

Table 50

GUIDELINE INVOLVED IN ISSUES APPEALED BY DEFENDANTS¹
(October 1, 1995, through September 30, 1996)

GUIDELINE	Number	Percent	Affirmance Rate²
TOTAL	6,636	100.0	91.9
2D1.1 (Drug Trafficking)	960	17.4	95.0
5K2.0 (Departures)	449	6.7	91.7
3E1.1 (Acceptance of Responsibility)	361	5.7	96.0
3B1.2 (Mitigating Role)	291	4.4	98.3
3B1.1 (Aggravating Role)	288	4.3	89.9
3C1.1 (Obstruction of Justice)	238	3.6	96.2
2F1.1 (Fraud)	225	3.4	88.9
6A1.3 (Resolution of Disputed Factors)	222	3.4	88.3
5E1.1 (Restitution)	183	2.8	69.4
5K1.1 (Substantial Assistance to Authorities)	140	2.1	95.7
4A1.3 (Adequacy of Criminal History)	130	2.0	88.5
4A1.2 (Definitions and Instruction of Criminal History)	118	1.8	89.0
5C1.2 (Limitation on Applicability of Statutory Minimums)	107	1.6	95.3
7B1.3 (Revocation of Probation or Supervised Release)	95	1.4	95.8
2K2.1 (Firearms)	92	1.4	94.6
5G1.3 (Defendant Subject to Undischarged Term of Imprisonment)	88	1.3	89.8
1B1.10 (Retroactivity of Amended Guideline Ranges)	77	1.2	79.2
2B3.1 (Robbery)	77	1.2	89.6
5E1.2 (Fines for Individual Defendants)	71	1.1	76.1
4B1.1 (Career Offender)	67	1.0	92.5
4A1.1 (Criminal History Category)	66	1.0	93.9
4B1.4 (Armed Career Criminal)	66	1.0	95.4
1B1.3 (Relevant Conduct)	65	1.0	96.2
3B1.3 (Abuse of Position of Trust or Use of Special Skill)	59	0.9	91.5
4B1.2 (Definitions for Career Offender)	58	0.9	86.2
6B1.1 (Plea Agreement Procedure)	57	0.9	94.6
3A1.1 (Vulnerable Victim)	46	0.7	87.0
1B1.2 (Applicable Guidelines)	43	0.6	86.0
7B1.4 (Term of Imprisonment)	43	0.6	86.0
1B1.11 (Use of Guideline Manual in Effect at Sentencing)	40	0.6	87.5
5H1.6 (Family Ties and Responsibilities)	40	0.6	90.0
5D1.3 (Conditions of Supervised Release)	36	0.5	91.7
2A2.2 (Aggravated Assault)	34	0.5	97.9
2B1.1 (Larceny, Embezzlement and Theft)	33	0.5	87.9
2L1.2 (Unlawfully Entering or Remaining in the United States)	31	0.5	93.5
5K2.13 (Diminished Capacity)	28	0.4	100.0
6B1.4 (Stipulations)	25	0.4	96.0
2K2.4 (Use of Firearm During or in Relation to Certain Crimes)	24	0.4	66.7
3C1.2 (Gratuity)	20	0.3	100.0
5H1.4 (Physical Condition)	20	0.3	100.0
Constitutional Issues	378	5.4	95.8
Other Guidelines	502	7.6	89.0
Other Non-guideline Issues	446	6.7	91.7

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¹Based on 4,262 appeals defendants with sentencing as at least one of the reasons for appeal. Information on issues was unavailable in 221 cases and disposition of the issue was unavailable for 26 issues. Often more than one issue was appealed; consequently, the number of issues is more than the number of defendants. The "Other" category includes all issues provided fewer than 20 times among relevant cases.

²Affirmance rate includes all cases not reversed by the circuit court.
 SOURCE: U.S. Sentencing Commission, 1996 Appeals Datafile, APPFY96.