Table 57

GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANT¹

Fiscal Year 2010

TOTAL 1,006 10.0 92.8 2D1.1 (Drug Trafficking) 1,566 13.0 93.8 18 U.S.C. § 3555(a) Factors 1,471 12.2 94.6 1B1.10 (Retroactivity of Amended Guideline Ranges) 972 8.1 96.2 2L1.2 (Unlawfully Entering or Remaining in the United States) 375 3.1 90.4 2B1.1 (Accept, Embezzlement, and Theft) 245 2.0 86.9 2K2.1 (Firearms) 183 1.9 88.4 3B1.1 (Aggravating Role) 183 1.5 96.7 3B1.2 (Mitigating Role) 163 1.4 97.6 3B1.1 (Acceptance of Responsibility) 159 1.3 95.6 7B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.4 5E1.1 (Restitution) 139 1.2 1.6 95.2 5E1.1 (Restitution) 133 1.1 80.4 4B.1 (Acreer Offender) 133 1.1 80.4 5G1.3 (Imposition of Justice) 102 1.0 93.3 5D1.3 (Conditions of Supervised	GUIDELINE	N	%	Affirmance Rate ²
IS U.S.C. § 3553(a) Factors 1.471 12.2 94.6 IBI.10 (Retroactivity of Amended Guideline Ranges) 972 8.1 96.2 2L.1.2 (Unlawfully Entering or Remaining in the United States) 375 3.1 90.4 2B1.1 (Lacreny, Embezzlement, and Theft) 245 2.0 86.9 2K2.1 (Firearms) 333 1.9 88.4 3B1.1 (Aggravating Role) 163 1.4 97.6 3B1.2 (Mitigating Role) 163 1.4 97.6 3E1.1 (Acceptance of Responsibility) 159 1.3 95.6 7B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.6 7B1.1 (Restitution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 110 0.8 93.1 5G1.3 (Imposition of Sentence: Defendant Subject to Undischarged Term of Prison) 100 0.8 <t< th=""><th>TOTAL</th><th>12,026</th><th>100.0</th><th>92.8</th></t<>	TOTAL	12,026	100.0	92.8
BB1.10 (Retroactivity of Amended Guideline Ranges) 972 8.1 96.2 2L1.2 (Unlawfully Entering or Remaining in the United States) 375 3.1 90.4 2B1.1 (Larceny, Embezzlement, and Theft) 245 2.0 86.9 2K2.1 (Firearms) 233 1.9 88.4 3B1.1 (Aggravating Role) 163 1.4 97.6 3B1.2 (Mitigating Role) 163 1.4 97.6 3B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.6 7B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.4 5E1.1 (Restitution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 133 1.1 80.4 4B1.1 (Career Offender) 133 1.1 80.4 4B1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.5 4B1.3 (Relevant Conduct) 90 0.7 92.2	2D1.1 (Drug Trafficking)	1,566	13.0	93.8
21.1.2 (Unlawfully Entering or Remaining in the United States) 375 3.1 90.4 2B1.1 (Larceny, Embezzlement, and Theft) 245 2.0 86.9 2K2.1 (Firearms) 233 1.9 88.84 3B1.1 (Aggravating Role) 163 1.4 97.6 3B1.2 (Mitigating Role) 163 1.4 97.6 3E1.1 (Acceptance of Responsibility) 159 1.3 95.6 7B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.4 5E1.1 (Restitution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.2 82.0 4B1.1 (Career Offender) 133 1.0 93.8 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99	18 U.S.C. § 3553(a) Factors	1,471	12.2	94.6
2B1.1 (Larceny, Embezzlement, and Theft) 245 2.0 86.9 2K2.1 (Firearms) 233 1.9 88.4 3B1.1 (Aggravating Role) 182 1.5 96.7 3B1.2 (Mitigating Role) 163 1.4 97.6 3E1.1 (Acceptance of Responsibility) 159 1.3 95.6 3E1.1 (Restitution) 149 1.2 74.5 5E1.1 (Restitution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 101 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.2 <	1B1.10 (Retroactivity of Amended Guideline Ranges)	972	8.1	96.2
2K2.1 (Firearms) 233 1.9 88.4 3B1.1 (Aggravating Role) 182 1.5 96.7 3B1.2 (Mitigating Role) 163 1.4 97.6 3E1.1 (Acceptance of Responsibility) 159 1.3 95.6 7B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.6 7B1.4 (Restitution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 102 0.8 93.3 4B1.1 (Conditions of Supervised Release) 100 0.8 68.0 4B1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 4B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2B2.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 95.5<	2L1.2 (Unlawfully Entering or Remaining in the United States)	375	3.1	90.4
3B1.1 (Aggravating Role) 182 1.5 96.7 3B1.2 (Mitigating Role) 163 1.4 97.6 3E1.1 (Acceptance of Responsibility) 159 1.3 95.6 7B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.4 5E1.1 (Restritution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4B1.3 (Relevant Conduct) 90 0.7 92.1 1B1.3 (Relevant Conduct) 90 0.7 92.1 2B1.3 (Revocation of Probation or Supervised Release) 83 0.7 95	2B1.1 (Larceny, Embezzlement, and Theft)	245	2.0	86.9
3B1.2 (Mitigating Role) 163 1.4 97.6 3E1.1 (Acceptance of Responsibility) 159 1.3 95.6 7B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.4 5E1.1 (Restitution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 95.2 4B1.2 (Definitions for Care	2K2.1 (Firearms)	233	1.9	88.4
3E1.1 (Acceptance of Responsibility) 159 1.3 95.6 7B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.4 5E1.1 (Restitution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 4B1.2 (Inimi	3B1.1 (Aggravating Role)	182	1.5	96.7
7B1.3 (Revocation of Probation or Supervised Release) 154 1.3 95.4 5E1.1 (Restitution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 4B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 95.2 2K2.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 59.5 4B1.2 (Definitions for Career Offender) 79 0.7 59.5	3B1.2 (Mitigating Role)	163	1.4	97.6
SE1.1 (Restitution) 149 1.2 74.5 4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 4B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substa	3E1.1 (Acceptance of Responsibility)	159	1.3	95.6
4B1.4 (Armed Career Criminal) 139 1.2 82.0 4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 4B1.2 (Definitions for Career Offender) 79 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 <tr< td=""><td>7B1.3 (Revocation of Probation or Supervised Release)</td><td>154</td><td>1.3</td><td>95.4</td></tr<>	7B1.3 (Revocation of Probation or Supervised Release)	154	1.3	95.4
4B1.1 (Career Offender) 133 1.1 80.4 3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5	5E1.1 (Restitution)	149	1.2	74.5
3C1.1 (Obstruction of Justice) 122 1.0 93.3 4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 95.2 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) <td>4B1.4 (Armed Career Criminal)</td> <td>139</td> <td>1.2</td> <td>82.0</td>	4B1.4 (Armed Career Criminal)	139	1.2	82.0
4A1.3 (Adequacy of Criminal History) 116 1.0 94.8 5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 83.1 5C1.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 59 0.5 98.3 5K2.0 (Departures) 59	4B1.1 (Career Offender)	133	1.1	80.4
5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison) 102 0.8 93.1 5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852	3C1.1 (Obstruction of Justice)	122	1.0	93.3
5D1.3 (Conditions of Supervised Release) 100 0.8 68.0 4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 83.1 5C1.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 59 0.5 98.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7	4A1.3 (Adequacy of Criminal History)	116	1.0	94.8
4A1.2 (Definitions and Instructions of Criminal History) 99 0.8 91.9 4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 83.1 5C1.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6 </td <td>5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)</td> <td>102</td> <td>0.8</td> <td>93.1</td>	5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)	102	0.8	93.1
4A1.1 (Criminal History Category) 94 0.8 91.5 1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 83.1 5C1.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	5D1.3 (Conditions of Supervised Release)	100	0.8	68.0
1B1.3 (Relevant Conduct) 90 0.7 92.2 7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 83.1 5C1.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	4A1.2 (Definitions and Instructions of Criminal History)	99	0.8	91.9
7B1.3 (Revocation of Probation or Supervised Release) 89 0.7 92.1 2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 83.1 5C1.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	4A1.1 (Criminal History Category)	94	0.8	91.5
2K2.4 (Use of Firearms During or in Relation to Certain Crimes) 83 0.7 83.1 5C1.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	1B1.3 (Relevant Conduct)	90	0.7	92.2
5C1.2 (Limitation on Applicability of Statutory Minimums) 83 0.7 95.2 4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	7B1.3 (Revocation of Probation or Supervised Release)	89	0.7	92.1
4B1.2 (Definitions for Career Offender) 79 0.7 59.5 2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	2K2.4 (Use of Firearms During or in Relation to Certain Crimes)	83	0.7	83.1
2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors) 76 0.6 93.4 1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	5C1.2 (Limitation on Applicability of Statutory Minimums)	83	0.7	95.2
1B1.4 (Information to be Used in Imposing Sentence) 69 0.6 94.2 5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	4B1.2 (Definitions for Career Offender)	79	0.7	59.5
5K1.1 (Substantial Assistance to Authorities) 64 0.5 90.6 6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors)	76	0.6	93.4
6A1.3 (Resolution of Disputed Factors) 62 0.5 82.3 5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	1B1.4 (Information to be Used in Imposing Sentence)	69	0.6	94.2
5K2.0 (Departures) 59 0.5 98.3 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) 46 0.4 93.5 Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	5K1.1 (Substantial Assistance to Authorities)	64	0.5	90.6
2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien)460.493.5Constitutional Issues2,96824.796.6Other Guidelines8527.188.6	6A1.3 (Resolution of Disputed Factors)	62	0.5	82.3
Constitutional Issues 2,968 24.7 96.6 Other Guidelines 852 7.1 88.6	5K2.0 (Departures)	59	0.5	98.3
Other Guidelines 852 7.1 88.6	2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien)	46	0.4	93.5
	Constitutional Issues	2,968	24.7	96.6
Other Non-guideline Issues 832 6.9 90.3	Other Guidelines	852	7.1	88.6
	Other Non-guideline Issues	832	6.9	90.3

SOURCE: U.S. Sentencing Commission, 2010 Appeals Datafile, APPFY10.

¹ Based on 5,269 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 Guidelines" category includes all issues appealed fewer than 40 times.

² Affirmance Rate includes all appeals cases not reversed or directly remanded by the courts of appeal.