

Table 24A

**REASONS GIVEN BY SENTENCING COURTS FOR UPWARD
DEPARTURES WITH *BOOKER*/18 U.S.C. § 3553¹
Fiscal Year 2009**

REASONS	N	%
Criminal history issues	142	17.9
Nature and circumstance of offense/history of defendant	102	12.9
Reflect seriousness of offense/promotes respect for law/just punishment	97	12.2
Afford adequate deterrence to criminal conduct	89	11.2
Protect public from further crimes	83	10.5
General aggravating circumstances (§5K2.0)	31	3.9
Insufficient documentation provided on SOR to determine reason	31	3.9
Provide defendant with educational or vocational training/medical care	28	3.5
Pursuant to plea agreement	22	2.8
Avoid unwarranted sentencing disparity among defendants	21	2.6
General guideline adequacy issues	15	1.9
Dismissed and uncharged conduct (§5K2.21)	11	1.4
Deterrence	10	1.3
Propensity for violence	7	0.9
Ongoing nature of activity	7	0.9
18 U.S.C. § 3553(a)	6	0.8
Excerpt from 18 U.S.C. § 3553(a)	6	0.8
Mule/role in offense	4	0.5
Conduct while on release, bond, or supervision	4	0.5
Risk of death or bodily injury (§8C4.2)	4	0.5
Death (§5K2.1)	3	0.4
Weapons/dangerous instrumentalities (§5K2.6)	3	0.4
Criminal purpose (§5K2.9)	3	0.4
Public welfare (§5K2.14)	3	0.4
Circumstance not considered by guidelines	3	0.4
Unspecified government motion (not §5K1.1 or §5K3.1)	3	0.4
Large number of aliens (§2L1.1)	3	0.4
Terrifying the victim	3	0.4
Not representative of heartland	3	0.4
Offense level understates offense seriousness (§2B1.1)	3	0.4
Other	43	5.4
TOTAL	793	100.0

¹Of the 81,372 cases, 151 received an upward departure from the guideline range with *Booker*/18 U.S.C § 3553. Courts may cite multiple reasons for sentencing outside the guideline range; consequently, the total number of reasons cited generally exceeds the total number of cases. In this table, 793 reasons were cited for the 151 cases. In 31 cases where the SOR was received, there was insufficient documentation provided to determine some of the reasons for the sentence. The "Other" category includes all reasons cited fewer than three times among relevant cases. Descriptions of the variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2009 Datafile, USSCFY09.