

Table 28A

ATTRIBUTION CATEGORY FOR CASES OUTSIDE OF THE GUIDELINE RANGE¹
Fiscal Year 2009

	TOTAL CASES	Pursuant to a Plea Agreement									
		§5K1.1 Plea Agreement		§5K3.1 Plea Agreement		Binding Plea Accepted by Court		Plea w/ Departure Court Finds Reasonable		Plea Agreement States Gov't Will Not Oppose	
		N	%	N	%	N	%	N	%	N	%
TOTAL	34,162	6,683	19.6	6,919	20.3	2,613	7.6	1,542	4.5	155	0.5
Above Range	1,496	8	0.5	11	0.7	227	15.2	101	6.8	2	0.1
Upward Departure From Guideline Range	382	3	0.8	3	0.8	95	24.9	51	13.4	1	0.3
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	151	0	0.0	1	0.7	32	21.2	12	7.9	1	0.7
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	842	0	0.0	0	0.0	97	11.5	38	4.5	0	0.0
All Remaining Cases Above Guideline Range	121	5	4.1	7	5.8	3	2.5	0	0.0	0	0.0
Government Sponsored Below Range	20,011	6,675	33.4	6,908	34.5	2,386	11.9	1,441	7.2	153	0.8
§5K1.1 Substantial Assistance Departure	9,855	6,675	67.7	93	0.9	192	1.9	183	1.9	28	0.3
§5K3.1 Early Disposition Program Departure	7,242	0	0.0	6,815	94.1	904	12.5	332	4.6	19	0.3
Other Government Sponsored Below Range	2,914	0	0.0	0	0.0	1,290	44.3	926	31.8	106	3.6
Below Range	12,655	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure From Guideline Range	1,542	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553	861	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	9,358	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	894	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0

Table 28A (cont.)

	Pursuant to a Motion Not in a Plea Agreement													
	§5K1.1 Government Motion		§5K3.1 Government Motion		Other Government Motion		Defense Motion/ Government Did Not Object		Defense Motion/ Government Did Object		Other than a Plea/Motion by Parties		No Information Available	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	3,006	8.8	222	0.6	848	2.5	3,324	9.7	3,943	11.5	5,756	16.8	4,110	12.0
Above Range	3	0.2	0	0.0	190	12.7	11	0.7	7	0.5	719	48.1	348	23.3
Upward Departure From Guideline Range	1	0.3	0	0.0	51	13.4	3	0.8	1	0.3	142	37.2	57	14.9
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	49	32.5	3	2.0	2	1.3	103	68.2	29	19.2
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	89	10.6	5	0.6	3	0.4	465	55.2	163	19.4
All Remaining Cases Above Guideline Range	2	1.7	0	0.0	1	0.8	0	0.0	1	0.8	9	7.4	99	81.8
Government Sponsored Below Range	3,003	15.0	222	1.1	658	3.3	853	4.3	577	2.9	818	4.1	579	2.9
§5K1.1 Substantial Assistance Departure	3,003	30.5	2	0.0	196	2.0	352	3.6	281	2.9	421	4.3	216	2.2
§5K3.1 Early Disposition Program Departure	0	0.0	220	3.0	33	0.5	266	3.7	190	2.6	147	2.0	214	3.0
Other Government Sponsored Below Range	0	0.0	0	0.0	429	14.7	235	8.1	106	3.6	250	8.6	149	5.1
Below Range	0	0.0	0	0.0	0	0.0	2,460	19.4	3,359	26.5	4,219	33.3	3,183	25.2
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	546	35.4	333	21.6	471	30.5	221	14.3
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	234	27.2	383	44.5	465	54.0	182	21.1
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	1,650	17.6	2,616	28.0	3,252	34.8	1,973	21.1
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	30	3.4	27	3.0	31	3.5	807	90.3

¹Multiple attributions may be made on the SOR. Therefore, the numbers reported in this table may exceed the number of total cases. For example, among SORs with an attribution, 8,880 cases indicated more than one attribution. Note that only outside of the range cases are included in this table. Descriptions of variables used in this table are provided in Appendix A.