

Table 28A

ATTRIBUTION CATEGORY FOR CASES OUTSIDE OF THE GUIDELINE RANGE¹
Fiscal Year 2012

	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	39,341	6,246	15.9	8,594	21.8	3,701	9.4	2,332	5.9	233	0.6
Above Range	1,631	9	0.6	26	1.6	313	19.2	149	9.1	2	0.1
Upward Departure From Guideline Range	451	4	0.9	10	2.2	152	33.7	90	20.0	0	0.0
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	127	0	0.0	0	0.0	16	12.6	4	3.1	0	0.0
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	977	0	0.0	0	0.0	142	14.5	54	5.5	2	0.2
All Remaining Cases Above Guideline Range	76	5	6.6	16	21.1	3	3.9	1	1.3	0	0.0
Government Sponsored Below Range	22,987	6,237	27.1	8,568	37.3	3,388	14.7	2,183	9.5	231	1.0
§5K1.1 Substantial Assistance Departure	9,677	6,237	64.5	126	1.3	187	1.9	174	1.8	38	0.4
§5K3.1 Early Disposition Program Departure	9,276	0	0.0	8,442	91.0	1,440	15.5	891	9.6	9	0.1
Other Government Sponsored Below Range	4,034	0	0.0	0	0.0	1,761	43.7	1,118	27.7	184	4.6
Non-Government Sponsored Below Range	14,723	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure From Guideline Range	1,897	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	811	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	11,487	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	528	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	3,150	8.0	333	0.8	1,431	3.6	4,758	12.1	4,917	12.5	5,809	14.8	4,168	10.6
Above Range	4	0.2	0	0.0	244	15.0	8	0.5	3	0.2	667	40.9	301	18.5
Upward Departure From Guideline Range	1	0.2	0	0.0	63	14.0	4	0.9	1	0.2	133	29.5	51	11.3
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	37	29.1	1	0.8	0	0.0	66	52.0	13	10.2
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	144	14.7	2	0.2	2	0.2	461	47.2	191	19.5
All Remaining Cases Above Guideline Range	3	3.9	0	0.0	0	0.0	1	1.3	0	0.0	7	9.2	46	60.5
Government Sponsored Below Range	3,146	13.7	333	1.4	1,187	5.2	1,145	5.0	784	3.4	750	3.3	869	3.8
§5K1.1 Substantial Assistance Departure	3,146	32.5	6	0.1	258	2.7	585	6.0	361	3.7	452	4.7	230	2.4
§5K3.1 Early Disposition Program Departure	0	0.0	327	3.5	64	0.7	192	2.1	299	3.2	145	1.6	426	4.6
Other Government Sponsored Below Range	0	0.0	0	0.0	865	21.4	368	9.1	124	3.1	153	3.8	213	5.3
Non-Government Sponsored Below Range	0	0.0	0	0.0	0	0.0	3,605	24.5	4,130	28.1	4,392	29.8	2,998	20.4
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	690	36.4	402	21.2	537	28.3	319	16.8
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	184	22.7	276	34.0	299	36.9	146	18.0
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	2,731	23.8	3,449	30.0	3,535	30.8	2,029	17.7
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	0	0.0	3	0.6	21	4.0	504	95.5

¹ 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, 5,379 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.