

Table 41
REASONS GIVEN BY SENTENCING COURTS FOR
UPWARD DEPARTURES FROM THE GUIDELINE RANGE¹
Fiscal Year 2023

| REASONS | N | % |
|---|------------|--------------|
| Criminal history issues | 158 | 20.6 |
| Dismissed and uncharged conduct (§5K2.21) | 61 | 8.0 |
| Pursuant to plea agreement | 59 | 7.7 |
| General aggravating circumstances (§5K2.0) | 56 | 7.3 |
| Reflect seriousness of offense/promotes respect for law/just punishment | 41 | 5.3 |
| Afford adequate deterrence to criminal conduct | 36 | 4.7 |
| Protect public from further crimes | 34 | 4.4 |
| The nature and circumstance of the offense | 29 | 3.8 |
| The history and characteristics of the defendant | 29 | 3.8 |
| Death (§5K2.1) | 27 | 3.5 |
| Extreme conduct (§5K2.8) | 26 | 3.4 |
| Physical injury (§5K2.2) | 14 | 1.8 |
| Role in the offense | 14 | 1.8 |
| Victim impact | 13 | 1.7 |
| Avoid unwarranted sentencing disparity | 11 | 1.4 |
| Weapons/dangerous instrumentalities (§5K2.6) | 9 | 1.2 |
| Age (§5H1.1) | 7 | 0.9 |
| Advisory nature of guidelines | 6 | 0.8 |
| Party motion/agreement/consent (reason unspecified) | 5 | 0.7 |
| Mental and emotional conditions | 5 | 0.7 |
| Extreme psychological injury (§5K2.3) | 4 | 0.5 |
| Provide educational or vocational training | 4 | 0.5 |
| Nature or seriousness of the offense | 4 | 0.5 |
| Conduct while on release, bond, or supervision | 4 | 0.5 |
| Lack of remorse | 4 | 0.5 |
| Provide restitution to any victims | 3 | 0.4 |
| Drug dependence and alcohol abuse (§5H1.4) | 3 | 0.4 |
| Disruption of government function (§5K2.7) | 3 | 0.4 |
| Public welfare (§5K2.14) | 3 | 0.4 |
| Aberrant behavior (§5K2.20) | 3 | 0.4 |
| Age or health of person sentenced for sex offense (§5K2.22) | 3 | 0.4 |
| Mens Rea | 3 | 0.4 |
| Lack of youthful guidance/tragic or troubled childhood | 3 | 0.4 |
| General guideline adequacy issues | 3 | 0.4 |
| Other | 80 | 10.4 |
| TOTAL | 767 | 100.0 |

¹ Of the 64,124 cases, in 314 the sentence was an upward departure. 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, 767 reasons were cited for the 314 cases. The 'Other' category includes all reasons cited fewer than three times among relevant cases and six cases where the Statement of Reason was received, but there was insufficient documentation provided to determine some of the reasons for the sentence. Descriptions of the variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2023 Datafile, USSCFY23.