GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS¹
Fiscal Year 2008

Table 57

TOTAL 13,89 100.0 92.1 18 U.S.C. § 3553(a) Factors 1,676 12.1 94.4 2D.1.1 (Drug Trafficking) 1,603 11.6 85.9 2L.1.2 (Unlawfully Entering or Remaining in the United States) 1,032 7.5 94.4 2K.2.1 (Firearms) 364 2.6 91.8 2B.1.1 (Larceny, Embezzlement, and Theft) 353 2.6 90.9 3E.1.1 (Acceptance of Responsibility) 227 1.6 96.0 3B.1.2 (Mitigating Role) 225 1.6 98.1 3B.1.2 (Mitigating Role) 215 1.6 98.1 3B.1.2 (Mitigating Role) 121 1.6 98.1 3B.1.2 (Mitigating Role) 125 1.6 98.1 3B.1.2 (Primitigation of Probation or Supervised Release) 17 1.3 96.6 3C1.1 (Obstruction of Justice) 160 1.2 92.2 4B.1.4 (Armed Career Criminal) 160 1.2 92.5 4B.1.4 (Armed Career Criminal History) 153 1.1 94.7 5C1.2 (Limitation on Applicabili	GUIDELINE	Number	Percent	Affirmance Rate ²
2D1.1 (Drug Traficking) 1.603 11.6 85.9 2L1.2 (Unlawfully Entering or Remaining in the United States) 1,032 7.5 94.4 2K2.1 (Firearms) 364 2.6 91.8 2B1.1 (Larceny, Embezzlement, and Theft) 353 2.6 90.9 3B1.1 (Acceptance of Responsibility) 227 1.6 96.0 3B1.1 (Aggravating Role) 225 1.6 92.4 3B1.2 (Mitigating Role) 215 1.6 98.1 7B1.3 (Revocation of Probation or Supervised Release) 177 1.3 96.6 3C1.1 (Obstruction of Justice) 173 1.3 94.2 4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.4 (Term of Imprisonment) 153 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 97.6 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 121 0.9 95.9 5E1.1 (Substantial Assi	TOTAL	13,839	100.0	92.1
2L1.2 (Unlawfully Enering or Remaining in the United States) 1,032 7.5 94.4 2K2.1 (Firearms) 364 2.6 91.8 2B1.1 (Larceny, Embezzlement, and Theft) 353 2.6 90.9 3E1.1 (Acceptance of Responsibility) 227 1.6 96.0 3B1.1 (Aggravating Role) 225 1.6 92.4 3B1.2 (Mitigating Role) 215 1.6 98.1 7B1.3 (Revocation of Probation or Supervised Release) 177 1.3 96.6 3C1.1 (Obstruction of Justice) 173 1.3 94.2 4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.4 (Term of Imprisonment) 153 1.1 94.7 4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 97.0 5E1.1 (Restitution) 137 1.0 79.6 4B.1. (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 121 0.9 95.9 5K1.1 (Substan	18 U.S.C. § 3553(a) Factors	1,676	12.1	94.4
2K2.1 (Firearms) 364 2.6 91.8 2B1.1 (Larceny, Embezzlement, and Theft) 353 2.6 90.9 3E1.1 (Acceptance of Responsibility) 227 1.6 96.0 3B1.1 (Aggravating Role) 225 1.6 92.4 3B1.2 (Mitigating Role) 177 1.3 96.6 3B1.2 (Mitigating Role) 173 1.3 96.6 3C1.1 (Obstruction of Probation or Supervised Release) 173 1.3 94.2 4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.3 (Revocation of Probation or Supervised Release) 173 1.3 94.2 4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.4 (Term of Imprisonment) 153 1.1 91.5 4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 97.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial	2D1.1 (Drug Trafficking)	1,603	11.6	85.9
BB.1.1 (Larceny, Embezzlement, and Theft) 353 2.6 90.9 3E1.1 (Acceptance of Responsibility) 227 1.6 96.0 3B1.1 (Aggravating Role) 225 1.6 92.4 3B1.2 (Mitigating Role) 215 1.6 98.1 7B1.3 (Revocation of Probation or Supervised Release) 177 1.3 96.2 3C1.1 (Obstruction of Justice) 173 1.3 94.2 4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.4 (Term of Imprisonment) 153 1.1 91.5 4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions of Supervise	2L1.2 (Unlawfully Entering or Remaining in the United States)	1,032	7.5	94.4
BELL (Acceptance of Responsibility) 227 1.6 96.0 3BL (Aggravating Role) 225 1.6 92.4 3BL (Mitigating Role) 215 1.6 98.1 7BL (Mitigating Role) 177 1.3 96.6 3CLI (Obstruction of Probation or Supervised Release) 173 1.3 94.2 4BL4 (Armed Career Criminal) 160 1.2 92.5 4BL4 (Term of Imprisonment) 153 1.1 94.7 5CL2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5EL1 (Restitution) 137 1.0 79.6 4BL1 (Career Offender) 134 1.0 97.0 5KL.0 (Departures) 126 0.9 89.7 5KL.1 (Substantial Assistance to Authorities) 121 0.9 75.8 5DL3 (Conditions of Supervised Release) 120 0.9 75.8 5DL3 (Robbery) 110 0.8 92.7 4AL1.2 (Definitions and Instructions of Criminal History) 110 0.8 92.7 1BL10 (Retroactivity of Amended	2K2.1 (Firearms)	364	2.6	91.8
3B1.1 (Aggravating Role) 225 1.6 92.4 3B1.2 (Mitigating Role) 215 1.6 98.1 7B1.3 (Revocation of Probation or Supervised Release) 177 1.3 96.6 3C1.1 (Obstruction of Justice) 173 1.3 94.2 4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.4 (Term of Imprisonment) 153 1.1 91.5 4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 10 0.8 92.7 1B1.10 (Retro	2B1.1 (Larceny, Embezzlement, and Theft)	353	2.6	90.9
3B1.2 (Mitigating Role) 215 1.6 98.1 7B1.3 (Revocation of Probation or Supervised Release) 177 1.3 96.6 3C1.1 (Obstruction of Justice) 173 1.3 94.2 4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.4 (Term of Imprisonment) 153 1.1 91.5 4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 0.0 0.8 97.8	3E1.1 (Acceptance of Responsibility)	227	1.6	96.0
7B1.3 (Revocation of Probation or Supervised Release) 177 1.3 96.6 3C1.1 (Obstruction of Justice) 173 1.3 94.2 4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.4 (Term of Imprisonment) 153 1.1 91.5 4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 75.8 5B1.3 (Robbery) 110 0.8 92.7 4A1.2 (Definitions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.1 (Criminal History Category) 110 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2C2.2 (Traf	3B1.1 (Aggravating Role)	225	1.6	92.4
3C1.1 (Obstruction of Justice) 173 1.3 94.2 4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.4 (Term of Imprisonment) 153 1.1 91.5 4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 75.8 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.1 (Criminal History Category) 110 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.13 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 <td>3B1.2 (Mitigating Role)</td> <td>215</td> <td>1.6</td> <td>98.1</td>	3B1.2 (Mitigating Role)	215	1.6	98.1
4B1.4 (Armed Career Criminal) 160 1.2 92.5 7B1.4 (Term of Imprisonment) 153 1.1 91.5 4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 92.7 4B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Rela	7B1.3 (Revocation of Probation or Supervised Release)	177	1.3	96.6
7B1.4 (Term of Imprisonment) 153 1.1 91.5 4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 92.7 4B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (3C1.1 (Obstruction of Justice)	173	1.3	94.2
4A1.3 (Adequacy of Criminal History) 152 1.1 94.7 5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 92.7 4B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 <t< td=""><td>4B1.4 (Armed Career Criminal)</td><td>160</td><td>1.2</td><td>92.5</td></t<>	4B1.4 (Armed Career Criminal)	160	1.2	92.5
5C1.2 (Limitation on Applicability of Statutory Minimums) 138 1.0 93.5 5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 92.7 4A1.1 (Criminal History Category) 109 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2	7B1.4 (Term of Imprisonment)	153	1.1	91.5
5E1.1 (Restitution) 137 1.0 79.6 4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 90.0 4A1.1 (Criminal History Category) 109 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1	4A1.3 (Adequacy of Criminal History)	152	1.1	94.7
4B1.1 (Career Offender) 134 1.0 97.0 5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 90.0 4A1.1 (Criminal History Category) 109 0.8 92.7 1B1.0 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1 4B1.2 (Definitions for Career Offender) 59 0.4 79.7 <td>5C1.2 (Limitation on Applicability of Statutory Minimums)</td> <td>138</td> <td>1.0</td> <td>93.5</td>	5C1.2 (Limitation on Applicability of Statutory Minimums)	138	1.0	93.5
5K2.0 (Departures) 126 0.9 89.7 5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 90.0 4A1.1 (Criminal History Category) 109 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1 4B1.2 (Definitions for Career Offender) 59 0.4 79.7 5D1.2 (Term of Supervised Release) 55 0.4 72.7 </td <td>5E1.1 (Restitution)</td> <td>137</td> <td>1.0</td> <td>79.6</td>	5E1.1 (Restitution)	137	1.0	79.6
5K1.1 (Substantial Assistance to Authorities) 121 0.9 95.9 5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 90.0 4A1.1 (Criminal History Category) 109 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1 4B1.2 (Definitions for Career Offender) 59 0.4 79.7 5D1.2 (Term of Supervised Release) 55 0.4 72.7	4B1.1 (Career Offender)	134	1.0	97.0
5D1.3 (Conditions of Supervised Release) 120 0.9 75.8 2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 90.0 4A1.1 (Criminal History Category) 109 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1 4B1.2 (Definitions for Career Offender) 59 0.4 79.7 5D1.2 (Term of Supervised Release) 55 0.4 72.7	5K2.0 (Departures)	126	0.9	89.7
2B3.1 (Robbery) 110 0.8 92.7 4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 90.0 4A1.1 (Criminal History Category) 109 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1 4B1.2 (Definitions for Career Offender) 59 0.4 79.7 5D1.2 (Term of Supervised Release) 55 0.4 72.7	5K1.1 (Substantial Assistance to Authorities)	121	0.9	95.9
4A1.2 (Definitions and Instructions of Criminal History) 110 0.8 90.0 4A1.1 (Criminal History Category) 109 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1 4B1.2 (Definitions for Career Offender) 59 0.4 79.7 5D1.2 (Term of Supervised Release) 55 0.4 72.7	5D1.3 (Conditions of Supervised Release)	120	0.9	75.8
4A1.1 (Criminal History Category) 109 0.8 92.7 1B1.10 (Retroactivity of Amended Guideline Ranges) 107 0.8 87.8 1B1.3 (Relevant Conduct) 104 0.8 91.4 2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors) 101 0.7 93.1 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 86 0.6 88.4 2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1 4B1.2 (Definitions for Career Offender) 59 0.4 79.7 5D1.2 (Term of Supervised Release) 55 0.4 72.7	2B3.1 (Robbery)	110	0.8	92.7
1B1.10 (Retroactivity of Amended Guideline Ranges)1070.887.81B1.3 (Relevant Conduct)1040.891.42G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors)1010.793.15G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)860.688.42K2.4 (Use of Firearms in Relation to Certain Crimes)800.690.06A1.3 (Resolution of Disputed Factors)800.691.22L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien)760.592.14B1.2 (Definitions for Career Offender)590.479.75D1.2 (Term of Supervised Release)550.472.7	4A1.2 (Definitions and Instructions of Criminal History)	110	0.8	90.0
1B1.3 (Relevant Conduct)1040.891.42G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors)1010.793.15G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)860.688.42K2.4 (Use of Firearms in Relation to Certain Crimes)800.690.06A1.3 (Resolution of Disputed Factors)800.691.22L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien)760.592.14B1.2 (Definitions for Career Offender)590.479.75D1.2 (Term of Supervised Release)550.472.7	4A1.1 (Criminal History Category)	109	0.8	92.7
2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors)1010.793.15G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)860.688.42K2.4 (Use of Firearms in Relation to Certain Crimes)800.690.06A1.3 (Resolution of Disputed Factors)800.691.22L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien)760.592.14B1.2 (Definitions for Career Offender)590.479.75D1.2 (Term of Supervised Release)550.472.7	1B1.10 (Retroactivity of Amended Guideline Ranges)	107	0.8	87.8
5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)860.688.42K2.4 (Use of Firearms in Relation to Certain Crimes)800.690.06A1.3 (Resolution of Disputed Factors)800.691.22L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien)760.592.14B1.2 (Definitions for Career Offender)590.479.75D1.2 (Term of Supervised Release)550.472.7	1B1.3 (Relevant Conduct)	104	0.8	91.4
2K2.4 (Use of Firearms in Relation to Certain Crimes) 80 0.6 90.0 6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1 4B1.2 (Definitions for Career Offender) 59 0.4 79.7 5D1.2 (Term of Supervised Release) 55 0.4 72.7	2G2.2 (Trafficking in Material Involving Sexual Exploitation of Minors)	101	0.7	93.1
6A1.3 (Resolution of Disputed Factors) 80 0.6 91.2 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 76 0.5 92.1 4B1.2 (Definitions for Career Offender) 59 0.4 79.7 5D1.2 (Term of Supervised Release) 55 0.4 72.7	5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)	86	0.6	88.4
2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien)760.592.14B1.2 (Definitions for Career Offender)590.479.75D1.2 (Term of Supervised Release)550.472.7	2K2.4 (Use of Firearms in Relation to Certain Crimes)	80	0.6	90.0
4B1.2 (Definitions for Career Offender) 59 0.4 79.7 5D1.2 (Term of Supervised Release) 55 0.4 72.7	6A1.3 (Resolution of Disputed Factors)	80	0.6	91.2
5D1.2 (Term of Supervised Release) 55 0.4 72.7	2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien)	76	0.5	92.1
	4B1.2 (Definitions for Career Offender)	59	0.4	79.7
	5D1.2 (Term of Supervised Release)	55	0.4	72.7
Constitutional Issues 2,917 21.1 94.5	Constitutional Issues	2,917	21.1	94.5
Other Guidelines 1,017 7.3 89.5	Other Guidelines	1,017	7.3	89.5
Other Non-guideline Issues 1,542 11.1 93.3	Other Non-guideline Issues	1,542	11.1	93.3

SOURCE: U.S. Sentencing Commission, 2008 Appeals Datafile, APPFY08.

¹Based on 6,246 appeals by defendants with sentencing as at least one of the reasons for appeal. 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 appealed fewer than 50 times among relevant cases.

²Affirmance Rate includes all appeals cases not reversed or directly remanded by the circuit court.