9	20.5
South Carolina	265	195	73.6	70	26.4	Eastern Pennsylvania	44	44	100.0	0	0.0
Southern Alabama	229	113	49.3	116	50.7	Eastern North Carolina	44	34	77.3	10	22.7
Northern West Virginia	202	202	100.0	0	0.0	District of Columbia	43	36	83.7	7	16.3
Eastern Missouri	181	107	59.1	74	40.9	Maine	41	18	43.9	23	56.1
Northern Iowa	173	72	41.6	101	58.4	Colorado	41	37	90.2	4	9.8
Southern Iowa	169	46	27.2	123	72.8	Middle Louisiana	40	18	45.0	22	55.0
Northern Texas	167	91	54.5	76	45.5	Massachusetts	37	23	62.2	14	37.8
Eastern Texas	164	145	88.4	19	11.6	Northern Ohio	37	36	97.3	1	2.7
Northern Florida	164	75	45.7	89	54.3	Middle Alabama	37	37	100.0	0	0.0
Middle Florida	163	161	98.8	2	1.2	Northern Alabama	35	7	20.0	28	80.0
Western North Carolina	159	76	47.8	83	52.2	Eastern Kentucky	34	5	14.7	29	85.3
Central Illinois	134	63	47.0	71	53.0	Connecticut	27	27	100.0	0	0.0
Middle Pennsylvania	121	100	82.6	21	17.4	Eastern New York	24	12	50.0	12	50.0
Western Louisiana	112	51	45.5	61	54.5	Western Arkansas	24	10	41.7	14	58.3
Southern Ohio	108	97	89.8	11	10.2	Alaska	22	22	100.0	0	0.0
Southern Texas	101	55	54.5	46	45.5	New Hampshire	21	10	47.6	11	52.4
Middle Georgia	97	97	100.0	0	0.0	Northern Oklahoma	20	12	60.0	8	40.0
Minnesota	87	52	59.8	35	40.2	Eastern California	17	17	100.0	0	0.0
Kansas	85	85	100.0	0	0.0	Northern Georgia	17	17	100.0	0	0.0
Western Wisconsin	82	82	100.0	0	0.0	Central California	15	15	100.0	0	0.0
Nebraska	80	63	78.8	17	21.3	Western Michigan	14	12	85.7	2	14.3
Western Missouri	75	75	100.0	0	0.0	Middle Tennessee	14	14	100.0	0	0.0
Western Kentucky	70	42	60.0	28	40.0	Eastern Wisconsin	11	11	100.0	0	0.0
Southern Indiana	70	28	40.0	42	60.0	Western Washington	11	11	100.0	0	0.0
Southern Illinois	68	57	83.8	11	16.2	Northern California	10	9	90.0	1	10.0
Northern Indiana	68	67	98.5	1	1.5	Rhode Island	6	6	100.0	0	0.0
Puerto Rico	67	40	59.7	27	40.3	Southern New York	6	4	66.7	2	33.3
Southern Florida	67	45	67.2	22	32.8	Delaware	6	6	100.0	0	0.0
Eastern Arkansas	66	40	60.6	26	39.4	South Dakota	6	6	100.0	0	0.0
Eastern Louisiana	65	65	100.0	0	0.0	Oregon	6	6	100.0	0	0.0
Middle North Carolina	62	33	53.2	29	46.8	New Mexico	6	4	66.7	2	33.3
New Jersey	60	43	71.7	17	28.3	Eastern Oklahoma	6	6	100.0	0	0.0
Eastern Tennessee	59	58	98.3	1	1.7	Eastern Washington	5	3	60.0	2	40.0
Southern Mississippi	57	57	100.0	0	0.0	Vermont	4	4	100.0	0	0.0
Southern West Virginia	56	43	76.8	13	23.2	Wyoming	4	4	100.0	0	0.0
Eastern Michigan	56	54	96.4	2	3.6	Hawaii	2	0	0.0	2	100.0
Western Oklahoma	53	30	56.6	23	43.4	Nevada	2	2	100.0	0	0.0
Northern New York	52	52	100.0	0	0.0	Utah	2	2	100.0	0	0.0
Northern Mississippi	52	50	96.2	2	3.8	Southern California	1	1	100.0	0	0.0
Western Pennsylvania	50	35	70.0	15	30.0						

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

SOURCE: U.S. Sentencing Commission, Preliminary Fair Sentencing Act 2012 Datafile, USSCFY12.

**Table 2**

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

<b>Circuit</b>	<b>N</b>	<b>Granted</b>	<b>Denied</b>
<b>TOTAL</b>	<b>6,505</b>	<b>4,456</b>	<b>2,049</b>
FOURTH CIRCUIT	1,577	1,077	500
ELEVENTH CIRCUIT	1,102	659	443
FIFTH CIRCUIT	1,083	768	315
EIGHTH CIRCUIT	861	471	390
SEVENTH CIRCUIT	481	354	127
SIXTH CIRCUIT	440	366	74
THIRD CIRCUIT	281	228	53
TENTH CIRCUIT	217	180	37
FIRST CIRCUIT	172	97	75
SECOND CIRCUIT	157	134	23
NINTH CIRCUIT	91	86	5
D.C. CIRCUIT	43	36	7

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SOURCE: U.S. Sentencing Commission, Preliminary Fair Sentencing Act 2012 Datafile, USSCFY12.

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

<b>Fiscal Year</b>	<b>Total</b>	<b>Granted</b>		<b>Denied</b>	
	<b>N</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Total</b>	<b>6,479</b>	<b>4,440</b>	<b>68.5</b>	<b>2,039</b>	<b>31.5</b>
2011	144	27	18.8	117	81.3
2010	651	458	70.4	193	29.6
2009	951	692	72.8	259	27.2
2008	971	719	74.0	252	26.0
2007	752	528	70.2	224	29.8
2006	597	413	69.2	184	30.8
2005	504	349	69.2	155	30.8
2004	334	220	65.9	114	34.1
2003	319	224	70.2	95	29.8
2002	207	128	61.8	79	38.2
2001	164	112	68.3	52	31.7
2000	137	82	59.9	55	40.1
1999	144	97	67.4	47	32.6
1998	117	86	73.5	31	26.5
1997	119	72	60.5	47	39.5
1996	85	54	63.5	31	36.5
1995	81	48	59.3	33	40.7
1994	83	57	68.7	26	31.3
1993	57	32	56.1	25	43.9
1992	36	21	58.3	15	41.7
1991	14	11	78.6	3	21.4
1990	9	7	77.8	2	22.2
1989	3	3	100.0	0	0.0

<sup>1</sup> Of the 6,505 cases, 26 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 Fair Sentencing Act 2012 Datafile, USSCFY12.

**Table 4**

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

<b>CIRCUIT</b>	<b>N</b>	<b>Defendant</b>		<b>Director BOP<sup>2</sup></b>		<b>Court</b>	
		<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>TOTAL</b>	<b>4,079</b>	<b>3,174</b>	<b>77.8</b>	<b>0</b>	<b>0.0</b>	<b>905</b>	<b>22.2</b>
D.C. CIRCUIT	36	36	100.0	0	0.0	0	0.0
FIRST CIRCUIT	95	80	84.2	0	0.0	15	15.8
SECOND CIRCUIT	126	106	84.1	0	0.0	20	15.9
THIRD CIRCUIT	183	177	96.7	0	0.0	6	3.3
FOURTH CIRCUIT	1,012	612	60.5	0	0.0	400	39.5
FIFTH CIRCUIT	688	524	76.2	0	0.0	164	23.8
SIXTH CIRCUIT	338	280	82.8	0	0.0	58	17.2
SEVENTH CIRCUIT	342	338	98.8	0	0.0	4	1.2
EIGHTH CIRCUIT	452	408	90.3	0	0.0	44	9.7
NINTH CIRCUIT	66	53	80.3	0	0.0	13	19.7
TENTH CIRCUIT	175	162	92.6	0	0.0	13	7.4
ELEVENTH CIRCUIT	566	398	70.3	0	0.0	168	29.7

<sup>1</sup> Of the 4,456 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 381 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, 4,079 origins were cited for the 4,075 cases.

<sup>2</sup> 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**

<b>Race/Ethnicity</b>	<b>Total</b>	<b>Granted</b>		<b>Denied<sup>1</sup></b>	
		<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
White	269	255	5.7	14	2.8
Black	4,310	3,860	86.9	450	90.9
Hispanic	313	287	6.5	26	5.3
Other	44	39	0.9	5	1.0
<b>Total</b>	<b>4,936</b>	<b>4,441</b>		<b>495</b>	
<b>Citizenship</b>					
U.S. Citizen	4,729	4,260	96.4	469	94.9
Non-Citizen	184	159	3.6	25	5.1
<b>Total</b>	<b>4,913</b>	<b>4,419</b>		<b>494</b>	
<b>Gender</b>					
Male	4,689	4,219	94.8	470	94.9
Female	255	230	5.2	25	5.1
<b>Total</b>	<b>4,944</b>	<b>4,449</b>		<b>495</b>	
<b>Average Age</b>					
	<b>30</b>	<b>30</b>		<b>30</b>	

<sup>1</sup> The 495 offenders represented in this column are those whom the Commission previously identified as eligible to seek a sentence reduction but whose petition for a reduction was denied by the court. Of the remaining 1,554 cases in which the court denied the request for a sentence reduction, 589 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](http://www.ussc.gov)). Of the remaining 965 cases, 237 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, 66 were excluded from this analysis because the offender was not sentenced for a drug offense, 144 were excluded from this analysis because crack cocaine was not involved in the offense, and 518 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary Fair Sentencing Act 2012 Datafile, USSCFY12.



**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 <sup>1</sup>
	%	%	%
<b>Weapon</b>			
Weapon Specific Offense Characteristic	28.5	28.1	32.5
Firearms Mandatory Minimum Applied	12.1	11.6	16.0
<b>Safety Valve</b>	6.2	6.7	1.8
<b>Guideline Role Adjustments</b>			
Aggravating Role (USSG §3B1.1)	12.2	11.3	20.6
Mitigating Role (USSG §3B1.2)	1.7	1.7	1.2
Obstruction Adjustment (USSG §3C1.1)	7.3	7.0	9.5
<b>Sentence Relative to the Guideline Range</b>			
Within Range	72.7	73.0	69.8
Above Range	1.0	0.9	2.0
Below Range	26.3	26.1	28.2
<b>Criminal History Category</b>			
I	16.9	17.1	14.5
II	11.8	11.6	13.7
III	20.7	20.6	21.2
IV	17.8	18.3	13.1
V	13.7	13.8	12.9
VI	19.2	18.6	24.4

<sup>1</sup> The 495 offenders represented in this column are those whom the Commission previously identified as eligible to seek a sentence reduction but whose petition for a reduction was denied by the court. Of the remaining 1,554 cases in which the court denied the request for a sentence reduction, 589 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](http://www.ussc.gov)). Of the remaining 965 cases, 237 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, 66 were excluded from this analysis because the offender was not sentenced for a drug offense, 144 were excluded from this analysis because crack cocaine was not involved in the offense, and 518 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary Fair Sentencing Act 2012 Datafile, USSCFY12.

**Table 7**

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

	<b>ORIGINAL SENTENCE</b>		<b>CURRENT SENTENCE</b>	
	N	%	N	%
<b>TOTAL</b>	<b>1,602</b>	<b>100.0</b>	<b>1,602</b>	<b>100.0</b>
<b>Guideline Minimum</b>	1,048	65.4	984	61.4
<b>Lower Half of Range</b>	259	16.2	240	15.0
<b>Midpoint of Range</b>	99	6.2	111	6.9
<b>Upper Half of Range</b>	96	6.0	136	8.5
<b>Guideline Maximum</b>	100	6.2	131	8.2

<sup>1</sup> Of the 4,456 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 2,600 received a sentence within the guideline range at both their original and current sentencing. Of these, 998 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 (613), the case is missing sentence length or guideline relevant statutory information from the original sentence (336), the new sentence had a guideline minimum and maximum that were identical (263) or the original sentence had a guideline minimum and maximum that were identical (20).

SOURCE: U.S. Sentencing Commission, Preliminary Fair Sentencing Act 2012 Datafile, USSCFY12.

Table 8

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

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				
<b>TOTAL</b>	<b>3,866</b>	<b>142</b>	<b>114</b>	<b>28</b>	<b>20.3</b>
<b>D.C. CIRCUIT</b>	<b>22</b>	<b>104</b>	<b>80</b>	<b>23</b>	<b>22.8</b>
District of Columbia	22	104	80	23	22.8
<b>FIRST CIRCUIT</b>	<b>84</b>	<b>99</b>	<b>82</b>	<b>17</b>	<b>17.6</b>
Maine	18	118	98	21	16.4
Massachusetts	15	104	82	22	19.6
New Hampshire	8	86	70	17	24.3
Puerto Rico	40	92	78	14	15.9
Rhode Island	3	87	73	14	18.4
<b>SECOND CIRCUIT</b>	<b>85</b>	<b>120</b>	<b>96</b>	<b>24</b>	<b>19.5</b>
Connecticut	12	143	119	23	13.8
New York					
Eastern	11	126	95	31	21.0
Northern	33	130	103	28	21.2
Southern	4	87	68	20	25.6
Western	22	96	79	17	18.6
Vermont	3	107	92	15	15.3
<b>THIRD CIRCUIT</b>	<b>180</b>	<b>131</b>	<b>106</b>	<b>25</b>	<b>19.1</b>
Delaware	6	164	137	27	16.0
New Jersey	40	116	91	26	22.2
Pennsylvania					
Eastern	31	148	124	25	17.3
Middle	78	132	106	26	19.9
Western	25	121	102	19	14.5
Virgin Islands	0	--	--	--	--
<b>FOURTH CIRCUIT</b>	<b>921</b>	<b>146</b>	<b>117</b>	<b>29</b>	<b>20.6</b>
Maryland	0	--	--	--	--
North Carolina					
Eastern	33	136	114	23	17.9
Middle	32	179	145	33	17.9
Western	40	140	117	23	16.0
South Carolina	187	145	118	27	19.5
Virginia					
Eastern	165	162	128	34	21.1
Western	221	159	131	28	17.8
West Virginia					
Northern	201	119	90	28	25.8
Southern	42	140	108	32	22.1

**Table 8 (continued)**

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

<b>CIRCUIT</b>		<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
District	<b>N</b>				
<b>FIFTH CIRCUIT</b>	<b>704</b>	<b>138</b>	<b>110</b>	<b>28</b>	<b>21.2</b>
Louisiana					
Eastern	60	123	100	23	20.2
Middle	6	108	86	22	20.3
Western	47	164	132	32	19.5
Mississippi					
Northern	33	155	126	30	19.4
Southern	51	148	119	30	21.2
Texas					
Eastern	144	128	101	27	21.7
Northern	90	182	148	34	19.5
Southern	39	161	130	32	19.7
Western	234	118	92	26	22.8
<b>SIXTH CIRCUIT</b>	<b>343</b>	<b>121</b>	<b>97</b>	<b>24</b>	<b>20.6</b>
Kentucky					
Eastern	2	--	--	--	--
Western	42	96	75	21	22.6
Michigan					
Eastern	42	137	109	28	20.7
Western	12	141	120	21	13.5
Ohio					
Northern	33	113	91	22	20.5
Southern	97	130	108	23	18.7
Tennessee					
Eastern	58	113	87	26	23.6
Middle	13	124	94	30	21.7
Western	44	118	94	24	21.4
<b>SEVENTH CIRCUIT</b>	<b>318</b>	<b>151</b>	<b>123</b>	<b>29</b>	<b>19.3</b>
Illinois					
Central	57	140	114	26	19.2
Northern	46	140	117	24	17.4
Southern	57	167	135	32	20.3
Indiana					
Northern	67	136	110	26	19.5
Southern	17	214	170	44	21.9
Wisconsin					
Eastern	11	113	99	14	15.3
Western	63	160	129	32	19.8
<b>EIGHTH CIRCUIT</b>	<b>406</b>	<b>138</b>	<b>112</b>	<b>27</b>	<b>19.1</b>
Arkansas					
Eastern	38	116	94	22	21.8
Western	9	121	99	21	18.7
Iowa					
Northern	65	184	146	37	19.5
Southern	46	184	150	33	16.9
Minnesota	36	129	106	23	17.1
Missouri					
Eastern	96	111	89	22	20.0
Western	48	145	116	29	18.7
Nebraska	62	122	98	24	19.3
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**

<b>CIRCUIT</b>		<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
District	<b>N</b>				
<b>NINTH CIRCUIT</b>	<b>86</b>	<b>119</b>	<b>93</b>	<b>26</b>	<b>22.0</b>
Alaska	22	133	105	28	21.1
Arizona	0	--	--	--	--
California					
Central	15	127	102	25	20.8
Eastern	17	115	91	25	22.8
Northern	9	92	74	18	19.5
Southern	1	--	--	--	--
Guam	0	--	--	--	--
Hawaii	0	--	--	--	--
Idaho	0	--	--	--	--
Montana	0	--	--	--	--
Nevada	2	--	--	--	--
Northern Mariana Islands	0	--	--	--	--
Oregon	6	122	86	36	30.2
Washington					
Eastern	3	67	50	17	27.0
Western	11	88	71	16	18.6
<b>TENTH CIRCUIT</b>	<b>143</b>	<b>153</b>	<b>125</b>	<b>29</b>	<b>18.5</b>
Colorado	32	155	125	30	17.8
Kansas	65	132	109	23	16.6
New Mexico	3	156	121	35	23.4
Oklahoma					
Eastern	6	103	81	22	21.6
Northern	10	197	171	26	14.2
Western	21	233	183	51	22.1
Utah	2	--	--	--	--
Wyoming	4	66	47	19	29.1
<b>ELEVENTH CIRCUIT</b>	<b>574</b>	<b>168</b>	<b>135</b>	<b>34</b>	<b>20.9</b>
Alabama					
Middle	36	117	95	23	20.3
Northern	6	162	101	61	31.7
Southern	94	212	169	43	19.7
Florida					
Middle	159	164	134	30	20.7
Northern	65	244	198	47	19.0
Southern	38	142	112	30	19.4
Georgia					
Middle	97	116	88	28	24.8
Northern	15	215	174	41	18.9
Southern	64	150	122	29	20.0

<sup>1</sup> Of the 6,505 cases, 26 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 2,039 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 4,440 cases, 574 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 Fair Sentencing Act 2012 Datafile, USSCFY12.

Table 9

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

<b>REASONS</b>	<b>N</b>	<b>%</b>
<b>Offense does not involve crack cocaine</b>	<b>103</b>	<b>4.3</b>
Case does not involve crack cocaine	79	3.3
Sentence is determined by a non-drug guideline	24	1.0
<b>Offender not eligible under §1B1.10</b>	<b>1,541</b>	<b>65.0</b>
Statutory mandatory minimum controls sentence	607	25.6
Career Offender or Armed Career Criminal provisions control sentence	376	15.9
Guideline range does not change	323	13.6
Case involved more than 8.4 kg of crack cocaine	107	4.5
Base offense level does not change (due to multiple drugs)	88	3.7
Original sentence has been served	30	1.3
Statutory maximum sentence is less than applicable guideline range	10	0.4
Base offense level is 43	0	0.0
Base offense level is 12 or lower	0	0.0
<b>Denied on the merits</b>	<b>370</b>	<b>15.5</b>
Offender has already benefitted from departure or variance	114	4.8
18 U.S.C § 3553(a) factors	94	4
Protection of the public	48	2.0
Offender subject to guideline reduction at original sentencing	48	2.0
Post-sentencing or post-conviction conduct	46	1.9
Denial because of binding plea	20	0.8
<b>No reason provided/Other reason</b>	<b>355</b>	<b>15.0</b>
No reason provided	228	9.6
Other	127	5.4

<sup>1</sup> Courts may cite multiple reasons for denying a motion; consequently, the total number of reasons cited generally exceeds the total number of cases. In this table, 2,369 reasons were cited for the 2,049 cases. Of the 228 cases in which the court did not give a reason for the denial, 119 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.uscc.gov](http://www.uscc.gov)). Of those 119 cases, a statutory mandatory minimum controlled the sentence in 11 cases, in four cases the quantity of crack cocaine in the case exceeded 8.4 Kg, in 10 cases the sentence was determined by a non-drug guideline, in six cases no change in the guideline range was found, in 18 cases crack cocaine was not involved, in 34 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 31 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 and in two cases there was no record on file with the Bureau of Prisons.

SOURCE: U.S. Sentencing Commission, Preliminary Fair Sentencing Act 2012 Datafile, USSCFY12.