

Table 28A

**ATTRIBUTION CATEGORY FOR CASES OUTSIDE OF THE GUIDELINE RANGE<sup>1</sup>**  
**Fiscal Year 2013**

	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	%
<b>TOTAL</b>	<b>38,395</b>	<b>5,923</b>	<b>15.4</b>	<b>7,847</b>	<b>20.4</b>	<b>3,653</b>	<b>9.5</b>	<b>2,391</b>	<b>6.2</b>	<b>261</b>	<b>0.7</b>
<b>Above Range</b>	<b>1,681</b>	<b>6</b>	<b>0.4</b>	<b>18</b>	<b>1.1</b>	<b>305</b>	<b>18.1</b>	<b>151</b>	<b>9.0</b>	<b>3</b>	<b>0.2</b>
Upward Departure From Guideline Range	399	4	1.0	3	0.8	155	38.8	74	18.5	1	0.3
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	132	0	0.0	1	0.8	13	9.8	14	10.6	0	0.0
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	1,065	0	0.0	0	0.0	137	12.9	63	5.9	2	0.2
All Remaining Cases Above Guideline Range	85	2	2.4	14	16.5	0	0.0	0	0.0	0	0.0
<b>Government Sponsored Below Range</b>	<b>21,974</b>	<b>5,917</b>	<b>26.9</b>	<b>7,829</b>	<b>35.6</b>	<b>3,348</b>	<b>15.2</b>	<b>2,240</b>	<b>10.2</b>	<b>258</b>	<b>1.2</b>
§5K1.1 Substantial Assistance Departure	9,528	5,917	62.1	170	1.8	194	2.0	218	2.3	39	0.4
§5K3.1 Early Disposition Program Departure	8,354	0	0.0	7,659	91.7	1,500	18.0	772	9.2	20	0.2
Other Government Sponsored Below Range	4,092	0	0.0	0	0.0	1,654	40.4	1,250	30.5	199	4.9
<b>Non-Government Sponsored Below Range</b>	<b>14,740</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>
Downward Departure From Guideline Range	2,027	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	694	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	11,519	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	500	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	%
<b>TOTAL</b>	<b>3,348</b>	<b>8.7</b>	<b>208</b>	<b>0.5</b>	<b>1,504</b>	<b>3.9</b>	<b>5,175</b>	<b>13.5</b>	<b>4,832</b>	<b>12.6</b>	<b>5,670</b>	<b>14.8</b>	<b>4,058</b>	<b>10.6</b>
<b>Above Range</b>	<b>3</b>	<b>0.2</b>	<b>0</b>	<b>0.0</b>	<b>230</b>	<b>13.7</b>	<b>11</b>	<b>0.7</b>	<b>6</b>	<b>0.4</b>	<b>670</b>	<b>39.9</b>	<b>379</b>	<b>22.5</b>
Upward Departure From Guideline Range	0	0.0	0	0.0	58	14.5	4	1.0	1	0.3	112	28.1	37	9.3
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	31	23.5	0	0.0	0	0.0	74	56.1	14	10.6
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	140	13.1	7	0.7	4	0.4	473	44.4	268	25.2
All Remaining Cases Above Guideline Range	3	3.5	0	0.0	1	1.2	0	0.0	1	1.2	11	12.9	60	70.6
<b>Government Sponsored Below Range</b>	<b>3,345</b>	<b>15.2</b>	<b>208</b>	<b>0.9</b>	<b>1,274</b>	<b>5.8</b>	<b>1,174</b>	<b>5.3</b>	<b>834</b>	<b>3.8</b>	<b>809</b>	<b>3.7</b>	<b>744</b>	<b>3.4</b>
§5K1.1 Substantial Assistance Departure	3,345	35.1	10	0.1	312	3.3	607	6.4	368	3.9	490	5.1	187	2.0
§5K3.1 Early Disposition Program Departure	0	0.0	198	2.4	59	0.7	187	2.2	315	3.8	165	2.0	339	4.1
Other Government Sponsored Below Range	0	0.0	0	0.0	903	22.1	380	9.3	151	3.7	154	3.8	218	5.3
<b>Non-Government Sponsored Below Range</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>3,990</b>	<b>27.1</b>	<b>3,992</b>	<b>27.1</b>	<b>4,191</b>	<b>28.4</b>	<b>2,935</b>	<b>19.9</b>
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	913	45.0	330	16.3	522	25.8	304	15.0
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	155	22.3	225	32.4	266	38.3	120	17.3
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	2,922	25.4	3,434	29.8	3,387	29.4	2,030	17.6
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	0	0.0	3	0.6	16	3.2	481	96.2

<sup>1</sup> Multiple 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, 5,593 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.