

Table 58**GUIDELINE INVOLVED IN ISSUES APPEALED BY THE GOVERNMENT¹
Fiscal Year 2012**

GUIDELINE	N	%	Affirmance Rate²
TOTAL	107	100.0	49.5
18 U.S.C. § 3553(a) Factors	21	19.6	81.0
4B1.4 (Armed Career Criminal)	8	7.5	12.5
2D1.1 (Drug Trafficking)	7	6.5	57.1
1B1.10 (Retroactivity of Amended Guideline Ranges)	5	4.7	60.0
2B1.1 (Larceny, Embezzlement, and Theft)	3	2.8	100.0
2K2.4 (Use of Firearms or Armor-Piercing Ammunition During Certain Crimes)	3	2.8	0.0
5C1.2 (Limitation on Applicability of Statutory Minimums)	3	2.8	33.3
5E1.1 (Restitution)	3	2.8	33.3
1B1.3 (Relevant Conduct)	2	1.9	50.0
5E1.4 (Forfeiture)	2	1.9	0.0
Reasonableness Issues	19	17.8	68.4
Constitutional Issues	2	1.9	50.0
Other Guidelines	13	12.2	7.7
Other Non-guideline Issues	16	15.0	43.8

¹ Based on 60 appeals by the government 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. There was missing information on the issue appealed by the government in one appeal. The "Other Guidelines" category includes all issues appealed one time.

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

SOURCE: U.S. Sentencing Commission, 2012 Appeals Datafile, APPFY12.